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Senate

The seventh day of January being the day prescribed by House Concurrent Resolution 230, as amended, for the meeting of the 1st session of the 105th Congress, the Senate assembled in its Chamber at the Capitol, at 12 noon.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, Your glory fills this hallowed Senate Chamber. We exalt You as Sovereign of our beloved Nation, and we are exhilarated as we prepare to witness the divine encounter between You and the Senators-elect as they are sworn in. You have destined them for greatness as leaders of our Nation. They are here by Your choice and are accountable to You for how they lead this Nation under Your guidance. May the awesome vows that they take and the immense responsibilities they assume bring them to the knees of their hearts with profound humility and an unprecedented openness to You. Save them from the seduction of power, the addiction of popularity and the aggrandizement of pride. Lord, keep their priorities straight: You and their families first; the good of our Nation second; consensus around truth third; party loyalties fourth; and personal success last of all.

May they never forget that they are here to serve and not to be served. Consistently replenish the reserves of strength and courage so often drained by pressure and stress. Anoint their minds with Your spirit and guide them as they seek to know and do Your will in the crucial issues before our Nation. This can be America's finest hour awaiting leaders imbued with Your power. May it be, Lord, in Your holy name. Amen.

CERTIFICATE OF ELECTION AND CREDENTIALS

The VICE PRESIDENT. The Chair lays before the Senate one certificate of election to fill an unexpired term and the credentials of 33 Senators elected for 6-year terms beginning on January 3, 1997.

All certificates, the Chair is advised, are in the form suggested by the Senate or contain all the essential requirements of the form suggested by the Senate. If there be no objection, the reading of the above-mentioned certificates will be waived and they will be printed in full in the RECORD.

The documents ordered to be printed in the RECORD are as follows:

STATE OF COLORADO

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, Wayne Allard was duly chosen by the qualified electors of the State of Colorado a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January 1997.

Witness: His excellency our governor Roy Romer, and our seal hereto affixed at the City and County of Denver this 6th day of December, in the year of our Lord 1996.

By the governor:

ROY ROMER,
Governor.

STATE OF MONTANA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, Max Baucus was duly chosen by the qualified electors of the State of Montana a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning the 3rd day of January, 1997.

Witness: His excellency our Governor Marc Racicot, and our seal hereunto affixed at the City of Helena, the Capital, this 2nd day of December, in the year of our Lord 1996.

By the Governor:

MARC RACICOT,
Governor.

STATE OF DELAWARE

To the President of the Senate of the United States:

Be it known, an election was held in the State of Delaware, on Tuesday, the fifth day of November, in the year of our Lord one thousand nine hundred and ninety-six, that being the Tuesday next after the first Monday in said month, in pursuance of the Constitution of the United States and the Laws of the State of Delaware, in that behalf, for the election of a Senator for the people of the said State, in the Senate of the United States.

Whereas, the official certificates or returns of the said election, held in the several counties of the said State, in due manner made out, signed and executed, have been delivered to me according to the laws of the said State, by the Superior Court of the said counties; and having examined said returns, and enumerated and ascertained the number of votes for each and every candidate or person voted for, for such Senator, I have found Joseph R. Biden, Jr., to be the person highest in votes, and therefore duly elected Senator of and for the said State in the Senate of the United States for the Constitutional term to commence at noon on the third day of January in the year of our Lord one thousand nine hundred and ninety-seven.

I, Thomas R. Carper, Governor, do therefore, according to the form of the Act of the General Assembly of the said State and of the Act of Congress of the United States, in such case made and provided, declare the said Joseph R. Biden, Jr., the person highest in votes at the election aforesaid, and therefore duly and legally elected Senator of and for the said State of Delaware in the Senate of the United States, for the Constitutional term to commence at noon on the third day of January in the year of our Lord one thousand nine hundred and ninety-seven.

Given under my hand and the Great Seal of the said State, in obedience to the said Act of the General Assembly and of the said Act of Congress, at Dover, the 14th day of November in the year of our Lord one thousand nine hundred and ninety-six and in the year of the Independence of the United States of America the two hundred and twenty-first.

By the Governor:

THOMAS R. CARPER,
Governor.

STATE OF KANSAS

CERTIFICATE OF ELECTION FOR UNEXPIRED TERM

To the President of the Senate of the United States:

This is to certify that on the fifth day of November, nineteen hundred ninety-six, Sam Brownback was duly chosen by the qualified electors of the State of Kansas a Senator to succeed Sheila Frahm for the unexpired term beginning on the sixth of November, nineteen hundred ninety-six, and ending at noon on the third day of January, nineteen hundred ninety-nine, to fill the vacancy in the representation from said State in the Senate of the United States.

Witness: His Excellency our governor Bill Graves, and our seal hereto affixed at Topeka, Kansas, this twenty-seventh day of November, in the year of our Lord, nineteen hundred ninety-six.

By the Governor:

BILL GRAVES,
Governor.

STATE OF GEORGIA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, Max Cleland was duly chosen by the qualified electors of the State of Georgia a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1997.

Witness: His excellency our Governor Zell Miller, and our seal hereto affixed at the Capitol, in the City of Atlanta, this 18th day of November, in the year of our Lord 1996.

By the Governor:

ZELL MILLER,
Governor.

STATE OF MISSISSIPPI

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, Thad Cochran was duly chosen by the qualified electors of the State of Mississippi, a Senator from this State to represent the State of Mississippi in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1997.

In witness whereof, I have hereunto set my hand and caused the Great Seal of the State of Mississippi to be affixed.

Done at the Capitol in the City of Jackson, this the 11th day of December, in the year of our Lord nineteen hundred and ninety-six, and of the Independence of the United States of America, the two hundred and twenty-first.

By the Acting Governor:

———— ————,
Lt. and Acting Governor.

STATE OF MAINE

Know ye, that Susan M. Collins of Bangor in the County of Penobscot on the fifth day of November, in the year One Thousand Nine Hundred and Ninety-Six, was chosen by the electors of this State, a United States Senator in the One Hundred Fifth Congress of the United States of America to represent the State of Maine in the United States Senate, for the term of six years, beginning on the third day of January, in the year Nineteen Hundred and Ninety-Seven.

In testimony whereof, I have caused the Great Seal of the State to be affixed, given under my hand at Augusta this fourth day of December in the year One Thousand Nine Hundred and Ninety-Six.

ANGUS S. KING, Jr.,
Governor.

STATE OF IDAHO

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, Larry Craig was duly chosen by the qualified electors of the State of Idaho a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3d day of January, 1997.

Witness: His excellency our governor Philip E. Batt, and our seal hereto affixed at Boise this 20th day of November, in the year of our Lord 1996.

By the Governor:

PHILIP E. BATT,
Governor.

STATE OF NEW MEXICO

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, Pete Domenici was duly chosen by the qualified electors of the State of New Mexico a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1997.

Witness: His excellency our governor Gary Johnson, and our seal hereto affixed at Santa Fe this 9th day of December, in the year of our Lord 1996.

By the Governor:

GARY JOHNSON,
Governor.

STATE OF ILLINOIS

To the President of the Senate of the United States:

This is to certify that on the fifth day of November, nineteen hundred and ninety-six, Richard J. Durbin was duly chosen by the qualified electors of the State of Illinois, a Senator from said State, to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, nineteen hundred and ninety-seven.

Witness: His excellency our governor, Jim Edgar, and our seal hereto affixed at the City of Springfield this twenty-fifth day of November, in the year of our Lord nineteen hundred and ninety-six.

By the Governor:

JIM EDGAR,
Governor.

STATE OF WYOMING

CERTIFICATE OF ELECTION

Whereas according to the official returns of the General Election held in the State of Wyoming on the 5th day of November 1996, regularly transmitted to the office of the Secretary of State and duly canvassed by the State Canvassing Board, it appears that Michael B. Enzi has been duly elected for the office of United States Senator.

Now, therefore, I, Jim Geringer, Governor of Wyoming, do hereby certify that he is elected for the term of six years from the third day of January 1997.

In witness whereof, I have hereunto set my hand and caused the Great Seal of Wyoming to be affixed. Given at Cheyenne this 20th day of November 1996.

JIM GERINGER,
Governor.

STATE OF TEXAS

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, Phil Gramm was duly chosen by the qualified electors of the State of Texas a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3d day of January, 1997.

Witness: His excellency our governor George W. Bush, and our seal hereto affixed at Austin, Texas this 4th day of December, in the year of our Lord 1996.

By the Governor:

GEORGE W. BUSH,
Governor.

STATE OF NEBRASKA

At an election held on the 5th day of November, 1996 Chuck Hagel was elected to the office of United States Senator for the term of 6 years.

Given at Lincoln, Nebraska this 11th day of December, 1996.

BENJAMIN NELSON,
Governor.

STATE OF IOWA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, Tom Harkin was duly chosen by the qualified electors of the State of Iowa a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1997.

In testimony whereof, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 6th day of December in the year of our Lord one thousand nine hundred ninety-six.

TERRY E. BRANSTAD,
Governor.

STATE OF NORTH CAROLINA

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, Jesse Helms was duly chosen by the qualified electors of the State of North Carolina a Senator from said state to represent said state in the Senate of the United States for the term of six years, beginning on the 3d day of January, 1997.

Witness: His excellency our governor James B. Hunt, Jr., and our seal hereto affixed at Raleigh this 11th day of December, in the year of our Lord 1996.

By the Governor:

JAMES B. HUNT, Jr.,
Governor.

STATE OF ARKANSAS

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, the Honorable Tim Hutchinson was duly chosen by the qualified electors of the State of Arkansas as a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1997, the vote being:

Tim Hutchinson	445,942
Winston Bryant	400,241
Total votes cast	846,183

In witness whereof, I have hereunto set my hand and caused the Great Seal of the State

of Arkansas to be affixed this 4th day of December, 1996.

MIKE HUCKABEE,
Governor.

STATE OF OKLAHOMA

CERTIFICATE OF ELECTION FOR SIX YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 5th day of November 1996, James M. Inhofe was duly chosen by the qualified electors of the State of Oklahoma a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1997.

Witness: His excellency our Governor Frank Keating and out seal hereto affixed at Oklahoma City, Oklahoma this 14th of November in the year of our Lord 1996.

By the Governor:

FRANK KEATING,
Governor.

STATE OF SOUTH DAKOTA

CERTIFICATE OF ELECTION

This is to Certify, That on the fifth day of November, nineteen hundred ninety-six, at a general election Tim Johnson was duly chosen by the qualified voters of the State of South Dakota to the office of United States Senator for the term of six years, beginning the third day of January, nineteen hundred ninety-seven.

In witness whereof, We have hereunto set our hands and caused the Seal of the State to be affixed at Pierre, the Capital, this 27th day of November nineteen hundred ninety-six.

WILLIAN J. JANKLOW,
Governor.

THE COMMONWEALTH OF MASSACHUSETTS

To the President of the Senate of the United States:

This is to certify that on the fifth day of November, nineteen hundred and ninety-six John F. Kerry was duly chosen by the qualified electors of the Commonwealth of Massachusetts a Senator from said Commonwealth to represent said Commonwealth in the Senate of the United States for the term of six years, beginning on the third day of January, nineteen hundred and ninety-seven.

Witness: His Excellency, our Governor, William F. Weld, and our seal hereto affixed at Boston, this twenty-seventh day of November in the year of our Lord nineteen hundred and ninety-six.

By His Excellency the Governor:

WILLIAM F. WELD,
Governor.

STATE OF LOUISIANA

ELECTION PROCLAMATION

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, Mary L. Landrieu was duly chosen by the qualified electors of the State of Louisiana a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1997.

Witness: His excellency our Governor M.J. ''Mike'' Foster, Jr., and our seal hereto affixed at the City of Baton Rough this 20th day of November, 1996.

By the Governor:

M.J. ''MIKE'' FOSTER, Jr.,
Governor.

STATE OF MICHIGAN

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, Carl Levin was duly chosen by the qualified electors of the State of Michigan a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd of January, 1997.

Given under my hand and the Great Seal of the State of Michigan this 6th day of December, in the Year of our Lord, One Thousand Nine Hundred Ninety-Six.

By the Governor:

JOHN ENGLER,
Governor.

COMMONWEALTH OF KENTUCKY

To all to Whom These Presents Shall Come, Greeting:

Know Ye, That Honorable Mitch McConnell having been duly certified, that on November 5, 1996, was duly chosen by the qualified electors of the Commonwealth of Kentucky a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning the 3rd day of January 1997.

I hereby invest the above named with full power and authority to execute and discharge the duties of the said office according to law. And to have and to hold the same, with all the rights and emoluments thereunto legally appertaining, for and during the term prescribed by law.

In testimony whereof, I have caused these letters to be made patent, and the seal of the Commonwealth to be hereunto affixed. Done at Frankfort, the 25th day of November in the year of our Lord one thousand nine hundred and 96 and in the 205th year of the Commonwealth,

By the Governor:

PAUL E. PATTON,
Governor.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CERTIFICATE OF ELECTION

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, John F. Reed was duly chosen by the qualified electors of the State of Rhode Island and Providence Plantations a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1997.

Witness: His Excellency our Governor Lincoln D. Almond, and our seal affixed on this 27th day of November, in the year of our Lord 1996.

LINCOLN C. ALMOND,
Governor.

STATE OF KANSAS

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the fifth day of November, nineteen hundred ninety-six, Pat Roberts was duly chosen by the qualified electors of the State of Kansas a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third of January, nineteen hundred ninety-seven.

Witness: His Excellency our governor Bill Graves, and our seal hereto affixed at Topeka, Kansas, this twenty-seventh day of November, in the year of our Lord, nineteen hundred ninety-six.

By the Governor:

BILL GRAVES,
Governor.

STATE OF WEST VIRGINIA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the fifth day of November, 1996, Jay Rockefeller was duly chosen by the qualified electors of the State of West Virginia a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, 1997.

Witness: His excellency our Governor Caston Caperton, and our seal hereto affixed at Charleston this 12th day of December, in the year of our Lord 1996.

By the Governor:

GASTON CAPERTON,
Governor.

STATE OF ALABAMA

CERTIFICATE OF ELECTION

To the President of the Senate of the United States:

For a six-year term in the United States Senate.

This is to certify that on the fifth day of November, 1996, the Honorable Jeff Sessions was duly chosen by the qualified electors of the State of Alabama as a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, 1997.

Witness: His excellency our governor the Honorable Fob James, and our seal hereto affixed at the Alabama State Capitol this sixth day of December, in the year of our Lord 1996.

FOB JAMES,
Governor.

STATE OF NEW HAMPSHIRE

To the President of the Senate of the United States:

This is to certify that on the fifth day of November, nineteen hundred and ninety six Bob Smith was duly chosen by the qualified electors of the State of New Hampshire a Senator from said State to represent said State in the Senate of the United States for the term of six years beginning on the third day of January, nineteen hundred and ninety-seven.

Witness: His Excellency, Governor Steve Merrill and the Seal of the State of New Hampshire hereto affixed at Concord, this twentieth day of November, in the year of Our Lord nineteen hundred and ninety-six.

By the Governor, with advice of the Council:

STEVEN MERRILL,
Governor.

STATE OF OREGON

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, Gordon Smith was duly chosen by the qualified electors of the State of Oregon a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1997.

Witness: His excellency our Governor, John Kitzhaber, and our seal hereto affixed at Salem, Oregon this 5th day of December, in the year of our Lord 1996.

By the Governor:

JOHN KITZHABER,
Governor.

STATE OF ALASKA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that in an election held on the 5th day of November, 1996 and certified on the 27th day of November, 1996, Ted Stevens was duly elected by the qualified voters of the State of Alaska to serve as Senator from Alaska to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1997.

Witness: His excellency our Governor Tony Knowles, and our seal hereto affixed at Juneau, Alaska this 4th day of December, in the year of our Lord 1996.

TONY KNOWLES,
Governor.

STATE OF TENNESSEE

CERTIFICATE OF ELECTION TO UNITED STATES SENATOR

This is to certify, That at the General Election held on the 5th day of November, A.D., 1996, Fred Thompson was duly elected to this office as appears from the official returns and certificates on file in the Office of Secretary of State.

In testimony whereof I, Don Sundquist, Governor of the State of Tennessee, have hereunto set my hand and caused the Great Seal to be affixed, at the Capitol, in Nashville, on this 9th day of December, A.D., 1996.

DON SUNDQUIST,
Governor.

STATE OF SOUTH CAROLINA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the Secretary of the Senate of the United States:

This is to certify that on the fifth day of November, 1996, Honorable Strom Thurmond was duly chosen by the qualified electors of the State of South Carolina as Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January 1997.

Witness: His excellency our Governor, David M. Beasley, and our seal hereto affixed at Columbia, South Carolina this twenty-first day of November, in the year of our Lord, 1996.

By His Excellency:

DAVID M. BEASLEY,
Governor.

STATE OF NEW JERSEY

CERTIFICATE OF ELECTION FOR A SIX YEAR TERM

This is to certify that on the fifth day of November, 1996, Robert G. Torricelli, was duly chosen by the qualified electors of the State of New Jersey, a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning the 3rd day of January, 1997.

Given, under my hand and the Great Seal of the State of New Jersey, this twenty-seventh day of November in the year of Our Lord one thousand nine hundred and ninety-six and of the Independence of the United States, the two hundred and twentieth.

By the Governor:

CHRISTINE TODD WHITMAN,
Governor.

COMMONWEALTH OF VIRGINIA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, John W. Warner was duly chosen by the qualified electors of the Commonwealth of Virginia a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd of January, 1997.

Witness: His excellency our Governor, George Allen, and our lesser seal hereto affixed at Richmond this 26th day of November, in the year of our Lord 1996.

By the Governor:

GEORGE ALLEN,
Governor.

STATE OF MINNESOTA

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1996, Paul David Wellstone was duly chosen by the qualified electors of the State of Minnesota a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1997.

Witness: His excellency our governor Arne H. Carlson, and our seal hereto affixed at St. Paul, Minnesota this 19th day of November, in the year of our Lord 1996.

ARNE H. CARLSON;
Governor.

The VICE PRESIDENT. The majority leader.

WELCOME AND CONGRATULATIONS TO SENATORS

Mr. LOTT. Mr. President, first I wish to extend my welcome and congratulations to all of the newly elected Senators. We look forward to working with you in a bipartisan way for the best interests of our country. I know that we have a few of our retiring Senators here and we want to wish them a fond adieu and the very best in the future. Senator JOHNSTON there from Louisiana needs to be careful; he might change his mind and raise his hand and try to get sworn in again.

This is a magnificent occasion, and it is an honor to serve as the majority leader in this great body and to work with my friend, Senator DASCHLE, from South Dakota.

THE OATH WE TAKE

Mr. LOTT. Mr. President, today marks the 105th time since 1789 that newly elected Senators have stood before this body's Presiding Officer at the start of a new Congress to pledge their support for the Constitution of the United States. I would like to take advantage of this special event in the life of each new Congress to comment briefly about the origins of the oath we take.

There is a good deal of confusion about the oath and its origin. Some believe that the Constitution prescribes its specific text and that all Senators since 1789 have taken and signed the oath in the form that we know today. Neither is true. While the Constitution specifies a separate oath for the President, it leaves to Congress the responsibility of preparing an oath for its Members and all other Federal officeholders.

The Oath Act of June 1, 1789, was the first legislation passed by the Senate and the first law signed by President George Washington. It prescribed the following simple oath: ''I _____ do solemnly swear (or affirm) that I will support the Constitution of the United States.'' On June 4, 1789, Senate President John Adams administered that new oath to all Senators, setting a pattern that future Presiding Officers followed, without controversy, for the next 74 years.

The outbreak of the War Between the States quickly transformed the act of oath-taking, which had become a routine procedure after 1789, into one of enormous significance. At a time of uncertain and shifting loyalties, President Abraham Lincoln ordered all Federal civilian personnel to retake the prewar oath of allegiance. When Congress convened for a brief emergency session in the summer of 1861, Members supplemented the President's action by passing a law requiring civil officers to take an expanded oath in support of the Union. Although Congress did not then apply this August 1861 oath to its own Members, its text is the earliest direct predecessor of the oath we take today.

When Congress returned for its regular session in December 1861, Members who believed that the Union had more to fear from northern traitors than from southern soldiers fundamentally revised the August 1861 statute in July 1862 by adding an ''Ironclad Test Oath'' provision. This war-inspired test oath required civil servants and military officers to swear not only to future loyalty, as required by the existing oaths, but also to affirm that they had never previously supported hostilities against the United States. Those who failed to take the 1862 test oath would not receive a salary; those who swore falsely would be prosecuted for perjury and forever denied Federal employment.

The 1862 oath's second section incorporated a more polished and graceful rendering of the hastily drafted 1861 oath in language that is identical to the oath we take today.

Early in 1864, the Senate adopted a rule specifying that all newly elected Members must not only orally agree to the test oath, but also ''subscribe'' to it by signing a printed copy. This condition reflected a wartime practice in which military and civilian authorities required anyone wishing to do business with the Federal Government to sign a copy of the test oath. The requirement included Confederate prisoners of war seeking parole and southerners who wished to be reimbursed for goods confiscated by foraging Union troops. Our modern practice of signing the oath comes from this period.

At the end of the war in 1865, the test oath stood as a formidable barrier to President Andrew Johnson's moderate reconstruction policies, designed to allow residents of the South to participate in their own government. While the President pushed for a rapid reintegration of Southern States, those in Congress who wished to impose a harsh peace insisted on the test oath, which had been created in part to prevent ex-Confederates from taking Federal positions. Many of the oath's

drafters specifically had in mind blocking the return of one of my direct Senate predecessors—Jefferson Davis.

The Constitution's 14th amendment, ratified in 1868, permitted Congress to remove barriers to service by former Confederates through a two-thirds vote of both Houses. Congress then enacted an oath for those in this category, allowing them to ignore the test oath's first section, regarding past loyalties, and subscribe only to its second section pledging future allegiance. That 1868 oath is identical to the one we take today.

As postwar tensions eased, Congress in 1871 dropped the requirement for a two-thirds vote of both Houses for former Confederates entering congressional service or government employment. For another 13 years, however, all oath takers who were not former Confederates were required to take the full test oath. In 1877, to further complicate matters, the Senate amended its rules to require that Senators take not only the 1862 or the 1868 oath, but also the original oath of 1789.

Reflecting the confusion surrounding these multiple requirements, the Senate's archives contain no signed oaths for the years between 1871 and 1880. From 1880 until 1884, nearly 20 years after the war's conclusion, newly elected southern Senators who had participated in that conflict signed the 1868 oath, while all the others signed the 1862 test oath.

On January 11, 1884, as part of a general revision of its rules, the Senate replaced specific references to the rules of 1862 and 1868 with the simple statement that is now Rule III of our Standing Rules: ''The oaths or affirmations required by the Constitution and prescribed by law shall be taken and subscribed by each Senator, in open Senate, before entering upon his duties.'' Seven weeks later, bringing to a close nearly a quarter century of confusion and acrimony, the Senate repealed the 1862 test oath. From that day to this, the high solemn oath ''prescribed by law'' has been the oath of 1868.

LOUISIANA ELECTION CONTEST

Mr. LOTT. Mr. President, before the Chair presents the certification of election for the swearing in to begin, I would like to take a moment to speak about the seating of one of our new colleagues who will be sworn in within the next few minutes. I am referring to the seating of Senator-elect LANDRIEU. The Senate has received petitions from the citizens of the State of Louisiana contesting the election of Senator-elect LANDRIEU.

As most of you know, direct election of U.S. Senators began as a result of the 17th amendment to the Constitution in 1913. Since that time, the Senate has called into question a number of election results. However, only on four occasions have the challenges been successful in persuading the Senate to overturn the outcome of an election. The U.S. Constitution leaves it entirely up to the Senate to decide what evidence it deems relevant for overturning an election.

At this point, the seating of Senator-elect LANDRIEU has been called into question as a result of investigative material by the Senate Rules Committee. The Senate Rules Committee is reviewing the evidence, and I am confident they will come to a conclusion as to whether the allegations should be dismissed or investigated further in a swift and timely manner.

With all of that in mind, Senator-elect LANDRIEU will take the oath of office with her colleagues but will be seated without prejudice. The seating without prejudice has occurred a number of times in U.S. Senate history. The term means without prejudice to the right of the Senate to determine the outcome of the questioned election.

I should like to quote from majority leader Taft of Ohio when he stated that ''These Senators should be permitted to take the oath and to be seated. It is my further view that the oath is taken without prejudice to the right of anyone contesting the seat to proceed with the contest and without prejudice to the right of anyone protesting or asking expulsion from the Senate to proceed.''

In the case of our colleague, Senator-elect LANDRIEU, she will shortly begin her new role as a U.S. Senator from the State of Louisiana and the Rules Committee will continue to investigate the allegations. I know the Democratic leader concurs with this procedure of seating Senator-elect LANDRIEU without prejudice, and we are both hopeful that the Rules Committee will conclude its investigation and make its ruling in a swift and responsible fashion. It is possible that later today, after discussions with the Democratic leader, we will be able to reach a further colloquy and perhaps a consent agreement with respect to any motion the Rules Committee may make at a later date in response to those allegations. After consulting with the Democratic leader, I hope to propound a consent agreement that would limit debate on any motion so that the full Senate would be able to resolve the matter very quickly.

I now yield to the Democratic leader for any comments he may wish to make on the subject.

The VICE PRESIDENT. The Democratic leader is recognized.

SWEARING IN OF SENATORS

Mr. DASCHLE. Mr. President, let me begin by thanking the distinguished majority leader for his comments and welcoming him to the 105th Congress, as we welcome all of the newly elected Members to this prestigious body. As the Senator also noted, we have a number of former colleagues who have now reached the height of ''citizen,'' and we welcome them in their new positions as well. The families are here. We all note their presence and recognize what an important day and a memorable day it is for not only the Senators-elect, but for the families as well.

We begin this session with much hope and good will. And I think the remarks just made by the majority leader concerning Senator LANDRIEU are reflective of that. I would like to believe that the administration of the oath of Senator-elect LANDRIEU will not prejudice in any way the Senate's constitutional power to judge the Louisiana election. Neither will the pendency of Mr. Jenkins' petition diminish in any way the effect of the oath that will now be administered to Senator-elect LANDRIEU.

Just as in recent cases of Senators COVERDELL, Packwood, and FEINSTEIN, all Senators sworn in today are Senators in every sense of the word. Those were the sentiments of leaders in those instances, and I believe they are just as appropriate today.

I yield the floor, and I thank the distinguished majority leader.

Mr. LOTT. Mr. President, I think we are ready to proceed.

ADMINISTRATION OF OATH OF OFFICE

The VICE PRESIDENT. If the 33 Senators to be sworn will now present themselves at the desk in groups of four as their names are called in alphabetical order, the Chair will administer their oaths of office.

The clerk will read the names of the first group.

The legislative clerk called the names of Mr. ALLARD, Mr. BAUCUS, Mr. BIDEN, and Mr. BROWNBACK.

These Senators, escorted by Mr. CAMPBELL, Mr. BURNS, Mr. ROTH, and former Senator Dole, respectively, advanced to the desk of the Vice President, the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the official oath book.

The VICE PRESIDENT. Congratulations.

[Applause, Senators rising.]

The VICE PRESIDENT. The Senate will be in order. The clerk will read the names of the next group.

The legislative clerk called the names of Mr. CLELAND, Mr. COCHRAN, Ms. COLLINS, and Mr. CRAIG.

These Senators, escorted by Mr. NUNN, and Mr. COVERDELL, Mr. LOTT, Mr. Cohen, and Ms. SNOWE, and Mr. KEMPTHORNE, respectively, advanced to the desk of the Vice President, the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the official oath book.

The VICE PRESIDENT. Congratulations.

[Applause, Senators rising.]

The VICE PRESIDENT. The Senate will be in order. The clerk will read the names of the next group.

The legislative clerk called the names of Mr. DOMENICI, Mr. DURBIN, Mr. ENZI, and Mr. GRAMM.

These Senators, escorted by Mr. BINGAMAN, Mr. SIMON, and Ms. MOSELEY-BRAUN, former Senator Wallop and Mr. Thomas, and Mrs. Hutchison, respectively, advanced to the desk of the Vice President, the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the official oath book.

The VICE PRESIDENT. Congratulations.

[Applause, Senators rising.]

The VICE PRESIDENT. The clerk will read the names of the next group.

The legislative clerk called the names of Mr. HAGEL, Mr. HARKIN, Mr. HELMS, and Mr. HUTCHINSON.

These Senators, escorted by Mr. KERREY, Mr. GRASSLEY, Mr. FAIRCLOTH, and Mr. BUMPERS, respectively, advanced to the desk of the Vice President, the oath prescribed by the Vice President, and they severally subscribed to the oath in the official oath book.

The VICE PRESIDENT. Congratulations.

[Applause, Senators rising.]

The VICE PRESIDENT. The clerk will read the names of the next group.

The legislative clerk called the names of Mr. INHOFE, Mr. JOHNSON, Mr. KERRY of Massachusetts, and Ms. LANDRIEU.

These Senators, escorted by Mr. NICKLES, Mr. DASCHLE, Mr. KENNEDY, Mr. BREAUX, and Mr. Johnston, respectively, advanced to the desk of the Vice President, the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the official oath book.

The VICE PRESIDENT. Congratulations.

[Applause, Senators rising.]

The VICE PRESIDENT. The clerk will read the names of the next group.

The legislative clerk called the names of Mr. LEVIN, Mr. MCCONNELL, Mr. REED of Rhode Island, and Mr. ROBERTS.

These Senators, escorted by Mr. ABRAHAM, Mr. FORD, Mr. CHAFEE, Mr. PELL and Mrs. Kassebaum, respectively, advanced to the desk of the Vice President, the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the official oath book.

The VICE PRESIDENT. Congratulations.

[Applause, Senators rising.]

The VICE PRESIDENT. The clerk will read the names of the next group.

The legislative clerk called the names of Mr. ROCKEFELLER, Mr. SESSIONS, Mr. SMITH of New Hampshire, and Mr. SMITH of Oregon.

These Senators, escorted by Mr. BYRD, Mr. SHELBY, Mr. GREGG, and Mr. WYDEN, respectively, advanced to the desk of the Vice President, the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the official oath book.

The VICE PRESIDENT. Congratulations.

[Applause, Senators rising.]

The VICE PRESIDENT. The clerk will read the names of the next group.

The legislative clerk called the names of Mr. STEVENS, Mr. THOMPSON, Mr. THURMOND, and Mr. TORRICELLI.

These Senators, escorted by Mr. MURKOWSKI, Mr. FRIST, Mr. HOLLINGS, and Mr. LAUTENBERG, respectively, advanced to the desk of the Vice President, the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the official oath book.

The VICE PRESIDENT. Congratulations.

[Applause, Senators rising.]

The VICE PRESIDENT. The clerk will read the names of the next group.

The legislative clerk called the names of Mr. WARNER and Mr. WELLSTONE.

These Senators, escorted by Mr. ROBB and Mr. GRAMS, respectively, advanced to the desk of the Vice President, the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the official oath book.

The VICE PRESIDENT. Congratulations.

[Applause, Senators rising.]

Mr. LOTT addressed the Chair.

The VICE PRESIDENT. The majority leader is recognized.

CALL OF THE ROLL

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

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 1]

Abraham	Ford	Lugar
Allard	Frist	Mack
Ashcroft	Glenn	McCain
Baucus	Gorton	McConnell
Biden	Graham	Mikulski
Bingaman	Gramm	Moseley-Braun
Boxer	Grams	Moynihan
Breaux	Grassley	Murkowski
Brownback	Gregg	Murray
Bryan	Hagel	Nickles
Bumpers	Harkin	Reed
Burns	Hatch	Reid
Byrd	Helms	Robb
Campbell	Hollings	Roberts
Chafee	Hutchinson	Rockefeller
Cleland	Hutchison	Roth
Coats	Inhofe	Santorum
Cochran	Inouye	Sarbanes
Collins	Jeffords	Sessions
Coverdell	Johnson	Shelby
Craig	Kempthorne	Smith, Bob
D'Amato	Kennedy	Smith, Gordon
Daschle	Kerrey	Snowe
DeWine	Kerry	Specter
Dodd	Kohl	Stevens
Domenici	Kyl	Thomas
Dorgan	Landrieu	Thompson
Durbin	Lautenberg	Thurmond
Enzi	Leahy	Torricelli
Faircloth	Levin	Warner
Feingold	Lieberman	Wellstone
Feinstein	Lott	Wyden

The VICE PRESIDENT. A quorum is present.

NOTIFICATION TO THE HOUSE OF REPRESENTATIVES

Mr. LOTT. Mr. President, I send a resolution to the desk notifying the House that a quorum is present, ask that it be reported by title, agreed to, and the motion to reconsider be laid upon the table.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. LOTT. Before that is completed, Mr. President, for the information of all Senators, there are a number of traditional resolutions and unanimous consent requests that we will need to work through now. We have discussed these, and they have been cleared with the Democratic leader. There are a number of them. It will take some time. We do not at this time anticipate any recorded vote. I wanted the Senators to be aware of that.

So I renew my request.

The VICE PRESIDENT. Is there objection to the immediate consideration of the resolution?

There being no objection, the resolution (S. Res. 1) was considered and agreed to, as follows:

S. RES. 1

Resolved, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

NOTIFICATION TO THE PRESIDENT

Mr. LOTT. Mr. President, I send a resolution to the desk creating a committee consisting of two Senators to notify the President that a quorum of each House is assembled, ask that it be reported by title, agreed to, and the motion to reconsider be laid upon the table.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 2) was considered and agreed to, as follows:

S. RES. 2

Resolved, That a committee consisting of two Senators be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.

Mr. LOTT. Mr. President, in order that we may carry out the direction of this resolution, we will ask for a quorum call at this point so the Democratic leader and I can move across the Hall to the Vice President's office to make the traditional call.

With that, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I report to the Senate that Senator DASCHLE and I have spoken to the President and have assured him that we have taken the necessary actions to swear in our Members and establish our quorum, and we are ready to do business. He said he was glad to hear that and he is ready to go to work.

HOUR OF DAILY MEETING

Mr. LOTT. Mr. President, I send a resolution to the desk fixing the daily meeting of the Senate at 12 noon.

The VICE PRESIDENT. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 3) fixing the daily meeting of the Senate at 12 noon.

The VICE PRESIDENT. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The VICE PRESIDENT. Without objection, it is so ordered.

The resolution (S. Res. 3) was agreed to.

The resolution is as follows:

S. RES. 3

Resolved, That the hour of daily meeting of the Senate be 12 o'clock meridian unless otherwise ordered.

PROVIDING FOR THE COUNTING OF THE ELECTORAL VOTES ON JANUARY 9, 1997

Mr. LOTT. Mr. President, I send a concurrent resolution to the desk providing for the counting of electoral votes on January 9 at 1 p.m.

The VICE PRESIDENT. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 1) to provide for the counting on January 9, 1997, of the electoral votes for President and Vice President of the United States.

The VICE PRESIDENT. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table.

The VICE PRESIDENT. Without objection, the concurrent resolution is agreed to.

The concurrent resolution (S. Con. Res. 1) was agreed to, as follows:

S. CON. RES. 1

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall meet in the Hall of the House of Representatives on Thursday, the 9th day of January 1997, at 1 o'clock post meridian, pursuant to the requirements of the Constitution and laws relating to the election of President and Vice President of the United States, and the President of the Senate shall be their Presiding Officer; that two tellers shall be previously appointed by the President of the Senate on the part of the Senate and two by the Speaker on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter ''A''; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules by law provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

ELECTION OF THE HONORABLE STROM THURMOND AS PRESIDENT PRO TEMPORE OF THE SENATE

Mr. LOTT. Mr. President, it is now with great pleasure and truly indeed an honor that I send a resolution to the desk electing Senator STROM THURMOND as the President pro tempore of the Senate.

The VICE PRESIDENT. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 4) electing STROM THURMOND, a Senator from the State of South Carolina, to be President pro tempore of the Senate of the United States.

The VICE PRESIDENT. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The VICE PRESIDENT. Without objection, it is so ordered.

The resolution (S. Res. 4) was agreed to.

The resolution is as follows:

S. RES. 4

Resolved, That Strom Thurmond, a Senator from the State of South Carolina, be, and he is hereby, elected President of the Senate pro tempore, to hold office during the pleasure of the Senate, in accordance with rule I, paragraph 1, of the Standing Rules of the Senate.

ADMINISTRATION OF OATH TO SENATOR STROM THURMOND AS PRESIDENT PRO TEMPORE OF THE SENATE FOR THE 105TH CONGRESS

The VICE PRESIDENT. The Senator from South Carolina, to be escorted by the majority leader, Mr. LOTT, the Democratic leader, Mr. DASCHLE, the former President pro tempore, Mr. BYRD, and the Senator from South Carolina, Mr. HOLLINGS, will present himself at the desk to take the oath of office.

The President pro tempore advanced to the desk of the Vice President; the oath was administered to him by the Vice President; and he subscribed to the oath in the official oath book.

[Applause, Senators rising.]

[Mr. THURMOND assumed the chair.]

Mr. DASCHLE addressed the Chair.

The PRESIDENT pro tempore. The distinguished Democratic leader.

CONGRATULATIONS TO THE PRESIDENT PRO TEMPORE

Mr. DASCHLE. Mr. President, on behalf of all the Members of the Democratic caucus, let me congratulate the President pro tempore on his ascension to this position once again. He has served ably in the last Congress and he has gained the respect of many new Members who did not have the opportunity to work with him in the past. I know that will be the case once more in the 105th Congress.

So we join with our Republican colleagues in congratulating and wishing you well on your election and expressing the hope that we can continue to work so ably together, as you have so clearly demonstrated the ability to do in the last Congress.

The PRESIDENT pro tempore. Thank you, very much.

Mr. LOTT addressed the Chair.

The PRESIDENT pro tempore. The able majority leader.

Mr. LOTT. Mr. President, I would like to congratulate the distinguished Senator from South Carolina for his reelection. Once again the people of South Carolina have shown their usual good judgment. And I also congratulate you on your being reelected as the President pro tempore. Your leadership and your determination to pass good legislation for the best interests of our country and the honorable way in which you serve as the Senator for your great State and as leader in the Senate is one for which we are all very proud and one that as such sets an example for all of us to emulate. We congratulate you and wish you the very best in the 105th Congress. We know you will do your traditional good work.

The PRESIDENT pro tempore. Thank you for your kind words.

[Applause, Senators rising.]

Mr. LOTT. Mr. President, I would be delighted to yield to the distinguished Senator from West Virginia.

SENATE PRECEDENTS

Mr. BYRD. Mr. President, I thank the distinguished majority leader.

For the record, and without being critical of anyone, I am sure that we have followed late precedent in notifying the House and notifying the President after the President pro tempore is elected.

When the Senate first met on April 6th, 1789, after having been delayed 34

days for the lack of a quorum, the first order of business was the election of a President pro tempore, who is a constitutional officer. The Senate is required to elect a Member of the body to serve as the President pro tempore in the absence of the Vice President.

When the Senate met on April 6th, 1789 there was no Vice President. There was no President. And once the President pro tempore was elected—his name was John Langdon from New Hampshire—the Senate then notified the House that it was organized and ready to count the electoral ballots.

So the selection of the President pro tempore was first because the Senate had to have a Presiding Officer. And there was no Vice President. There was no Vice President until April 21st of 1789 when the Vice President, John Adams, took the oath of office.

So I say this because sometimes we vary from precedent without thinking about it. And it escaped my notice that this was done, I think, in the last Congress when the President pro tempore was elected.

But in any event, for the record, I hope that in the future we will follow the practice of the Members of the Senate of 1789, when a President pro tempore is to be elected.

In the old days they elected a President pro tempore perhaps for the occasion, or one for a single day. But the practice now is that we elect a President pro tempore, who serves until another is elected—he retires, or passes on to another world, or his party loses control and a new President pro tempore is elected, or until his own term as Senator expires and he is reelected, as was the case today.

I thank all Senators for their indulgence. And especially I thank our two fine leaders. I am also very favorably impressed with both leaders. I know that they are going to do the Senate proud and do all of us proud.

Mr. LOTT. Mr. President, I thank the distinguished Senator from West Virginia for that information. And certainly we want to follow the precedents very closely. I will make sure that we look carefully at those and be prepared to elect a President pro tempore first the next time. Certainly, my feeling is that there is no higher honor nor greater responsibility nor greater opportunity than electing the Senator from South Carolina as the leader and as President pro tempore of the Senate.

So I thank Senator BYRD for his comments.

NOTIFYING THE PRESIDENT OF THE UNITED STATES OF THE ELECTION OF A PRESIDENT PRO TEMPORE

Mr. LOTT. Mr. President, I send a resolution to the desk notifying the President of the election of Senator THURMOND, and ask that the resolution be reported by title, agreed to, and that motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 5) notifying the President of the United States of the election of a President pro tempore.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 5) was agreed to, as follows:

S. RES. 5

Resolved, That the President of the United States be notified of the election of STROM THURMOND, a Senator from the State of South Carolina, as President pro tempore.

NOTIFYING THE HOUSE OF REPRESENTATIVES OF THE ELECTION OF A PRESIDENT PRO TEMPORE OF THE SENATE

Mr. LOTT. Mr. President, I send a resolution to the desk notifying the House of the election of Senator THURMOND, and ask that the resolution be reported by title, agreed to, and that the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 6) notifying the House of Representatives of the election of a President pro tempore of the Senate.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 6) was agreed to, as follows:

S. RES. 6

Resolved, That the House of Representatives be notified of the election of STROM THURMOND, a Senator from the State of South Carolina, as President pro tempore.

EXTENDING THE LIFE OF THE JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES AND THE PROVISIONS OF SENATE CONCURRENT RESOLUTION 48

Mr. LOTT. Mr. President, I send a concurrent resolution to the desk extending the life of the Joint Inaugural Committee, and ask that the resolution be reported by title, agreed to, and that the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 2) to extend the life of the Joint Congressional Committee on Inaugural Ceremonies and the provisions of S. Con. Res. 48.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 2) was agreed to, as follows:

S. CON. RES. 2

Resolved by the Senate (the House of Representatives concurring), That effective from January 3, 1997, the joint committee created by Senate Concurrent Resolution 47 of the One Hundred Fourth Congress, to make the necessary arrangements for the inauguration is hereby continued with the same power and authority.

SEC. 2. That effective from January 3, 1997, the provisions of Senate Concurrent Resolution 48 of the One Hundred Fourth Congress, to authorize the rotunda of the United States Capitol to be used in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President of the United States, and for other purposes, are hereby continued with the same power and authority.

UNANIMOUS-CONSENT AGREEMENTS

Mr. LOTT. Mr. President, these unanimous-consent requests are those of the standing orders—for example, the setting of leaders' time each day—which are obtained at the beginning of each Congress which govern our day-to-day activities. As in the past, these consents have been cleared with the Democratic leader. Therefore, I send to the desk 11 unanimous-consent requests and ask for their immediate consideration en bloc, that the requests be agreed to en bloc, and that the various consents be shown separately in the RECORD.

Mr. President, I ask unanimous consent that for the duration of the 105th Congress, the Ethics Committee be authorized to meet during the session of the Senate.

Mr. President, I ask unanimous consent that for the duration of the 105th Congress, there be a limitation of 15 minutes each upon any rollcall vote, with the warning signal to be sounded at the midway point, beginning at the last 7½ minutes, and when rollcall votes are of 10-minute duration, the warning signal be sounded at the beginning of the last 7½ minutes.

Mr. President, I ask unanimous consent that during the Congress, it be in order for the Secretary of the Senate to receive reports at the desk when presented by a Senator at any time during the day of the session of the Senate.

Mr. President, I ask unanimous consent that the majority and minority leaders may daily have up to 10 minutes each on each calendar day following the prayer and disposition of the reading of, or the approval of, the Journal.

Mr. President, I ask unanimous consent that the Parliamentarian of the House of Representatives and his three assistants be given the privilege of the floor during the 105th Congress.

Mr. President, I ask unanimous consent that, notwithstanding the provisions of rule XXVIII, conference reports and statements accompanying them not be printed as Senate reports when such conference reports and statements have been printed as a House report unless specific request is made in the Senate in each instance to have such a report printed.

Mr. President, I ask unanimous consent that the Committee on Appropriations be authorized during the 105th

Congress to file reports during adjournments or recesses of the Senate on appropriation bills, including joint resolutions, together with any accompanying notices of motions to suspend rule XVI, pursuant to rule V, for the purpose of offering certain amendments to such bills or joint resolutions, which proposes amendments shall be printed.

Mr. President, I ask unanimous consent that, for the duration of the 105th Congress, the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossments of all Senate-passed bills and resolutions, Senate amendments to House bills and resolutions, Senate amendments to House amendments to Senate bills and resolutions, and Senate amendments to House amendments to Senate amendments to House bills or resolutions.

Mr. President, I ask unanimous consent that for the duration of the 105th Congress, when the Senate is in recess or adjournment, the Secretary of the Senate be authorized to receive messages from the President of the United States, and—with the exception of House bills, joint resolutions, and concurrent resolutions—messages from the House of Representatives; and that they be appropriately referred; and that the President of the Senate, the President pro tempore, and the Acting President pro tempore be authorized to sign duly enrolled bills and joint resolutions.

Mr. President, I ask unanimous consent that for the duration of the 105th Congress, Senators be allowed to leave at the desk with the journal clerk the names of two staff members who will be granted the privilege of the floor during the consideration of the specific matter noted, and that the Sergeant at Arms be instructed to rotate such staff members as space allows.

Mr. President, I ask unanimous consent that for the duration of the 105th Congress, it be in order to refer treaties and nominations on the day when they are received from the President, even when the Senate has no executive session that day.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I yield to the distinguished Senator from West Virginia for some comments in regard to this particular resolution prior to the time we go to the next one.

Mr. BYRD. Mr. President, have the unanimous consent requests been agreed to, en bloc?

The PRESIDING OFFICER (Mr. JEFFORDS). They have been.

Mr. BYRD. I had hoped to be recognized before they were agreed to. But I take the floor now just to inquire of the Chair and to inquire of both leaders, during the leader time each day. are we talking about 10 minutes for speeches only? I do not think there has been any controversial motion ever made during the 10 minutes of either leader's time, and I think, for the RECORD, we ought to clarify this, that the 10 minutes are to be used for speeches or for unanimous consent requests but that no motion will be in order during those 10 minutes for either leader.

I say this because it seems to me—and I have not seen it happen, but I think it could happen—during the 10 minutes if there were a very controversial motion and a Senator or group of Senators were attempting to hold the floor and not let that motion be made, their leader could come in and claim his time, which he has a right to do, and during the 10 minutes I am concerned that he might make a controversial motion. This might never happen, and there might be other ways—I am sure there would be—to challenge that, but just in order that we do not have to worry about it, I wonder if it is agreed that during the 10 minutes no controversial motion will be made.

What is controversial? I should think we ought to know when either leader seeks to make a motion. If the motion is likely to be controversial, I hope that it would not be made during that period of 10 minutes.

Mr. LOTT. Mr. President, this unanimous consent request is that the majority and minority leaders may have up to 10 minutes each on each calendar day following the prayer and the disposition of the reading of or the approval of the Journal. It does not indicate any limitation as to what may be done in that 10 minutes. This is the language that has been used traditionally. It was taken from previous opening day unanimous consent requests that are traditionally done en bloc as we have done here today.

I know of no incident where this has been abused or any series of abuses of this 10-minute time by the leaders, certainly not during my time, and I do not remember it during Senator Dole's time. As far back as I have knowledge, I do not think that has been done.

I know that the leaders, Senator DASCHLE and I, will work together very carefully, and we have already indicated to each other we do not intend to pull surprises. And certainly if we were going to make any motion during that 10-minute period, we would have, I believe, an obligation to notify each other of such a plan.

But I do feel that it is not limited to just debate only. I would like to have the opportunity before we limit it in any way to go back and look carefully at what the precedents have been and how it has been dealt with in the past, and make sure we understand what we could or could not do. We are in no way enlarging upon what has been done in the past. Once again, in all due diligence and caution, I would want to make sure we are not giving up a right that in fact the leaders may need in the future.

Mr. DASCHLE. Mr. President, I think the distinguished senior Senator from West Virginia makes a very good point. I think the point of his inquiry in large measure has to do with whether or not either side will surprise the other with regard to tactics involving the leaders' time that would in some way assist the leaders in doing something for which there has not been proper notification. I believe, as the distinguished majority leader has indicated, both sides are going to make a good faith effort to assure that we are not surprised. I believe in this case that effort will be practiced as well as promised.

I think there have been occasions, and I can recall vaguely the occasions, where we have been working under a time agreement and, as a result of negotiations between both sides, have come up with a compromise substitute amendment, through a process that involves the leaders, that may allow us to expedite the legislative process, wherein the leaders will use their time to make the case involving that particular amendment and then offer the amendment at the end of that period of time as an alternative to the pending measure.

It would be my hope we could continue to work with that understanding because on some occasions we are out of time, and were it not for the leaders' time, we might not be able to address such a compromise. Of course, we still have the avenue of asking for unanimous consent, but the leaders' time gives us another option in that regard. So I think the distinguished Senator from West Virginia is right on the mark with regard to the concern he raises, and I think I am satisfied that I have the assurances from the majority leader in this case there will not be surprises and we will use this time prudently.

Mr. LOTT. Mr. President, if I could be recognized for a moment more before the distinguished senior Senator from West Virginia comments.

Mr. BYRD. Sure.

Mr. LOTT. I think that, once again, as we try very hard to make sure we preserve the decorum we should have in this Chamber and we have kind of gotten away from—the Senator from West Virginia has noted that fact to me, and I have heard him—we are going to try some things to effect that in fact and in appearance also. We have had a situation where maybe too many staff members are getting in the Chamber and blocking passages. We are going to try to address that.

Also, if we are going to be able to work together in a cordial and civil manner, it is going to be important we be honest with each other and fair and we notify each other when we are fixing to take action and we not have surprises.

That is the way I intend to proceed. I am sure we will have some bumps along the road. The Senate is an island of tranquility in many respects in this city. We have heavy responsibilities on which we need to act, and it is going to take give-and-take, cooperation, and I

am absolutely committed to that approach. That will be the way I will proceed with regard to this 10 minutes and everything else that I try to do.

Mr. BYRD. Mr. President, I thank both Senators. I am fully satisfied with the colloquies that have resulted from my inquiry.

May I say to the distinguished majority leader that I do not believe we had the 10 minutes for each leader back when I was the majority leader the first time in 1977. I think this practice grew up in that period or soon thereafter. But in any event, as I thought I said earlier, I have never known—I cannot remember a time in which such a provocative situation might arise. I have never known that to happen. I have never known any majority leader or minority leader to transgress upon the confidence of the membership in giving its acquiescence to the request. It is just that I thought there could be such a situation. I thought we ought to try to clarify it and thus prevent some future misunderstanding. I am satisfied with what has been said.

While I have the floor, so that I will not impose upon the leaders too much, there was a second request made, and it was agreed to, and I just rise at this time to compliment the leaders on making this unanimous consent request and also on the progress that is being made and being discussed to which the majority leader has just referred, anent disorder in the Chamber.

In recent years, we have allowed too much gathering of staffs and too many conversations to go on in the rear of the Chamber, and it does not do the Senate credit. I can remember when we had no benches; we even had no seats in the rear of the Chamber. The staff stood when they came to the floor. They stood or sat on the floor of the Chamber, which I did not like. And it was for that reason that I had, when I was majority whip, chairs brought into the Chamber and a large davenport so staffs would at least have a place to sit.

And then, later, I had the gallery—this gallery here to the northeast, I guess it is—assigned to staff. Then I had these handsome benches and the bannister put back here so the staffs could be appropriately accommodated. I am glad that the request includes the words, ''and that the Sergeant at Arms be instructed to rotate such staff members as space allows.'' I want to thank the leaders for including that language.

I especially want to take the floor here so that the Sergeant at Arms and all Senators—the leaders need our cooperation as well—so that the Sergeant at Arms and all Senators will be well aware that when more staff members are in the Chamber than the seating accommodations will allow, then there is a special gallery for staffs, and I would hope that the Sergeant at Arms would help us to keep the number of staff people in the Chamber down. I assure both leaders they will have my cooperation. I try, as I see that there are too many staff people—and I have two or three staff persons—I try to send mine out so as to leave only one. I am very much heartened by the letters that I have received from both leaders in response to concerns such as this, that I have expressed.

I foresee that we Senators are going to be even more proud of our leaders in the future than perhaps we have been at some times in the past. I see not only a willingness but a desire on the part of both leaders to have Members speak to them about matters that concern us. As I have noted, I followed through on that, and that has not been the end of it. Both leaders have written to me to let me know that they are aware of a matter and that they are working on it. I thank both, and I think it is to the credit of the two leaders, and certainly will redound to the credit of the Senate, if we can have better order in the coming days.

I thank both leaders.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. I thank again the Senator from West Virginia for his comments. I am pleased that he noted this unanimous-consent agreement. The Sergeant at Arms is on the floor. We have discussed this matter, and we are undertaking procedures to set up this rotation of staff members. We are making sure that Senators are informed of that. We will remind Senators, probably on the 21st, of a number of these types of things so that they will not be surprised, and call on Members on both sides for their cooperation and courtesy. In fact, at the concluding part of our unanimous consent request today I will make a few comments about how we are going to try to reestablish some of the proper procedures, respect for each other's needs as Senators, and call on our Senators to be aware of that and to assist us as we try to do that. So we are not going to forget and, while we are not going to be dictatorial about it, we are going to try our very best to ask our Senators to recognize this is in the best interests of the institution and will allow us to do our work in a more efficient and effective way, I do believe.

Mr. BYRD. I thank the leader. We owe it to the Senate, we owe it to the membership, we owe it to the people of the United States of America with whom the power resides.

I thank the leader.

LEGISLATION ON AN APPROPRIATIONS BILL

Mr. LOTT. Mr. President, originally I had thought that at this point the Senate would grant a unanimous consent that would in effect make null and void the precedent set in March of 1995 with respect to legislation on an appropriations bill. Having spoken with the Democratic leader, we both feel, now, that the Senate would be better served by conducting a rollcall vote that would overturn the precedent.

Needless to say, this vote would occur at the first opportunity the Senate has during the appropriations process this year, at least we think that would be the appropriate time for it to occur. The Democratic leader has indicated to me that he would support such an action in the early summer of this year as we begin the appropriations process, and I look forward to his cooperation at that time, when we have the vote which would reinstate the point of order with respect to legislation on an appropriations bill.

I believe, and I think the Democratic leader would agree, that the process has been abused in recent months. There seems to be a growing use of this opportunity, and, in some of the discussions that we had at the end of the session last year, I believe that point was made by the Senator from South Dakota and perhaps the Senator from West Virginia. I think it was an unintentioned precedent that was set. I do not think it is in the best interests or the long-term interests of the Senate. I would like for us to preserve rule XXVI of the Standing Rules of the Senate. I think the Senate would be better served if we would do that, preserve that rule. So we will look for the opportunity, the best opportunity we can find, to consider changing back that precedent.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DASCHLE. The overturning of the Chair, back in March 1995, had far-reaching consequences, as the majority leader has indicated. By overturning the Chair, the Senate no longer had the legislation on appropriations point of order to keep legislative riders from being added to crucial appropriations bills. Many on this side of the aisle believe the point of order should be restored. However, we also believe that this situation should be remedied in the same way that it was imposed on the Senate; that is, by rollcall vote. So I intend to work with the majority leader to see if we can, by rollcall vote, restore this point of order at some point in the early months of the 105th Congress.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT—INTRODUCTION OF LEGISLATION

Mr. LOTT. Mr. President, I ask unanimous consent that the introduction of Senate bills, concurrent, joint, and simple resolutions not be in order prior to Tuesday, January 21.

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

Mr. LOTT. This now establishes Tuesday, January 21, as the first day in which Members may introduce legislation. I will inform my colleagues that Members may make statements during the next day or two regarding any proposed legislation, however all Senators

must wait until January 21 to formally introduce such legislation.

I might note that we have been working very aggressively to get organized quickly. We agreed early on the committee ratios. I believe both parties now have decided most of their committee membership. The committee chairmen will be elected by their respective committees today, ratified by our conference tomorrow. I assume the same thing will occur or has occurred on the Democratic side. Hopefully, by Thursday we will have available to the Senate the list of all the committee membership and we will be ready for business.

There are a number of committees that intend to start hearings this week on some issues, as I understand it, like airbags; perhaps some early hearings on confirmations of the President's nominations. Again, next week I understand that there will certainly be hearings on the nominees that the President has submitted to the Senate. We are anxious to cooperate with the President, work expeditiously on these nominations from the Executive Calendar, and the day after inauguration, or certainly that week of the inauguration, we hope to have some of these nominations ready for a vote of the full Senate. I believe the cooperation by the Democratic leader in this effort will allow us to concentrate on that. And then we will have our opportunity to introduce our first bills on the 21st, make our statements, and get going for business. So I appreciate your cooperation, Senator DASCHLE.

Mr. DASCHLE. If the majority leader will yield for a moment to let me make a comment, I fully share the views expressed by the leader with regard to the timeframe within which legislation will be considered and introduced. We will be holding a conference tomorrow to talk in part about the intentions of our caucus to introduce the first 10 bills, numbered S. 11 through S. 20. But let me also emphasize how appreciative we are with regard to the early consideration of some of the nominees by the administration. They have emphasized, on a number of occasions, their desire to have their people in place as quickly as possible. That requires, of course, early consideration and early confirmation of many of these nominees. The distinguished majority leader again has reiterated his desire to do that, and I am appreciative of that and will work with him to accommodate that schedule.

So, I think we are doing the very best we can in meeting all of the different demands that we have upon us, schedulewise, and I appreciate very much the interest in moving ahead on many of these nominations.

The PRESIDING OFFICER. The majority leader.

ORDER FOR RECESS

Mr. LOTT. I ask unanimous consent that, when the Senate completes its business today, it stand in recess until 12:30 on Thursday, January 9.

The PRESIDING OFFICER. Is there objection? Hearing no objection, so ordered.

Mr. LOTT. Mr. President, for the information of all Senators, on Thursday, January 9, at 12:40 p.m., the Senate will proceed as a body to the Hall of the House of Representatives for the counting of the electoral votes at 1 p.m. Senators are asked to be prompt and in the Chamber no later than 12:30 on Thursday. Following the counting of the votes, the Senate will adjourn until Tuesday, January 21, 1997.

PROVIDING FOR ADJOURNMENT OF THE SENATE

Mr. LOTT. Mr. President, I send an adjournment resolution to the desk providing for adjournment of the Senate over until Tuesday, January 21. I ask unanimous consent that it be reported by title, agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. WELLSTONE. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. WELLSTONE. Mr. President, I have had some discussion with the majority and minority leaders on this question. I feel very strongly, and I think that an overwhelming majority of people in the country feel, that there is no more important thing we can do than to pass a reform bill and get a lot of this big money out of politics.

In this last election cycle, we saw the worst of the worst on top of a system that has not worked well for the people in the country. I feel like we should not—go into recess and we ought to get started on this. I wonder if the majority leader can make a commitment that within the first 100 days, we will at least have such a bill on the floor of the Senate.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. I will say to the distinguished Senator that it is my intent to urge early consideration of the issues that came to the forefront during the campaign and the election last year. I have asked the Governmental Affairs Committee to be the only committee to take a look at some of the alleged violations that occurred—perhaps some illegalities even, in terms of contributions during the campaign—to see if there is anything there that will justify proceeding further. I am not prejudging that at all.

I also have had an early conversation with the chairman of the Rules Committee and have asked him to have some early hearings—and these are not intended to be dilatory at all—hearings to get into, seriously, what happened, what needs to be done, to see if we can find a way that we can come to an agreement on a bill that can pass the Senate, one that will not be filibustered by the Democrats or by the Republicans. Clearly, we have some disagreements on what the solutions are, but I fear that if we try to put a specific date on it, it will make the likelihood of our success less likely or more difficult.

I think that the Senate should proceed always with thought and thoroughness and try to see where we can come together. We can establish right here right now what we can't agree on. The question is what can we agree on. So we are intent on working on that.

The various committees have some things they are going to have to work on. The Rules Committee has an assignment right now that they are going to have to work on. I am going to urge Senator WARNER not to let that interfere with getting together in a bipartisan way to see if we can come up with some agreement.

We have the confirmations which we will be trying to do. We have a lot of things coming to the forefront. I am hoping, for instance, that we can take up and consider the so-called ISTEA bill, the highway bill, before the Easter recess. It is a reauthorization we have to do. It is very important all across this country. I am not saying it is as important or more important than campaign finance reform. I am just saying there is a lot of work we need to do.

On the 21st, it is my hope and desire, after notification of the Democratic leader, to inform all Senators what the bills are that we hope to deal with before the Easter recess, perhaps on the floor. It will not be all inclusive.

I will be happy to talk further with the Senator from Minnesota. We are not going to try to shove this aside. I don't think we can. There are too many questions raised by this election. There are too many questions about how contributions are made, who makes them, how much they can make. I don't think we have all the answers yet, though, and to say we are going to do it in a 100-day demarcation—I have not even had a chance to look at the calendar and see what that means. It might be during the middle of the period that we said we would be out for the Easter recess.

I have tried working with Senator DASCHLE to tell Members more this year than has usually been the case what they can expect or anticipate in terms of being out. I would like, at least, to have us sit down and look at the calendar and see what this means and how it affects other things, such as budget negotiations, the importance of bringing it up before the Easter recess. The law requires we act before April 15 on the budget resolution. Why don't we try to do it before April 15 and comply with the law? In order to do that, and the way that time falls, there is only 1 week after the Easter recess before the 15th.

I am hoping we will do—the House and Senate working with the administration—the budget resolution before the Easter recess so we can come back and get the final agreement on the conference report.

That is why I ask the Senator, if he will, to give us the opportunity to show our good faith to work seriously on this matter, but without any arbitrary deadline before we even have a chance to sit down and see what it means on the calendar.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, can I also make a comment? Let me, first, compliment the distinguished Senator from Minnesota for his adamant endorsement of the need to move ahead on campaign finance reform. I share his utter frustration and extraordinary concern for the current method with which we finance our campaigns. I share it to the degree that I intend to offer, as the very first bill that I will introduce, in consultation, of course, with our conference tomorrow, S. 11, a campaign finance reform bill built upon the remarkable work done by a previous majority leader, Senator BYRD, years ago, as well as Senators FEINGOLD, KERRY, and others who have played a key role in this debate in the past. I will do so with every expectation that we can succeed, at long last, to pass meaningful, comprehensive campaign finance reform this year. And I feel as strongly as the Senator from Minnesota that the legislation should be considered as early as possible. It is long overdue.

But, as the majority leader has indicated, some of that work is already being done, and there are other issues that must also be considered on a timely basis. For example, I am concerned—and I discussed this again with the President as recently as yesterday—about the need to accelerate consideration of the chemical weapons treaty, because if we are not able to complete our work on that particular measure prior to the first part of April, we will suffer extraordinary diplomatic and legal consequences in the international community.

So not only do we have the budget, but we have the chemical weapons treaty and a number of other issues that will have to be addressed. That does not mean we cannot begin to work and work through all of the issues relating to campaign finance reform in a timely, meaningful and, hopefully, bipartisan fashion. We must do that, but we don't need immediate floor time necessarily to do that. We do need a commitment on both sides to begin working together to finally enact fair, meaningful reform.

The majority leader has given me that commitment in the discussions we have had with regard to both the committees, as well as his individual efforts, to come to some resolution on this matter. I am hopeful we can do that.

So, in working with the Senator from Minnesota, and certainly with the majority leader and others, I believe we are off to a start that ought to ensure some optimism with regard to our prospects for success on campaign finance reform this year.

Mr. WELLSTONE. Mr. President, reserving the right to object, I appreciate the discussions that I have had with the majority leader and minority leader. I was trying to get back to them as they were going through the resolutions.

I guess when I hear the majority leader and minority leader speak about this and other business that we have to transact, while I absolutely am convinced about their commitment, it just brings into even sharper focus for me the need for this body to make a commitment: that we will by the end of 100 days have a bill on the floor of the Senate. We have been talking about this for a long, long time. I don't have the experience some Senators do. I am just starting my second term. But every single time this has come up, speeches have been made, and then we end up not passing a reform bill. I think nothing could be more important than for us to make a commitment.

What about within the first 4 months as opposed to the first 3 months? Can the majority leader make a commitment that he will do everything possible to try to have a bill on the floor of the Senate within a 4-month period? That is reasonable, and that is all I am asking for.

I think the majority leader is committed to this. I want to say to my friend, and he is a friend, that of course I am not judging what the specific content will be. I am not requesting any commitment to a particular content, but I am requesting a commitment that we go on record and—you know, if we had to have a vote on this, then I think it would be a vote as to whether or not Senators, Democrats and Republicans, are serious about taking action within a 4-month period, which is very reasonable. I do not know how many votes there would be, but I think that is what it is about. I want to be counted as someone who is willing to make a commitment to this.

Would the majority leader be willing to make a commitment that certainly with his considerable skill and ability he will, along with the minority leader with his skill and ability, that the two of them together as leadership, will make a commitment that within the first 4 months they will do everything possible to take action and have the debate that the people in the country are ready for and pass—and pass—the piece of legislation? We do not have to say ''pass,'' but at least bring a bill to the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, just a bit of history, as I recall it. Of course, we have passed campaign finance reform bills in the past. I voted for the one that is in law now. I believe, in more recent history, there have been occasions when maybe—I know the Senate passed a bill one year. I think it wound up languishing in the House. And then the reverse, I think, has happened. I really believe from my time in watching the Senate that some time is your ally, giving things an opportunity to be carefully considered and percolate along a little bit.

Last year a lot of people talked about how we were able to get a lot of legislation passed at the end of the session. One of the reasons is a lot of those bills had been in the mill for months, some of them 2 years, some of them 10 years. But they finally were ready, and they, in most instances, had broad support. So there is a history of our making a run at it. We make a stand, we make a statement; we get nothing. Are we interested in making a statement about our concern, or are we interested in getting something done? I think the latter is the case.

When you talk about 4 months, for instance, are you talking about April? Once again, if you are—January, February, March, April—you are not talking about much difference from the first request. When you add again, when you look at the budget issue, when you look at the potential for when we deal with the Chemical Weapons Treaty, if we do come to that agreement, that understanding, I believe there is a significance to April 15 for that.

I just again implore my colleague from Minnesota not to try to set a specific date. This is not going to be your last opportunity. This is only your first opportunity. You will have an opportunity to witness our conduct and judge whether or not it is being seriously discussed. There are a lot of people with a lot of different interests here that Senators have who have worked on it in the past, like Senator FEINGOLD or Senator MCCAIN and Senator MCCONNELL, and others who feel more concerned about it this year than they did even a year ago.

I have talked with a lot of Senators already and outside groups that are concerned in all kinds of ways about how we do this. We are not ignoring it at all. You are working on it. We are working on it. We are already making progress. You have a bill that perhaps is the same bill, perhaps with some modification, as the bill last year sponsored by Senators FEINGOLD, MCCAIN and others. But let us get started. Let us see how we do. And the Senator can witness our advent.

Mr. DASCHLE. Mr. President, if I could just also respond to a couple things.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. First of all, let me say I have not had the opportunity to talk with Senator FEINGOLD and Senator MCCAIN and Senator John KERRY

and others, including Senator LEVIN, who expressed a real interest in this issue as to what timeframe they would propose.

I would like to seize on the phrase that the distinguished Senator from Minnesota used just a moment ago. That is ''make your best effort.'' He said, ''Will you make your best effort?'' And he suggested a timeframe. I think I can say on behalf of both leaders—certainly for myself—that we are going to make our best effort. He knows my resolve to get this effort accomplished in a successful way. I think the distinguished majority leader has also expressed a determined interest in finding ways to do it.

We will make our best effort and we will do everything possible to bring this to the floor at the earliest possible time with the greatest degree of expectation that we will succeed. It is my hope that we will succeed in 100 days or 4 months or at some timeframe within the first part of this year. I wish we had succeeded in previous Congresses. And I have a very strong sense of urgency about reforming the system as soon as possible so that we can restore some public faith in our electoral system and get on with other pressing business. Still, I think what is more important than the day we start floor consideration is the sincerity of the effort itself and a commitment to that effort on the part of both sides. I think that you have heard that demonstrated again this morning.

Mr. WELLSTONE. Mr. President, I will not drag this on. I have some mixed feelings. I think I will have to object because, again, I have tremendous respect for both leaders, but when I hear language about ''best effort,'' ''within as reasonable a time period as possible,'' it just represents really not any kind of specific commitment at all.

I will just say that those who have worked on the reform—and the Senator mentioned many; the Senator mentioned Republicans as well as Democrats—every one of them has said, if we let this drag on, we are going to have more and more acrimony, given all sorts of hearings and whatnot coming up, and we are going to make a huge mistake. We need to make this a priority of this 105th Congress, and we need to focus on this, and we need to get the job done. I think a 4-month period is more than reasonable just to have a commitment from the leadership to make every effort possible. I am willing to go with that language to have such a piece of legislation on the floor of the Senate, understanding that this is the core issue.

I think really this is an issue that people are talking about more than any other issue in the country right now. I do not think it is unreasonable. I thought 100 days, and I thought 4 months. I do not think it would be unreasonable at all for me to make this request. I do not know why the leadership would not be able to say we will make every effort possible to have this bill on the floor within the next 4 months. And if not, then I think I will object.

Mr. LOTT. Mr. President, before the objection is heard, I would like to make one additional point.

If the Senator objects, then we will have to put in a quorum and go with another alternative, which would be to basically have to recess over until every 3 days and the House and the Senate then will have to make arrangements to come in every third day, to call our staff to be here, and to go through the costs of doing that. I just do not think that is the way we want to begin the year, going through an exercise that is not necessary, that does cost time and money, without accomplishing anything.

I again implore the Senator to think about what we have had to say, and I ask him not to object at this point on our opening day. This is just the kickoff. Let us not fumble on the first play and look at the alternative.

The alternative, if the Senator objects—we are not going to get a recorded vote on it. We are going to go to another alternative, which will lead to inconvenience and costs without any positive results. I hope the Senator will also factor that into his feelings. The Senator has not, and I have not, allowed this to become acrimonious or partisan. I do not want it to be. But the Senator would leave us no option at this point on our first day but to consider another route.

So I remind the Senator one more time, too, that last year there were enough different times that I made some commitments to him that were not necessarily well received on my side. But we kept our word. We got the job done. I may not be able to do just that same sort of thing this time. But I hope that the majority leader's assurances on opening day, based on my relatively short time but the record that I have, would have weight with the Senator from Minnesota. We are asking the Senator, both of us, the leaders, to give us this opportunity to show our good intentions. Then if the Senator is not satisfied with it, come back again.

Mr. DASCHLE. Mr. President, if I could also add, the majority leader has referenced times when we have very willingly accommodated the Senator from Minnesota. I can recall on a number of occasions over the last 24 months requests made by the distinguished Senator from Minnesota that we have been able to accommodate to suit schedules and to suit other legislative needs. I will certainly look forward to accommodating his needs and requests during the 105th Congress.

I hope that Senators who have objections will notify me personally prior to the time they are going to come to the floor with indications of this kind. It is cumbersome and certainly has created difficulties for Senators who are not here. So it is my hope, too, to accommodate Senators, to demonstrate again a willingness to work together, again, with the clear understanding that I am every bit as committed as he has indicated he is to campaign finance reform. I also urge the Senator to cooperate and to work with us on this particular matter.

Mr. WELLSTONE. Mr. President, finally, and so we can move forward, just one more time for the context, this is the core issue. That is why I come to the floor. I know other Senators feel the same. I do not lay any claim to more righteousness about it. This is a core issue.

People in the country have just absolutely lost their confidence in this political process. I do not think they are real optimistic about our taking any action. In all due respect to the leadership, I have heard too many of my own colleagues talk about reform and then dismiss it, saying it is not going to really happen. I already hear the discussions of how people can raise money for the next cycle.

The only request I made of leadership today—and the wording really is, I think, very modest. It was just a commitment from the leadership. I started out 100 days, at least within the next 4 months, that the leadership would make a commitment to do everything possible to get a reform bill on the floor of the Senate. That is all I asked for.

Now, Mr. President, the majority leader said, well, the only alternative is to go into recess. That is not the only alternative. That is not my alternative. We have a vote. We can have a vote on adjournment. I know what the vote will be. I am sure there will be an overwhelming vote for adjournment. But if there are only two people, one, or three that say, ''No, we are ready to take on this reform and get to work,'' I am proud to be counted as the one or two or three. This is not the only alternative.

Mr. DASCHLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. DASCHLE. Mr. President, I withhold for a moment.

Mr. MCCAIN. Mr. President, I was watching on television the discussion going on here. I just urge my colleague from Minnesota to let us go ahead with the ordinary historical business of the Senate. He and I share the same zeal, dedication, and effort toward getting this issue done. I appreciate the comments of the majority leader and of the distinguished Democrat leader.

I think at this point it would not be appropriate for us to begin the very first day of the U.S. Senate, the first day of the new term, for us to begin on this note. I think we will have plenty of time to adopt that strategy and tactic. I do not like for us to discomfort our colleagues on this day of celebration for both new and reelected Members. I think that the issue has to be addressed as quickly as possible. I believe that American public opinion will

demand that we move forward. I do not think there is any doubt about it.

I urge my friend from Minnesota to let the Senate move forward on this day, this very important day, before we have to start calling people back here and going into quorum calls and that kind of thing. This is, if I may say in all due respect to my friend from Minnesota, not appropriate on this day. I urge my friend from Minnesota allow the Senate to move forward, again, reemphasizing my commitment to him that we will move forward in a bipartisan fashion on this compelling issue.

Mr. DASCHLE. I suggest the absence of a quorum.

Mr. WELLSTONE. Could I ask my colleague from Arizona—I do not think it puts him on the spot—I have no question about his commitment or the commitment of any number of other Senators. I find it puzzling that the only thing I asked for today—because I do have a real fear this is just going to get put off and we are not going to take action—the only thing I asked for, and maybe my colleague did not hear this, was a commitment from the leadership to do everything possible, I used that word, and I started with 100 days, within 4 months, and get a bill on the floor. That is all I ask for.

I think it would be very important to get that kind of a leadership commitment.

Mr. DASCHLE. Mr. President, I had suggested the absence of quorum. I think we need to have the opportunity——

The PRESIDING OFFICER. Does the majority leader yield?

Mr. LOTT. Mr. President, I join the distinguished Democratic leader in suggesting the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

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

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

Mr. WELLSTONE. Mr. President, I have listened to my three colleagues, and having been sworn in today I understand their point about the occasion. So what I want to do, in the spirit of the special day today, I withdraw my objection, but I want to go on record, I am going on record today that I am going to have the same amendment dealing with our recess in February if we do not get to work on this. We should not be taking a recess in February if we are not going to take up this piece of legislation of reform as soon as possible, that we are dragging it out, and I can see what is going to happen.

So today I will not object, but I will come out with a similar initiative, I say to my colleague from Arizona, and maybe we should be working today and saying we should not be in recess in February.

Mr. DASCHLE. Mr. President, let me thank the distinguished Senator from Minnesota for his cooperation this afternoon. He feels very, very strongly about this issue and has confirmed that again in a colloquy over the last half hour. I appreciate very much his resolve and intend to work with him very carefully and closely to see that we expeditiously consider this very important legislation.

Mr. LOTT. Mr. President, did the Chair rule that the unanimous-consent request was approved?

The PRESIDING OFFICER. The unanimous-consent request has been approved.

The concurrent resolution (S. Con. Res. 3) was agreed to, as follows:

S. CON. RES. 3

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns on Thursday, January 9, 1997, pursuant to a motion made by the Majority Leader or his designee, in accordance with the provisions of this resolution, it stand recessed or adjourned until 12:00 noon on Tuesday, January 21, 1997, or until such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until 12:00 noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution; and that when the House adjourns on Thursday, January 9, 1997, it stand adjourned until 10:00 a.m. on Monday, January 20, 1997; that when the House adjourns on Monday, January 20, 1997, it stand adjourned until 12:00 noon on Tuesday, January 21, 1997; and that when the House adjourns on Tuesday, January 21, 1997, it stand adjourned until 12:30 p.m. on Tuesday, February 4, 1997, or until 12:00 noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and the House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

COMMENDING SENATOR ROBERT C. BYRD FOR HIS YEARS OF PUBLIC SERVICE

Mr. DASCHLE. Mr. President, I send a resolution to the desk commending Senator ROBERT C. BYRD for his years of public service, that the clerk read the resolution, that upon its reading, it be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER (Mr. KYL). The clerk will report.

The legislative clerk read as follows:

S. RES. 7

Whereas, the Honorable Robert C. Byrd has dutifully and faithfully served the people of West Virginia since January 8, 1947;

Whereas, for 50 years, he had dedicated himself to improving the lives and welfare of the people of West Virginia and the United States,

Whereas, his 50-year commitment to public service has been one of total dedication to serving the people of his beloved state and to the highest ideals of public service,

Whereas, he has held more legislative offices than anyone else in the history of his state, and is the longest serving Senator in the history of his state: Now, therefore, be it

Resolved, that the U.S. Senate congratulates the Honorable Robert C. Byrd, the senior Senator from West Virginia, for his 50 years of public service to the people of West Virginia and to the United States of America.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Senator Robert C. Byrd.

The PRESIDING OFFICER. Without objection, the resolution is agreed to.

The resolution (S. Res. 7) was agreed to.

Mr. LOTT. Mr. President, I want to heartily endorse this resolution. I thank the people of West Virginia for electing Senator ROBERT C. BYRD to these many offices, both in West Virginia and here in the U.S. Senate. He is truly a monumental Senator in terms of importance and perspective in the history of the Senate. I sat here in my chair a month ago and listened to Senator BYRD speak to the new Senators about this institution, about its history and the importance of it and the significance that it has played in the role of this country. It was extremely interesting and, also, in some respects, intimidating because he made us aware of what an awesome responsibility we have here in the U.S. Senate. I enjoyed it thoroughly.

I appreciate his friendship. I have found that he is one that you can go to for counsel and for advice. Even sometimes when he does not agree with what you are trying to do, he will give you a straight answer as to what you could do under the rules. He has a lighter side you don't always see here, but we know he has been seen playing a little fiddle and talking about Billy Byrd, his dog. He is quite a Senator. We appreciate so much his contribution to this institution. I am delighted that we are doing this resolution recognizing his 50 years of outstanding service to West Virginia and the United States.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, tomorrow marks the momentous day in the life and career of one of this Chamber's most esteemed and respected Members. Fifty years ago, on January 8, 1947, ROBERT C. BYRD took his seat in the West Virginia State Legislature, thus beginning a remarkable half century of public service. I have quite an extensive statement that I wish to make following the completion of our resolution and consideration. I must again congratulate our distinguished Senator for a remarkable career. We saw another demonstration of his intellect and his institutional memory and the remarkable contribution he makes to that just this afternoon as he talked about the early days of this Senate and how the President pro tempore was selected and the length of time it took and the degree to which we followed procedure in ensuring that we notify both the President and the House of Representatives in proper order. It was a small yet very significant contribution to our dialog this morning and,

again, a reminder of what an invaluable and remarkable Senator ROBERT C. BYRD is.

I will have much more to say after we complete our work. I commend him.

The PRESIDING OFFICER. Without objection, the resolution is agreed to.

The resolution (S. Res. 7) was agreed to.

(Mr. KYL assumed the chair.)

Mr. ROCKEFELLER. Mr. President, I am very, very proud to be a part of this resolution and to thank Senator ROBERT C. BYRD on behalf of the people of West Virginia certainly, but also, frankly, the people of the United States and the whole process of order, which is the way we govern ourselves. I think extraordinary in history, he is the third Senator to be elected to seven 6-year terms—a remarkable accomplishment.

The Almanac of American Politics says that ROBERT C. BYRD is the kind of Senator that the Founding Fathers had in mind when they, in fact, wrote the Constitution about the way the Senate ought to be. That should not come as a surprise to any of us who know him well.

We have heard so many times the fact of his being a truly self-made person, something which his junior colleague could not claim in quite the same fashion. But we know that he is the son of a coal miner, and we know about the law degree while he was in the House of Representatives. What we have to keep emphasizing, though, is what he means not just to the State, not just to the country, but to this institution, because more than any other person that I have read about in history, or know about, he is the conscience of the Senate. When we have a lack of civility, when we lose our sense of bipartisanship, when there is anger on the floor of the Senate, when the process breaks down, he grieves. He grieves not on behalf of himself, but on behalf of this thing called ''governance,'' which is pretty fundamental for the future of our country. I think he worries about that. I know that he places the U.S. Senate as a particularly responsible body for what is going to happen to our future and how it will happen. Will it be done in a way that is bipartisan and civil—the business of civility in this greatest deliberative body in the world?

I will more or less conclude on this. I really think of him in moral terms. From time to time, when I give speeches, I like to refer to when you are really doing your best work, you are following an inner moral compass. I think that I started talking about that after watching Senator BYRD, not only when I was Governor of West Virginia and before, but also here in the U.S. Senate. He really operates out of a moral compass. He does what he thinks is right. He has a very strict sense of the discipline of what ought to happen in this body. Sometimes he lectures us on that, and sometimes people are briefly impatient with that, but they always stand back because they know he is right. They know he is right. They know he speaks for the U.S. Senate, which he reveres so much.

Let me close by saying that on this coming Saturday there is going to be a statue inside the West Virginia Capitol, which is not really much smaller than the one we stand in at the present moment. It is a statue of Senator BYRD. There is no other statue of any other political person in the West Virginia State Capitol. There will be a lot of people there, and for good reason—because the relationship and the chemistry between Senator BYRD and the people of West Virginia is something that is profoundly moving and important and refreshing, frankly.

We honor him for serving for 50 years, which means he has been out amongst the people all this time. He has never changed. The people of West Virginia have really never changed. He is a man of values speaking to a people of values. It is interesting. As he begins to talk, you see people fall silent. They realize they don't want to miss what Senator BYRD might be saying because they know it is not going to be trivial or political, and it is going to be important. It is going to have to do with fundamental values and the fundamental nature of the way this country ought to be and the way the State of West Virginia ought to be.

So I look forward to being with him this coming Saturday. I join with the distinguished majority leader, the Democratic leader, and the distinguished Senator from Nevada in praising and being grateful to my senior colleague.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I appreciate very much the two leaders allowing me to speak. I can say that it has been somewhat of an inconvenience for me to wait until the business of the body has been completed before we got to this matter. But the inconvenience to this Senator is so minor compared to the service that has been rendered in this body to the people of West Virginia, and to this country, by the Senator from West Virginia, that it is hardly worth talking about.

I am happy to be here to talk about somebody for whom I have great feelings. I have served in public office since 1964. My first public office was 33 years ago. During that period of time I have had the good fortune to serve with great men and women, but I can honestly say I have never served with the likes of Senator ROBERT C. BYRD.

As far as this Senator is concerned, he is a unique individual. I hope some day that Senator BYRD will complete what I understand he is working on, and that is the story about his life. I know a little bit about the life of Senator BYRD. I am an avid history fan, and every bit and piece I can find, and have found, about Senator BYRD I have tried to comprehend and understand.

With someone of this magnitude, we sometimes wonder how he arrived at the point where he has such accolades pushed in his direction every day.

I know that his first election was an interesting election, one where, seated often, as I understand, in the West Virginia State legislature were many, many people who were running for that office. Senator BYRD, being the person that he is, decided he needed to be a little bit different, to kind of stand out in the crowd, to be elected. So he decided that he would be different from the rest. The people would give long speeches telling why they should be elected to the State legislature. Senator BYRD would get their attention by playing a tune on his fiddle and singing a song. Senator BYRD was elected.

Early in his career he decided to run for the West Virginia State Senate. But, as happens in a lot of States, there are kingmakers saying, ''You run for this, you don't run for this, this isn't the appropriate time to run.'' Someone who was a national figure thought that there would be other people who would be better qualified to serve in the West Virginia State Legislature. The great John L. Lewis, president of the Mine Workers, got word to Senator BYRD that he should not run. Of course, we all know now Senator BYRD, and that was the wrong thing to say to this man from the hills of West Virginia. He took on the leader of the Mine Workers, someone that literally brought the country to a standstill. But this man could not bring ROBERT BYRD to a standstill. He ran and was elected.

Everyone knew that this man was close to the miners—may not have been close to labor, but he was close to the miners. And he was elected.

Well, his career is outstanding. I can truly say that one of the most pleasant moments of my life was when I came to the Senate some 10 years ago and was notified that I could be on the Appropriations Committee. That, to me, was so memorable that I will never forget it. I have done my best to serve on the Appropriations Committee in a manner that I think is good for the State of Nevada, and hopefully good for the country. One person I look to as an example in that committee has been the person who was chairman, and is now ranking member of that committee, Senator ROBERT C. BYRD.

I learned early on that the man carried in his pocket, as I now do, a copy of the United States Constitution. He carries that Constitution with him, not because he probably couldn't recite to the Presiding Officer, and to this Senator, every word in the Constitution from memory, if he chose to do so. But I think the reason he carries it there, next to his heart, is because he believes the Constitution is as important as any document in this country.

We all know the rules that guide this body, and the person that knows them better than anyone else in this body—and probably knows them better than anyone else in the history of this

body—is the Senator from West Virginia, who we are honoring today with this resolution.

Mr. President, I had the good fortune to be a member of a delegation that met in West Virginia with British Parliamentarians. We had the ministers from Great Britain. We had other leaders. We met in West Virginia. After having been there, I understand some of the songs that come out of West Virginia, such as, ''The West Virginia hills where I was born, and all is beautiful there.''

What I am about to tell the Senate, and even though I was there, I find hard to believe. We had some entertainment, some music—blue-grass music. It was exciting. They asked Senator BYRD, ''Tell us a song you would like to hear.'' And he said, ''There are more pretty girls than one.'' They played that song. It was a great song. I have heard it many times since.

Then he handed out notebooks to the Members of the Senate and to the Parliamentarians. From memory, without a note, he proceeded to recite the reign of the British monarchs, the date they served office, their names, and what they did. That took about 40 minutes or so for him to do, or maybe an hour. The British Parliamentarians were flabbergasted. They had never heard anything like this in their lives. But, as happens in this body, there are many times that we hear things that we have not heard any time in our lives, except from the Senator from West Virginia.

I could tell you about the remarks he made on the Senate floor about the Roman Empire, about which a course at the University of Nevada at Las Vegas is now being taught, using the text of his lectures here on the Senate floor.

Mr. President, the people of West Virginia should know that whether he was leading the debate on the Panama Canal treaty, or other international or domestic matters, that his No. 1 priority has always been the people of West Virginia. It has been a great example for all of us: to be involved in international and national affairs, but to never lose sight of the fact that you are elected by the people from your State and that the people in your State should have first priority. That is the most important lesson I have learned from the Senator from West Virginia.

I express to the Senator, through the Presiding Officer, my affection, my admiration, and my respect, and I hope that, in some manner, my public service to the people of the State of Nevada will be as well-served as the Senator from West Virginia has served the people of West Virginia.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from West Virginia.

Mr. BYRD. Mr. President, Plato thanked the gods for having been born a man, and he thanked them for the good fortune of having been born a Greek. He thanked them for having permitted him to live in the age of Sophocles.

Mr. President, I am very thankful for many things. I am thankful for the respect of my colleagues. My colleagues upon more than one occasion—undoubtedly many of them—have been angered by things that I have said. I am sure they have been frustrated with me from time to time over the many years. But they have always been forgiving, understanding, and most considerate. And I thank them. I thank, of course, the Supreme Governor of the World for having let me live to serve for 50 years the people of West Virginia.

The psalmist tells us, ''the days of our years are threescore years and ten; and if by reason of strength they be fourscore years, yet is their strength labour and sorrow; for it is soon cut off, and we fly away.'' I thank God for his mercy and his kindness and his love, for having let me live to serve the people of West Virginia 50 years.

I thank the people of West Virginia for having demonstrated the faith and confidence in me to reelect me these many times over a period of a half century.

Queen Mary I of England lost the port of Calais to the French. Mary served from 1553 to 1558. She said, ''When I am dead and opened, you will find 'Calais' written on my heart.'' I say to the people of West Virginia, ''West Virginia'' will always be indelibly engraved with blood upon my heart until it returns to the dust.

I must thank a very understanding and forgiving and considerate woman—my wife Erma—who has served with me these 50 years. I think that our spouses sacrifice beyond what people generally know when we serve in this body. Come next May 29, we will have been married 60 years. I had to have a forgiving and understanding and cooperative wife who was as dedicated to the people of West Virginia as I, to have done it.

Finally, Mr. President, let me thank my staff. I have always been blessed with a good staff. I was once told by the chief chaplain of General Patch's army in World War II that a true mark of genius is to be able to surround oneself with able, committed people. I have had that kind of staff over these many years, a staff that likewise has overlooked my foibles, idiosyncrasies, and has been cooperative and kind and has helped me when I had to walk through the valley of despair—at my grandson's death. They, too, have served the people of West Virginia and the people of the Nation.

I apologize to the leaders for imposing on their valuable time. I know how it works. They have other things to do, other demands are made upon them and other business is there to take care of, other errands to run, and other services to perform, but always there is some straggling Senator who comes to the floor who wants to take some time and talk. But I thank them, and I hope that over the years, whatever disappointments I bring upon them, I can have the opportunity to make amends and to support them in the good work that they do.

And so I thank all today for the privilege and the honor that have been bestowed upon me by the Senators on both sides of the aisle. I have also been very fortunate in having had two good colleagues in these 38 years. I had Senator Randolph to begin with and now I have Senator ROCKEFELLER, who is a very fine colleague. I could not ask for a better colleague than either of them. Senator ROCKEFELLER has been especially supportive and deferential and kind to me. And so I have many things, Mr. President, for which to be grateful.

HARRY REID has impressed me in the years he has been in the Senate. As a member of the Appropriations Committee, many times I have asked him to chair subcommittee hearings when I could not be there to do so, and he has always done an excellent job.

He, too, is a Senate man. He is dedicated to the institution. I have had many conversations with him. I feel highly privileged to have him as my friend.

Tennyson said, ''I am a part of all that I have met.'' How rich I am in that I am a part of HARRY REID and JAY ROCKEFELLER and TOM DASCHLE and TRENT LOTT.

I thank both leaders again for their consideration in giving me this time. I yield the floor.

GRANTING FLOOR PRIVILEGES

Mr. LOTT. Mr. President, did the Senator from South Dakota have a resolution he wanted to send to the desk concerning Senator CLELAND?

Mr. DASCHLE. Mr. President, I do have a resolution, and I send it to desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 8) granting floor privileges.

The PRESIDING OFFICER. Without objection, the resolution is agreed to.

The resolution (S. Res. 8) reads as follows:

S. RES. 8

Resolved, That an employee in the office of Senator Max Cleland, to be designated from time to time by Senator Cleland, shall have the privilege of the Senate floor during any period when Senator Cleland is in the Senate chamber during the 105th Congress.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, I believe we have completed now the customary list of resolutions and unanimous-consent requests. I do have a statement that I would like to make on this opening day, and then I believe the Senator from South Dakota might have some additional remarks he would want to include in the RECORD with regard to

Senator BYRD. Also, after I complete this statement, I will ask unanimous consent there be a period of morning business until 5 o'clock. But at this point I would like to make some opening remarks with regard to how we would like to proceed this year and some discussion about the legislative schedule.

Mr. DASCHLE. Mr. President, if I could apologize to the distinguished majority leader, I have a couple of Senators who have been waiting for me for about a half-hour and I need to get into the room. Out of respect for the Senator, I should stay and listen to his eloquence and his visionary comments about his plans for the 105th, and I apologize. I would like to come back and make a statement with regard to the opening day as well as Senator BYRD, and I will do so at a later time. But I apologize up front to the distinguished majority leader for my absence as he makes his remarks.

Mr. LOTT. I am sure he will read them in the RECORD, Mr. President, and will have some comment later.

LEGISLATIVE SCHEDULE

Mr. LOTT. Mr. President, it is customary on this opening day of Congress to lay out the highlights of the legislative schedule ahead of us and discuss whatever procedural problems or changes might be in the offing.

First of all, I am not going to give today a finite list, or a list that we will have on the agenda that we will try to complete before the Easter recess, but I will do that on the 21st. I do want to mention some of the bills that I think have a high priority that we will be taking up early on in this session.

It is no great secret that I would like to make the schedule of the Senate more predictable. I think that will help us all do a better job. One of the things that I could not understand when I first came to the Senate was the inability to make any kind of plans as to when we would begin; when would we end; could I get home for supper with my family; would I be able to go back to my State and be with my constituents. The uncertainty is killing in many respects, and so I am going to work very hard as majority leader this year to try to give some greater degree of predictability. I will not always be able to do it, but I will work with the minority leader as he leads the Democrats to try to make that information available as to when we will come in. We will try not to go late every night.

We will try not to go late every night. In fact, my hope is we will finish up at a very reasonable hour, hopefully 6 o'clock every week, Monday, Tuesday, Wednesday. We may have to go late to some extent on Thursday. We will need to be in on some Fridays and some Mondays, but I will try my best, again cooperating with the Members of the other side of the aisle and their leadership, to make that information known to the Members as early as possible so they can make some plans as to when they can be with their families or be with their constituents.

As a first step in that effort, last month I provided the Democratic leader and to all the Members on the Republican side of the aisle and to the Democratic Members, a calendar outlining the recess periods for the first session of the 105th Congress. I strongly intend to follow that calendar. But, obviously, any Senator who tries to delay our session or cause us problems can mess up those good intentions. But, barring emergencies, there is no reason why the Senate should not be able to function with a high degree of predictability about the timetable. That will require cooperation from our colleagues all throughout the year, as we get ready to have the President's Day recess period, or as we go to the Easter period, or even later on in the year.

With that in mind, I want to mention, in a general way, several matters I hope the Senate will be able to consider prior to the scheduled Easter recess. It is not inclusive, and it may not be that we will be able to get to these issues. It will depend on conversations on both sides of the aisle, communication with the leadership on both sides, meetings with the chairmen, and it will also depend on the ability of committees to act. I will be more specific later on this month, as I indicated.

By early February, the President should have submitted to us a detailed budget for fiscal year 1998. How that will take shape—and what degree of cooperation might be involved there—remains to be seen. But, one way or the other, the Senate will have to consider a budget for the year ahead. I hope that we will come to an agreement on balanced budget over a period of years. It will take a lot of effort, but a lot of progress, I believe, was made last year and the gap between the Congress and the President was closed perceptibly over those past months there, the last months of 1995 and early 1996. We ought to pick up where that ended and see if we cannot come to an agreement that would lead us to a balanced budget over a period of years. Needless to say, that budget is going to be one that will be negotiated between the parties in the House and the Senate, and with the President.

Toward the same goal the Senate should, I believe, in due course, consider, again, a balanced budget amendment to the Constitution. I know there are those who do not agree with that here in the Senate and they will certainly have ample opportunity to be heard and make their case. But I have noticed that good intentions do not accomplish the job. Even a plan to get us to a balanced budget does not always get us there, and we have not had a balanced budget now in some, I guess, 28 years or so; 1969 was the last balanced budget. So it looks like it will have been 30 years that we will have gone as a Federal Government without a balanced budget. I think the plan is not enough. I think that the constitutional amendment will add a great deal of weight to that desire and, in fact, require us to have a balanced budget.

The Senate will, also in due course, consider the numerous nominations in the executive branch as the President restructures his administration for a second term. It is my intention to deal with those nominations expeditiously and fairly. I think the President is entitled to make his selections for Cabinet Secretaries and other administration positions and expect them to be considered early and in a fair manner by the Senate. We will do that. As I indicated earlier, we will begin hearings, either this week or certainly next week, and we hope to begin to have votes on those the week of January the 20th and 21st, right after the inauguration. Some of them may have some difficulty, may take more time, but, we are going to move forward as rapidly as we can.

On both sides of the aisle there is considerable interest in taking up some of the reauthorizations that come due this year. These should not be diminished. They are very important. Certainly one of those is the ISTEA or Inter-service Transportation Efficiency Act; that is the highway bill. This legislation is as complicated as it is important. It will not be partisan. It will not be regional. It will not even be philosophical. It will vary from State to State. Sometimes you have States right next to each other that have different views on how those funds should be distributed between highways or mass transit, and what the formula would be for distribution between the States. I think a lot of work needs to be done, but it is very important. Transportation and infrastructure in America is essential to our economic growth and development, and the free movement of Americans all over this country. I hope we can get this done, out of committee and on the floor of the Senate and completed by the Easter recess. It will take an extraordinary degree of cooperation and consensus, but the only way you get that done is to get started.

Also, in the same area of transportation, there are a number of other proposals we need to consider such as the problems that we are finding with airbags in passenger vehicles. Parents throughout America now are concerned about the safety of their children in their cars. How do we go as long as we have without realizing the danger that they impose? Now it seems like every week we hear of another incident where some child was injured as a result of the airbag. There are, I presume, some solutions. But we need to think about that and work on it.

We should also address the crisis in American education. I am a product of what I think was a good public education system in America. My mother was a schoolteacher for 11 years. I worked for the University of Mississippi for 3 years, in their placement

and financial aid office and in the alumni office. I worked with the student loan programs. I worked with the work-study program. I know the importance of financial aid. I know the importance of good, quality education.

But over the years, since the 1960's, as we spent more and more money, it seems that the quality of education has continued to go down. You have children in high school who cannot read. You have children who do not have discipline. You have children assaulting teachers. You have drugs in junior high school. I am sure it is even in elementary school. These are major concerns. We may not have the answers in Washington. I think probably the answers really are at the local level. But we need to think about this problem and work with State officials and local officials, administrators, teachers, parents, and children to see if we cannot find some ways to improve education, the accessibility of education in America, the safety of education in America. We cannot tolerate violence and drugs in our public schools, so we need to focus on this issue and we need to do it soon.

The Senate should affirm as a matter of principle that no child has to attend a school where he or she is in danger of assault or is exposed to narcotics. I therefore hope that we will bring legislation to the Senate soon that gives youngsters and their families the same choice in education that more affluent families enjoy in America.

The Senate should also consider ways to give families the flexibility they need to balance their responsibilities at home and on the job. Employers and employees should be able to arrange comp time, flex time, and family-wage provisions without interference from Government. The President has indicated that he supports the flextime and the comp time, at least the flextime, and I think we ought to find out exactly what we can do in terms that have flexibility for parents on the job, but work with the employers and employees together to find these solutions.

By the same token, employees should have the flexibility to work in concert with management for their mutual benefit. They should not be locked into an approach to labor relations that presumes conflict and discourages cooperation. So I hope we will be able to bring the TEAM Act to a vote in the near future.

Other legislative items that we might be able to work on during the next 2 months should include reauthorization of IDEA, the Individuals with Disabilities Education Act. This legislation is a very difficult balancing of conflicting interests. To his great credit, Senator FRIST came close to working it out last fall, but, frankly, the clock kind of just ran out and we could not complete the job. This time I am confident that we will bring in more consideration of various views and complete this very important legislation.

In the area of criminal justice, the Senate should allow the death penalty for drug kingpins. There continue to be tremendous problems in this area and this is one place where we can provide some additional penalties that will hopefully allow us to deal with the drugs that are pushed upon our children.

For small businesses, we should permit the electronic filing of forms with SBA and other Government agencies. This is the 20th century. It is almost the next millennium. Let us get with modern technology. It saves money, it saves time, and it probably saves jobs, if we will move to this opportunity for small businesses.

For adoptive families, we should make it easier and more secure for adoption to occur. Senator DEWINE and others have been working along those lines.

Finally, to fulfill a provision of the omnibus appropriations bill of last September, the Senate will vote sometime during the month of February on a Presidential recommendation concerning the AID's population program. This vote is locked in and required by law.

This is not—again I repeat—not an exclusive list. By the time the Senate settles down to legislative business on January 21st, it is likely to be revised after I have had the benefit of the views of Members on both sides of the aisle and the committee chairmen and committee leaders on both sides.

We might add other items or delete some I mentioned as being just too time consuming as we try to deal, certainly, with the budget agreement and other issues that are going to be required by law or by their urgency, in terms of possible treaties, as well as confirmations.

Both the Democratic leader and I are hopeful this can begin a pattern of advance notification of recesses and floor agenda. But we have to stress that its successful implementation will require all Members to act in a cooperative and courteous manner with respect to the needs of all other Members.

Let me mention one case in point. Members should be aware there is a 15-minute limitation with respect to rollcall votes. Past practice has allowed for an additional 5 minutes, so-called overtime, for Members who are running late. However, the 5-minute overtime soon turns into 7 minutes, 8 minutes, 9 minutes, or even more. The entire Senate repeatedly has been inconvenienced in that way.

We try to be reasonable: Senators don't hear the bells; sometimes they get caught on the subway; sometimes the elevators are not operating; sometimes for very good and valid reasons they are out in the city or across State lines and they are trying very hard to get back here, and we have had to use some judgment.

But, as we try to allow that latitude, it continues to grow and expand, and the time to take a vote can easily run up to 30 minutes, and that inconveniences all the other Senators who are here ready to do business and go on to the next amendment or perhaps the next vote.

So we are going to try very hard to stick with the 15-minute vote with a 5-minute overtime. Once again, the leaders will have to be willing sometimes to say, ''We have to cut this vote off.'' I have had to do that when it has involved Senators on this side of the aisle, as well as the other side. I think maybe if we make it clear we mean business a couple of times, Senators will be more inclined to come over and vote when the time begins and within the allotted time. But, again, we will use discretion wherever it is really necessary.

I hope we can continue to provide all Senators advance information about scheduling, especially such matters as evening sessions and Mondays and Fridays. If we all are able to plan in advance, our work will be better, I believe, because we will have certainty and will not be as exhausted as we sometimes get when we go late into the night. Our constituents will be better served, and our families will be much happier as a result of it.

I look forward to the challenges we have before us in the Senate. I had some people say when I was home in Mississippi, ''You must get tired thinking of getting back and getting to work.''

I said, ''Absolutely not.'' This is what it is all about. This is a great opportunity to try to make a contribution for the people you love, your family, your community, your State, and your country. If we approach it that way, if we decide we are going to work together, hard going as it may be sometimes, to do what is right for our country, there will be no limit to what we can accomplish.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. LOTT. I will be glad to yield to the Senator from West Virginia.

Mr. BYRD. Mr. President, I congratulate the distinguished majority leader on the speech that he has made outlining what he hopes to achieve in a general way, without going into specifics, in the months and weeks and days ahead.

May I say, as one who has been majority leader, who has been minority leader, who has been President pro tempore, who has been a chairman of a committee, who has been a Senator like all 100 Senators, that I am particularly encouraged by these two leaders that we now have in the Senate.

I think that with respect to the minority leader, no one could be more considerate of his colleagues, more thoughtful, more eager to reach out and to bring them in to hear what they have to say, to work with them. No one is more eager to work with the majority leader than our current minority leader.

And may I say with respect to our current majority leader, I think we

have a leader who is interested in the Senate, who is interested in putting the Senate where it ought to be—first—and who is interested in improving the decorum in the Senate so that the people who view this Senate, through that all-seeing electronic eye, will see a truly premier upper House.

We have students, we have professors, we have young people in high school, we have lawyers, State legislators, and people in all walks of life watching the Senate daily when it is in session, and they expect to see the best.

I have been a member of the State legislature in West Virginia, in both houses, but even in the State legislatures—and they are closest to the people—even there they will look to the U.S. Senate and to the other body across the way for inspiration.

It saddens me to see a Presiding Officer in this Senate reading magazines or a newspaper or books when he is supposed to be presiding. Millions of people are watching, as well as visitors in the galleries, and I wonder if they go away thinking the Presiding Officer doesn't have much interest in the body if he is not listening to what is being said. He should be aware and alert to what is going on and ready to protect the rights of every Senator while debate is under way.

I think we have a majority leader now and a minority leader who are going to bring these things to the attention of the Members. We, all 100 of us, owe these leaders our very best support when they are trying to do the right thing: Trying to make the Senate what the framers intended it to be.

I really am encouraged, because I think that Senator LOTT is a man in that mold. He is bright, he has an endearing personality, he has an art of persuasiveness that will win many battles. He is considerate, he is patient, and a leader has to have all of these attributes. I thank him for all of these things.

Mr. LOTT. Mr. President, I renew my great appreciation for the Senator from West Virginia, and I appreciate very much his remarks. I hope we can live up to his comments and expectations; we are going to work very hard to do that. I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I, too, would like, again, to express my gratitude to the distinguished Senator from West Virginia for his kind remarks throughout the day, again most recently. I appreciate very much the manner with which he has expressed himself. It is an honor for me to be complimented in public by the distinguished Senator from West Virginia, and he has done so generously.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there now be a period for morning business until the hour of 5 p.m. today, with Senators permitted to speak for up to 15 minutes each.

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

THE 105TH CONGRESS

Mr. DASCHLE. Mr. President, let me first congratulate, again, all of our new colleagues and their families for this very momentous occasion. It is one of the most thrilling things for me to watch new Senators come down the aisle, accompanied by a colleague, to raise their right hand and to take the oath of office. I can recall so vividly my own experience in that regard now twice. I know, having had that experience, what a remarkable and what a memorable opportunity it is for any woman or man.

Let me also again reiterate my gratitude to the majority leader for his remarks and for the kindnesses that he has shown to me and to our caucus as we have worked through the schedule, worked through the committees, worked through the many procedural matters that we had to discuss today. We begin the 105th Congress with renewed hope, with optimism, with good will.

There is much to do, and there is much need to do it together. We have had many months of competitive political effort, and now it is time to govern. Franklin Roosevelt once said, ''The future lies with those wise political leaders who recognize that the great public is interested more in government than in politics.'' Let us recognize that and seize the future. Let us summon the best in all of those around us as we call upon the best within ourselves to join in common purpose and in common cause. I have no doubt that our efforts here during the course of the 105th Congress will, by any standard, then be judged a success.

Mr. President, I indicated when I introduced the resolution relating to Senator BYRD that I had a statement. I would like at this time to make that statement.

ROBERT C. BYRD'S 50 YEARS OF PUBLIC SERVICE

Mr. DASCHLE. Mr. President, tomorrow, January 8, 1997, will mark a momentous day in the life and career of one of this chamber's most esteemed and respected Members.

Fifty years ago, on January 8, 1947, before this Senator was born, ROBERT C. BYRD took his seat in the West Virginia State Legislature, thus beginning a remarkable half-century of public service.

On this golden anniversary of the beginning of a remarkable career, I want to take a few minutes to call attention to this achievement, to congratulate him for it, and to thank him for his service to the people of West Virginia and the United States.

Fifty years of public service. That is a long time. Perhaps I can illustrate.

It translates into two terms in the West Virginia House of Delegates, one term in the West Virginia State Senate, three terms in the U.S. House of Representatives, and seven terms in the U.S. Senate.

Since ROBERT BYRD began serving the people of West Virginia, 10 Presidents have occupied the White House—that is nearly one-fourth of all Presidents in American history. ROBERT BYRD began serving the people of West Virginia before 20 Members of this Chamber, including this Member, were born. Before there was a CIA; before there was a Marshall plan; before the Korean war.

When ROBERT BYRD began his political career, Harry Truman had not yet upset Dewey or dismissed Gen. Douglas MacArthur. Senator Joe McCarthy had not yet begun his infamous Red-baiting. Lyndon Johnson was still in the House of Representatives, and he was being joined by John Kennedy and Richard Nixon, both of whom were taking their first congressional seats.

When ROBERT BYRD began his remarkable half-century career in public service, it was 2 years before the Soviet Union had tested its first atomic bomb, 10 years before the Soviet Union launched sputnik, and 12 years before there were 50 States in our Union.

Five decades is indeed a long time, but it is not for longevity alone that we recognize and applaud the senior Senator from West Virginia. We recognize our esteemed and respected colleague for the quality as well as the quantity of his public service. His lifelong commitment to public service has been one of total dedication to serving the people of his beloved State and to the highest ideals of public service. And the people of West Virginia have honored him for it.

In ROBERT BYRD's 50 years in public service, he has won every election in which he has been a participant. In 1970, he received the largest percentage of the total vote ever accorded a person running for the Senate in a contested election in the State of West Virginia.

In 1976, he was the first person in West Virginia history to win a Senate seat without opposition in a general election. He has held more legislative offices than anyone else in the history of his State. He is one of only three U.S. Senators in history to be elected to seven 6-year terms. He is the longest-serving Senator in the history of his State. And, on January 13, Senator BYRD will have served 38 years and 10 days in the Senate, becoming the fourth-longest-serving Senator in U.S. history—behind Senators Hayden, THURMOND, and Stennis.

West Virginians are not only pleased with their man in Washington; they are proud of him. They have honored him with nearly every honor the State has to offer; this includes being selected as the West Virginian of the Year three different times—the only person ever selected more than once.

This Saturday, January 11, a 10-foot, 1,500-pound statue of Senator BYRD will be unveiled and formally dedicated in his honor in the West Virginia State Capitol. No other person in the history of the State has had such an honor bestowed upon him or her. The statue appropriately depicts Senator BYRD holding the Constitution and pointing to the section of the document that provides Congress with the power of the purse.

Of course, West Virginians are in the process of renaming the State after him. Every town you go into, it seems you can find something named after ROBERT C. BYRD. His name is prominently displayed on hospitals, university buildings, roads, and bridges throughout the State. There is the Robert C. Byrd High School in Harrison County, and the U.S. Senator Robert C. Byrd Center for Legislative Studies at Sheperd College, in beautiful Sheperdstown. There is the Robert C. Byrd Community Center in Pine Grove, the Robert C. Byrd Visitor Center in historic Harpers Ferry, and the much-needed Robert C. Byrd Cancer Research Center.

Last year, the Governor of West Virginia, Gaston Caperton, called Senator BYRD ''West Virginia's most beloved son * * * truly a legend in his own time.'' Truly he is, Mr. President, and ROBERT C. BYRD has become a legend in the U.S. Senate, as well.

More than two-thirds of his 50 years of public service has been in this Chamber. The standards he has set here, the principles for which he has stood, the service he has rendered to this Chamber and every member in it, have all been in the best traditions of American government. For this reason, the ''Almanac of American Politics'' could write that ROBERT BYRD ''may come closer to the kind of Senator the Founding Fathers had in mind than any other.''

He is the Senate's foremost historian—''the custodian of the Senate's ideals and values,'' as Senator Nunn has called him.

He has held more leadership positions in the U.S. Senate than any other Senator in history, and he has cast more votes than any other Senator in history.

He was the first man in the history of the Senate to hold the job of Senate majority leader, lose it, and then gain it back again. ''That fact,'' wrote Michael Barone, ''tells us something about the determination, the combination of hard work and ambition which have propelled this coal miner's son to the top ranks of the American Congress.''

I love that description, so I want to repeat it: ''the combination of hard work and ambition which have propelled this coal miner's son to the top ranks of the American Congress.'' This is a remarkable statement about a remarkable man. An orphan boy who was raised by a coal miner in the hills of West Virginia, who once pumped gas at a filling station and worked as a produce salesman to make a living, who worked as a meat cutter and a welder in the shipyards of Baltimore and Tampa in order to feed his family, has risen to and succeeded at the very top of our government.

His life, in the words of President Clinton, is a ''testament to the idea that public discourse and public life can be a thing of very high honor.''

One of Senator BYRD's favorite quotes is Horace Greeley's observance that:

Fame is a vapor;
Popularity an accident;
Riches take wing;
Those who cheer today may curse tomorrow;
Only one thing endures: character.

Mr. President, as Senate Democratic Leader, I salute the enduring character of ROBERT C. BYRD while I congratulate him for 50 years of outstanding public service. And I thank the people of West Virginia for their wisdom in keeping him here with us.

Mr. President, I now yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

PROTESTS IN BELGRADE

Mrs. HUTCHISON. Mr. President, I think it is important today as we see a transference of power in Congress after duly-held elections that we pause to support the people who are standing, as we speak, in a frozen public square in Serbia, who are trying to have the same rights that we enjoy today in America. I think we must stand with the people of Serbia who have for 8 weeks been standing in the freezing cold to demand the results of their recent elections be implemented.

Mr. President, the world watches in awe at the display of popular sovereignty in the former Yugoslavian Republic of Serbia. In 8 weeks it has built from a few thousand to over 400,000 people who have risen up in peaceful opposition to the regime of Slobodan Milosevic on whom the Clinton administration has pinned part of its hopes in the Balkans.

We cannot help but admire the courage, the bravery, the commitment of the young people and the young at heart who are standing up for democracy. They are trying to bring about change through moral suasion and the strength of their convictions. As they do that, they remind the world that all governments everywhere borrow power from the people they serve, and the people can take that power back when they determine that they must.

We have had many debates on this floor regarding the future in that most unfortunate part of the world. Today, we have tens of thousands of Americans on the ground in and around Bosnia to try to keep a tenuous peace, to keep the military factions apart that only recently were at war.

We are in Bosnia at great cost. Our Balkans policy is confused. We have spent $5 billion and the meter is still running. Our troops will be on the ground for at least another year. At the same time, in neighboring Serbia, we are seeing the best example of peaceful self-determination. The people of Serbia are united on the principle of fair and democratic elections. The Milosevic regime is hanging on to an Old World order that will not remain. It will not remain because of the strength of the people.

The United States should not stand idly by. The administration needed President Milosevic to reach the peace agreement in Dayton. So there has been a tendency to turn a blind eye to his faults, his protection of war criminals, his antidemocratic actions. But it is clear the people of Serbia are rising up and they are saying, ''No more.'' Because the administration helped create this situation in the Balkans, I think we have a special responsibility to exercise our influence on President Milosevic to honor the will of the Serbian people.

Last month, representatives from the Organization for Security and Cooperation in Europe were invited to Serbia to investigate the election crisis. They attempted in vain to persuade President Milosevic to accept the municipal election results in 14 of 19 of Serbia's largest cities.

The people are protesting to send a clear message that their votes matter and that no regime has the right to nullify the will of the people, from whom all governments borrow power.

Mr. President, we pray that President Milosevic will accept the will of his people. We pray that this crisis will be resolved peacefully, and we pray that democracy will triumph in Serbia.

Mr. President, I am urging President Clinton today to speak out with a clear, strong voice that the United States stands behind the Serbian people and that the results of the free elections that were held should be implemented. It is time for the peaceful demonstrators in Belgrade, in their fight for a self-determined nation and freedom, to prevail. I urge the President to use his influence with President Milosevic to stand down and let the results of those elections go forward.

Mr. President, we are beginning a new session of Congress. We had elections, and now we are implementing the will of the people. It has been thus for over 200 years in this country. Maybe some of us take that right for granted—the right to vote and the right to know that our vote will be counted fairly.

Mr. President, it is the time for Americans to ask everyone in the

world to salute the people who are standing today, this very minute, freezing in Republic Square in Belgrade, standing for the right to do what we have done in the last few hours in Congress, and that is have a peaceful transition of power after duly held elections.

Mr. President, the people of Serbia have spoken. It is time that all the people in the world stand behind them so that their spoken word will prevail.

LOUISIANA CONTESTED ELECTION

Mr. WARNER. I have discussed with Majority Leader LOTT the procedures he proposed today with regard to the seating of Senator LANDRIEU and the review of Mr. Jenkins' petition contesting the election of Senator LANDRIEU.

I agree with and fully support the actions taken by the majority leader. I would like to take a moment to explain the actions the Rules Committee has taken thus far concerning this contest and those procedures which we anticipate following in the future.

The Senate is the Constitutional judge of the qualifications of each Senator. Article I, section 5 of the U.S. Constitution, states that the Senate is the ''Judge of the Elections, Returns, and Qualifications of its own Members. . . .''

The Secretary of State of Louisiana has certified that MARY LANDRIEU defeated Louis ''Woody'' Jenkins by 5,788 votes in the 1996 U.S. Senate race, and this morning Senator LANDRIEU was sworn in ''without prejudice.'' This action is in accordance with the precedents of the Senate, which recognize that the Senate generally defers to the certification of the State until the Senate has had the opportunity to review such petitions and evidence as may be submitted by the contestants or gathered by the committee.

On December 5, 1996, Mr. Jenkins exercised his right to file a petition of election contest with the Vice President of the United States. That petition was referred to the Senate Committee on Rules and Administration, chaired by myself with the distinguished Senator from Kentucky Mr. FORD, serving as the ranking Democrat.

On December 18, 1996, Mr. Jenkins submitted an amended petition along with considerable documents related to the allegations in his petition. These allegations go to the heart of the integrity of the election process on November 5 in Louisiana, and Mr. Jenkins' steps, thus far, merit thorough consideration by the Rules Committee.

In consultation with Committee members, and consistent with precedent, Senator FORD and I engaged two attorneys to serve as outside counsel for the Committee, and their letters of engagement are attached for the record. Bill Canfield was selected by the Republicans, and Bob Bauer was chosen by the Democrats. Their assignment is to review the petition and all documents submitted to the Committee relating to the petition and to advise the Committee as to whether the petition should be dismissed or, if not, what further courses of action the Committee should consider.

As a means to providing equity to both candidates, the committee advised then Senator-elect LANDRIEU of her right to file material for consideration, and a copy of the letter from the committee to her counsel is attached for the record. Senator LANDRIEU's attorney has indicated that she will respond by January 17, 1997.

Mr. Jenkins will then be given time to examine any material submitted by Senator LANDRIEU and provide the committee with a surrebuttal. After reviewing all of the filings, our outside counsel will promptly provide the committee with their respective opinions. I anticipate the two counsel will have some areas of their opinions reflecting a concurrence of views and recommendations.

It is my intention to then hold a committee business meeting on counsels' reports immediately thereafter and determine the next step in this process. I am hopeful that we will be able to hold this meeting early in February.

These procedures will allow and ensure a fair and equitable review of the allegations. Senator LANDRIEU, Mr. Jenkins, and the citizens of Louisiana, as well as the entire country, expect and deserve no less.

The above outline of committee procedures, so far, parallels the actions of the Rules Committee in the Huffington-Feinstein contested election in 1995.

SENATOR BYRD'S ADDRESS TO NEW SENATORS—AND RETURNING SENATORS, TOO

Mr. KENNEDY. Mr. President, on December 3 as part of the orientation program for new Senators, our distinguished colleague from West Virginia, Senator ROBERT C. BYRD, delivered an eloquent address in this chamber emphasizing the indispensable role of the Senate in American democracy.

Senator BYRD is well known as a scholar and historian of the Senate. I believe his address will be of interest and importance to all Senators as we begin the new session, and I ask unanimous consent that it be printed in the RECORD.

REMARKS BY U.S. SENATOR ROBERT C. BYRD AT THE ORIENTATION OF NEW SENATORS, DECEMBER 3, 1996

Good afternoon and welcome to the United States Senate Chamber. You are presently occupying what I consider to be ''hallowed ground.''

You will shortly join the ranks of a very select group of individuals who have been honored with the title of United States Senator since 1789 when the Senate first convened. The creator willing, you will be here for at least six years.

Make no mistake about it, the office of United States Senator is the highest political calling in the land. The Senate can remove from office Presidents, members of the Federal judiciary, and other Federal officials but only the Senate itself can expel a Senator.

Let us listen for a moment to the words of James Madison on the role of the Senate.

''These [reasons for establishing the Senate] were first to protect the people against their rulers: secondly to protect the people against the transient impression into which they themselves might be led. [through their representatives in the lower house] A people deliberating in a temperate moment, and with the experience of other nations before them, on the plan of government most likely to secure their happiness, would first be aware, that those charged with the public happiness, might betray their trust. An obvious precaution against this danger would be to divide the trust between different bodies of men, who might watch and check each other . . . . It would next occur to such a people, that they themselves were liable to temporary errors, through want of information as to their true interest, and that men chosen for a short term, [House members], . . . might err from the same cause. This reflection would naturally suggest that the Government be so constituted, as that one of its branches might have an opportunity of acquiring a competent knowledge of the public interests. Another reflection equally becoming a people on such an occasion, would be that they themselves, as well as a numerous body of Representatives, were liable to err also, from fickleness and passion. *A necessary fence against this danger would be to select a portion of enlightened citizens, whose limited number, and firmness might seasonably interpose against impetuous councils,* . . . .''

Ladies and gentlemen, you are shortly to become part of that all important, ''necessary fence,'' which is the United States Senate. Let me give you the words of Vice President Aaron Burr upon his departure from the Senate in 1805. ''This house,'' said he, ''is a sanctuary; a citadel of law, of order, and of liberty; and it is here—it is here, in this exalted refuge; here, if anywhere, will resistance be made to the storms of political phrensy and the silent arts of corruption; and if the Constitution be destined ever to perish by the sacrilegious hand of the demagogue or the usurper, which God avert, its expiring agonies will be witnessed on this floor.'' Gladstone referred to the Senate as ''that remarkable body—the most remarkable of all the inventions of modern politics.''

This is a very large class of new Senators. There are fifteen of you. It has been sixteen years since the Senate welcomed a larger group of new members. Since 1980, the average size class of new members has been approximately ten. Your backgrounds vary. Some of you may have served in the Executive Branch. Some may have been staffers here on the Hill. Some of you have never held federal office before. Over half of you have had some service in the House of Representatives.

Let us clearly understand one thing. The Constitution's Framers never intended for the Senate to function like the House of Representatives. That fact is immediately apparent when one considers the length of a Senate term and the staggered nature of Senate terms. The Senate was intended to be a continuing body. By subjecting only one-third of the Senate's membership to reelection every two years, the Constitution's framers ensured that two-thirds of the membership would always carry over from one Congress to the next to give the Senate an enduring stability.

The Senate and, therefore, Senators were intended to take the long view and to be able

to resist, if need be, the passions of the often intemperate House. Few, if any, upper chambers in the history of the western world have possessed the Senate's absolute right to unlimited debate and to amend or block legislation passed by a lower House.

Looking back over a period of 208 years, it becomes obvious that the Senate was intended to be significantly different from the House in other ways as well. The Constitutional Framers gave the Senate the unique executive powers of providing advice and consent to presidential nominations and to treaties, and the sole power to try and to remove impeached officers of the government. In the case of treaties, the Senate, with its longer terms, and its ability to develop expertise through the device of being a continuing body, has often performed invaluable service.

I have said that as long as the Senate retains the power to amend and the power of unlimited debate, the liberties of the people will remain secure.

The Senate was intended to be a forum for open and free debate and for the protection of political minorities. I have led the majority and I have led the minority, and I can tell you that there is nothing that makes one fully appreciate the Senate's special role as the protector of minority interests like being in the minority. Since the Republican Party was created in 1854, the Senate has changed hands 14 times, so each party has had the opportunity to appreciate first-hand the Senate's role as guardian of minority rights. But, almost from its earliest years the Senate has insisted upon its members' right to virtually unlimited debate.

When the Senate reluctantly adopted a cloture rule in 1917, it made the closing of debate very difficult to achieve by requiring a super majority and by permitting extended post-cloture debate. This deference to minority views sharply distinguishes the Senate from the majoritarian House of Representatives. The Framers recognized that a minority can be right and that a majority can be wrong. They recognized that the Senate should be a true deliberative body—a forum in which to slow the passions of the House, hold them up to the light, examine them, and, thru informed debate, educate the public. The Senate is the proverbial saucer intended to cool the cup of coffee from the House. It is the one place in the whole government where the minority is guaranteed a public airing of its views. Woodrow Wilson observed that the Senate's informing function was as important as its legislating function, and now, with televised Senate debate, its informing function plays an even larger and more critical role in the life of our nation.

Many a mind has been changed by an impassioned plea from the minority side. Important flaws in otherwise good legislation have been detected by discerning minority members engaged in thorough debate, and important compromise which has worked to the great benefit of our nation has been forged by an intransigent member determined to filibuster until his views were accommodated or at least seriously considered.

The Senate is often soundly castigated for its inefficiency, but in fact, it was never intended to be efficient. Its purpose was and is to examine, consider, protect, and to be a totally independent source of wisdom and judgment on the actions of the lower house and on the executive. As such, the Senate is the central pillar of our Constitutional system. I hope that you, as new members will study the Senate in its institutional context because that is the best way to understand your personal role as a United States Senator. Your responsibilities are heavy. Understand them, live up to them, and strive to take the long view as you exercise your duties. This will not always be easy.

The pressures on you will, at times, be enormous. You will have to formulate policies, grapple with issues, serve the constituents in your state, and cope with the media. A Senator's attention today is fractured beyond belief. Committee meetings, breaking news, fundraising, all of these will demand your attention, not to mention personal and family responsibilities. But, somehow, amidst all the noise and confusion, you must find the time to reflect, to study, to read, and, especially, to understand the absolutely critically important institutional role of the Senate.

May I suggest that you start by carefully reading the Constitution and the Federalist papers. In a few weeks, you will stand on the platform behind me and take an oath to support and defend the Constitution of the United States against all enemies, foreign and domestic; to bear true faith and allegiance to the same; and take this obligation freely, without any mental reservation or purpose of evasion; and to well and faithfully discharge the duties of the office on which you are about to enter: So help you God.''

Note especially the first 22 words, ''I do solemnly swear that I will support and defend the Constitution of the United States against all enemies foreign and domestic . . .''

In order to live up to that solemn oath, one must clearly understand the deliberately established inherent tensions between the 3 branches, commonly called the checks and balances, and separation of powers which the framers so carefully crafted. I carry a copy of the Constitution in my shirt pocket. I have studied it carefully, read and reread its articles, marveled at its genius, its beauty, its symmetry, and its meticulous balance, and learned something new each time that I partook of its timeless wisdom. Nothing will help you to fully grasp the Senate's critical role in the balance of powers like a thorough reading of the Constitution and the Federalist papers.

Now I would like to turn for a moment to the human side of the Senate, the relationship among Senators, and the way that even that faced of service here is, to a degree, governed by the constitution and the Senate's rules.

The requirement for super majority votes in approving treaties, involving cloture, removing impeached federal officers, and overriding vetoes, plus the need for unanimous consent before the Senate can even proceed in many instances, makes bipartisanship and comity necessary if members wish to accomplish much of anything. Realize this. The campaign is over. You are here to be a Senator. Not much happens in this body without cooperation between the two parties.

In this now 208-year-old institution, the positions of majority and minority leaders have existed for less than 80 years. Although the positions have evolved significantly within the past half century, still, the only really substantive prerogative the leaders possess is the right of first recognition before any other member of their respective parties who might wish to speak on the Senate Floor.

Those of you who have served in the House will now have to forget about such things as the Committee of the Whole, closed rules, and germaneness, except when cloture has been invoked, and become well acquainted with the workings of unanimous consent agreements. Those of you who took the trouble to learn *Deschler's Procedure* will now need to set that aside and turn in earnest to *Riddick's Senate Procedure*.

Senators can lose the Floor for transgressing the rules. Personal attacks on other members or other blatantly injudicious comments are unacceptable in the Senate. Again to encourage a cooling of passions, and to promote a calm examination of substance, Senators address each other through the Presiding Officer and in the third person. Civility is essential here for pragmatic reasons as well as for public consumption. It is difficult to project the image of a statesmanlike, intelligent, public servant, attempting to inform the public and examine issues, if one is behaving and speaking in a manner more appropriate to a pool room brawl than to United States Senate debate. You will also find that overly zealous attacks on other members or on their states are always extremely counterproductive, and that you will usually be repaid in kind.

Let us strive for dignity. When you rise to speak on this Senate Floor, you will be following in the tradition of such men as Calhoun, Clay, and Webster. You will be standing in the place of such Senators as Edmund Ross (KS) and Peter Van Winkle (WEST VIRGINIA), 1868, who voted against their party to save the institution of the presidency during the Andrew Johnson impeachment trial.

Debate on the Senate Floor demands thought, careful preparation and some familiarity with Senate Rules if we are to engage in thoughtful and informed debate. Additionally, informed debate helps the American people have a better understanding of the complicated problems which besiege them in their own lives. Simply put, the Senate cannot inform American citizens without extensive debate on those very issues.

We were not elected to raise money for our own reelections. We were not elected to see how many press releases or TV appearances we could stack up. We were not elected to set up staff empires by serving on every committee in sight. We need to concentrate, focus, debate, inform, and, I hope, engage the public, and thereby forge consensus and direction. Once we engage each other and the public intellectually, the tough choices will be easier.

I thank each of you for your time and attention and I congratulate each of you on your selection to fill a seat in this August body. Service in this body is a supreme honor. It is also a burden and a serious responsibility. Members' lives become open for inspection sand are used as examples for other citizens to emulate. A Senator must really be much more than hardworking, much more than conscientious, much more than dutiful. A Senator must reach for noble qualities—honor, total dedication, self-discipline, extreme selflessness, exemplary patriotism, sober judgment, and intellectual honesty. The Senate is more important than any one or all of us—more important than I am; more important than the majority and minority leaders; more important than all 100 of us; more important than all of the 1,843 men and women who have served in this body since 1789. Each of us has a solemn responsibility to remember that, and to remember it often.

Let me leave you with the words of the last paragraph of Volume II, of *The Senate: 1789–1989:* ''Originally consisting of only twenty-two members, the Senate had grown to a membership of ninety-eight by the time I was sworn in as a new senator in January 1959. After two hundred years, it is still the anchor of the Republic, the morning and evening star in the American constitutional constellation. It has had its giants and its little men, its Websters and its Bilbos, its Calhouns and its McCarthys. It has been the stage of high drama, of comedy and of tragedy, and its players have been the great and the near-great, those who think they are great, and those who will never be great. It has weathered the storms of adversity withstood the barbs of cynics and the attacks of

critics, and provided stability and strength to the nation during periods of civil strife and uncertainty, panics and depressions. In war and in peace, it has been the sure refuge and protector of the rights of the states and of a political minority. And, today, the Senate still stands—the great forum of constitutional American liberty!''

TRIBUTE TO LARRY PRESSLER

Mr. LOTT. Mr. President, earlier today, we witnessed the oath of office being given to the new junior Senator from South Dakota, the Honorable TIM JOHNSON. I join with all my colleagues in welcoming him to the U.S. Senate. I wish him well. However, I do want to take a moment to pay tribute to the gentleman he succeeded—a man of integrity, of kindness, and of singular achievement—Senator Larry Pressler.

I have known Larry Pressler throughout his entire 22 year career of public service in the Congress, beginning with his first election to the House of Representatives in 1974. Though a young man when he first took the oath of Office, he already had distinguished himself in other fields—as student body president at the University of South Dakota, a Rhodes Scholar, a U.S. Army Lieutenant in Vietnam, and a Harvard Law and Kennedy School graduate.

I knew then that the people of South Dakota had sent an exceptional human being. I didn't realize how right I was at the time. In 1978, he was elected to the Senate—the first of several Vietnam veterans we are honored to call our Senate colleagues. For 18 years—three terms in office—he served the Senate, his State and his country ably and responsibly.

All who know or have known Larry Pressler are keenly aware how much he holds public service in high regard. He considers it his life's calling, and he certainly responded well to the call. He knows that effective public service begins with public trust at home—the faith that he chose to represent their views and interests in Washington will do so with honor and integrity. Little did Larry know that not long after he came to the Senate, that basic principle of public trust would be put to the test. It would come in the form of FBI agents posing as Arab sheiks who attempted to bribe Larry as part of their so-called ABSCAM investigation. Larry strongly refused. His response drew national acclaim. The Federal District Judge who presided over the trial singled out Larry's action, stating that he ''acted as citizens have a right to expect their elected representatives to act.''

That single act, perhaps more than any other, capsulized and defined the values of Larry Pressler—the values he was brought up to practice first on his father's farm in Humboldt, SD, and the same values he practiced every day for 22 years in Congress. Just as important, his action during ABSCAM reminded all of us of that vital link between effective public service and sustained public trust.

Public trust was not just a core value Larry Pressler practiced in his own life, but a basic principle he sought to instill in government practice. He worked overtime to be sure South Dakotans were treated fairly by the Federal Government, whether it was as routine as a timely Social Security check, or as complex as environmental protection enforcement.

Larry was the first to oppose President Clinton's nomination of Zoe Baird because he sensed early on that her past actions damaged the level of public trust needed in our Nation's chief law enforcement officer. He was right.

Larry has been a superb watchdog of Federal agencies that oversee air safety because of his concern both for the safety and security of air travelers, and the faith travelers place in these agencies and carriers to ensure their safety. He was right on the mark again.

Larry also has been an outspoken champion of our efforts to reform the cancerous corruption and waste that has infected the United Nations to the point of near ineffectiveness. As a supporter of the United Nations, Larry is concerned that continued United Nations mismanagement would erode the public's support and trust in the world body. Some people in the United Nations are listening. Indeed, largely because of the persistence and diligence of our friend and former colleague from South Dakota, the United Nations today now has an inspector general to investigate waste, fraud and abuse, and is beginning to take seriously this body's demands for real, concrete reform.

Persistence and diligence—that best describes the style of Larry Pressler's approach to public service, and it has paid off for the State of South Dakota and the Nation. His last campaign slogan was ''Fighting and Winning for South Dakota.'' That's a good example of truth in advertising. Whether it was rail service or air service, wheat prices or cattle prices, Ellsworth Air Force Base in Rapid City or the EROS Data Center in Sioux Falls, Larry Pressler fought and won for South Dakota.

Internationally, Larry Pressler is known and respected for his efforts on nuclear nonproliferation, and human rights causes in China, Cyprus, Armenia, Turkey, and Kosova. I'm sure there are many around the world who will miss Larry Pressler's commitment to these and other important causes.

But perhaps Larry Pressler's greatest achievements as a Senator came in his last 2 years in office, when he served as chairman of the Commerce, Science, and Transportation Committee. Chairman Pressler presided over one of the most productive and bipartisan periods of legislating by a single Senate committee perhaps in the history of this body. At the end of the 104th Congress, I had the opportunity to detail this extraordinary record of accomplishment. Chairman Pressler reported 97 bills and resolutions out of the Commerce Committee—more than any other Senate Committee during the 140th Congress. Of those, 87 became law.

Of that 87, perhaps the most heralded was the Telecommunications Act of 1996, the most important economic growth legislation to become law in a decade. This piece of legislation was Larry Pressler's life for well over a year.

It's fair to say that the Telecommunications Act would not be law today if not for Larry Pressler. It passed with extraordinary support because Larry Pressler took the time to work with virtually every Member of Congress—House and Senate—to see that their concerns were addressed. He demonstrated bipartisanship, fairness as well as toughness, but perhaps most important are the two qualities I mentioned earlier—persistence and diligence.

Those qualities also were shared by Larry Pressler's staff. Indeed, both his personal and committee staff deserve a tribute and our thanks as well. They were a great team. Many are from South Dakota. Many have served with Larry Pressler for more than a decade. Several for as long as he was a Senator and a select few even worked for him in the House. Larry, one of our more regular participants at our weekly Senate Bible study, often joked that Abraham died leaning on his staff. Well, it's safe to say Larry Pressler succeeded leaning on his staff. I know Larry Pressler is very proud of all his dedicated staff. I also know that all the staff are proud of Larry Pressler—proud to have worked with him and for the people of South Dakota.

They are not alone. All of us are proud to have worked with our distinguished colleague from South Dakota. I say this not just as a colleague, but as a dear friend. My wife, Tricia, and I have enjoyed the countless times we have spent with Larry, his lovely wife, Harriet and their wonderful daughter, Laura. I am hopeful there will be many more good times ahead.

F. Scott Fitzgerald once wrote: ''Vitality shows in not only the ability to persist but the ability to start over.'' I have seen the vitality of Larry Pressler as a persistent and dedicated public servant for his state and nation. I am confident Larry will demonstrate that same vitality as he starts a new, a private life that will bring professional success and personal satisfaction.

So today, Larry Pressler finds himself in a position all of us will be placed in—a point where past service is subject not to the approval of voters but to the scrutiny of history. Mr. President, it is safe to say history will treat Larry Pressler quite well, and will see him as we do—as a model public servant. To paraphrase the words of Saint Paul known and referred to often by my friend from South Dakota, Larry Pressler stayed the course, fought the good fight and kept the faith.

APPOINTMENTS DURING ADJOURNMENT

Mr. LOTT. Mr. President, the following appointments were made pursuant to law during the sine die adjournment of the Senate:

To the National Gambling Impact Study Commission, pursuant to Public Law 104–169, Dr. Paul Moore, of Mississippi and Dr. James Dobson, of Colorado (Oct. 4, 1996)

To the National Committee on Vital, and Health Statistics, pursuant to Public Law 104–191, Richard K. Harding, of South Carolina (Nov. 4, 1996)

To the Senate Delegation to the North Atlantic Assembly during the Second Session of the 104th Congress, to be held in Paris, France, Nov. 17–21, 1996, pursuant to 22 U.S.C. 1928a–1928d, Senators HATCH, WARNER, GRASSLEY, SPECTER, MURKOWSKI, COATS, and BENNETT (Nov. 8, 1996)

To the National Gambling Impact Study Commission, pursuant to Public Law 104–169, Leo McCarthy, of California (Nov. 25, 1996).

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

SEATING OF SENATOR LANDRIEU

Mr. LOTT. Mr. President, earlier today, the Senate seated Senator MARY L. LANDRIEU without prejudice to the Senate's constitutional power to be the judge of the election of its Members. In so seating Senator LANDRIEU, the rights of any person or entity involved in the election contest petition are also preserved.

As a practical matter, what this means is that Senator LANDRIEU has the same rights and privileges as any other Senator with no limitation. However, her election has been contested and, as in other cases in recent history, depending on the resolution of this dispute in the Rules Committee, the Senate may ultimately be required to consider a report from the Rules Committee or not once they find out the details of what transpired.

Senator WARNER, the chairman of the Rules Committee, and Senator WENDELL FORD, ranking member, have met and discussed this matter. Senator DASCHLE and I have discussed it. They have retained counsel who are reviewing the material that is available, and at some point, once they have had an opportunity to review that and hear from the interested parties, namely Senator LANDRIEU and the candidate, Woody Jenkins, then they will make a determination depending on the facts as to whether or not an investigation and subsequent action would be required by the Rules Committee.

The Senate may take any of several courses of action. It may dismiss the petition at that time; it may declare the election to be set aside and call for a special election to fill the seat; or the Senate may declare the petitioner the winner of the election and replace the Senator already seated. Each one of those have been done at various times in the past.

But again, I think it is very important that we not prejudge anything. I do not think any Senator knows many of the details of what is involved. The committee of jurisdiction is working on it, and we should allow them to proceed in a careful but thorough and bipartisan way.

Obviously, we are removed from making any determination today, and we should be. We are just seeing that the allegations are being investigated and, as soon as possible, the Senate Rules Committee, then, will make a formal decision on whether to go forward. It is my intention, and I know it is the intention of the Democratic leader and Senator WARNER and Senator FORD, that the investigation will be thorough and fair, and that it will be handled expeditiously, and that it will be in accordance with all the rules that are established in the past with regard to what the Senate protocol is in these matters.

Not only should the investigation be fair, it should be conducted in a manner that allows us to do the people's business. That is the primary reason for seating Senator LANDRIEU without prejudice. We want to allow the Senate to proceed to its business with all 100 Senators present, accounted for, and involved in the process, while we gather whatever facts that are there and are available and need to be known. At such time as the Rules Committee makes a recommendation of disposition, the report is highly privileged and will then be subject to the Senate for consideration.

I think it is important that we apply the same fair principles to the consideration of the Rules Committee report, should one be issued. Under ordinary procedures, as with most business of the Senate, such a report would be fully debatable and subject to the usual rules and filibusters and cloture votes. However, I believe that the American people, and particularly this institution, would be better served if we agree in advance that ample opportunity will be given to all Senators for debate and consideration of any such Rules Committee report, but that ultimately debate will draw to a close, the matter will be decided, and we can move on to other business of our country that we have been sent here to accomplish.

I know, in the case a few years ago, maybe it was in the 1970's, there was a matter that was contested based, as I recall it, purely on the closeness of the election. The Senate spent 6 months and over 40 votes until it was finally resolved by setting aside the election, calling for another election, and that occurred and Senator Durkin was elected. I hope we do not have anything like that occur this year. My presumption at the beginning is nothing of that kind. There may be no further action on this, other than what happened in the Feinstein matter and in the Coverdell matter, but I would feel a need to clarify what the rules would be, or to identify what the rules will be as we proceed. I will, therefore, offer a unanimous-consent agreement which incorporates my desire to be fair to all parties but also to ensure that the matter does not become mired in a lengthy or purely partisan situation.

So, I ask unanimous consent that any resolution reported by the Committee on Rules recommending a disposition of the matter of the Louisiana Senate election of 1996 be laid before the Senate for immediate consideration following the request of the majority leader, after notification of the minority leader.

I further ask unanimous consent that time for debate on such resolution be limited to not more than 30 hours, equally divided in the usual form, and that at the conclusion of that time the Senate proceed immediately to a vote on the Rules Committee resolution, with no amendments being in order.

The PRESIDING OFFICER. Is there objection? The minority leader.

Mr. DASCHLE. Mr. President, let me commend the distinguished majority leader for the manner with which he has brought this matter to the floor. We have had a number of opportunities to consult with regard to his intention to make this unanimous-consent request. He has ably outlined the options available to the Rules Committee just now. He has also indicated his desire to ensure that we expedite the consideration of the report of the Rules Committee at the appropriate time.

I share his confidence in the leadership of the Rules Committee. Senator WARNER is a man of impeccable credibility, and Senator FORD has also led that committee in a similar manner. I know that he and Senator WARNER have talked about this matter already and I know that both of them are determined to bring this matter to, not only a successful conclusion, but an objective consideration at the earliest possible date.

There is no desire, let me emphasize, there is no desire to hinder the progress of the Rules Committee or the Senate itself, as we expeditiously consider the resolution and the ultimate seating of Senator LANDRIEU. As the distinguished majority leader has said, Senator LANDRIEU was seated today without prejudice, as were Senator COVERDELL and Senator FEINSTEIN in previous Congresses. So, it is with every expectation that Senator LANDRIEU will continue to present herself to the Senate with all the credibility of any other Senator that I am sure this matter will be resolved in a fair

and expeditious manner at the appropriate time.

I am concerned, however, that this particular consent request would require that the minority give up the motion to proceed to the debate and the right to debate the resolution fully if we see some need to go beyond the 30 hours. And it does not allow amendments. So, with every assurance to the majority leader that we intend to work with him in expediting this matter in an objective and fair way, I will object this afternoon to the unanimous-consent request and pledge my support in working with him to resolve this matter without the need for such an agreement today.

The PRESIDING OFFICER. Objection is heard. The unanimous-consent request is not agreed to.

Mr. LOTT. Mr. President, I do want to say I appreciate the distinguished Democratic leader's comments. I know he is sincere in those and he knows that I will keep him informed of what is happening in the Rules Committee. It could be that the Rules Committee would come to the same conclusion that they did in the so-called Feinstein and the Coverdell matters. My only goal in asking this unanimous consent is that, if it does go beyond that, that there be some way it be brought to a reasonable conclusion with ample time for Senators to be able to have debate and discussion of the issues that are involved but without it being endlessly debated, or filibustered, if you will. But my hope is we can work through that. It may not even come to that, but I understand the Senator's position and I heard what he said and I am satisfied that, if we do need to work out some arrangement as to how something would be considered in the future, we will find a way to come to an amicable agreement. I thank the Senator for his comments.

NOTICE OF PROPOSED RULEMAKING

Mr. THURMOND. Mr. President, pursuant to section 303 of the Congressional Accountability Act of 1995 (2 U.S.C. sec. 1383, a notice of proposed rulemaking was submitted by the Office of Compliance, U.S. Congress. The notice publishes proposed amendments to the rules governing the procedures for the Office of Compliance under the Congressional Accountability Act.

Section 304(b) requires this notice to be printed in the CONGRESSIONAL RECORD, therefore I ask unanimous consent that the notice be printed in the RECORD.

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

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: PROPOSED AMENDMENTS TO PROCEDURAL RULES

NOTICE OF PROPOSED RULEMAKING

Summary: The Executive Director of the Office of Compliance is publishing proposed amendments to the rules governing the procedures for the Office of Compliance under the Congressional Accountability Act (P.L. 104-1, 109 Stat. 3). The proposed amendments to the procedural rules have been approved by the Board of Directors, Office of Compliance.

Dates: Comments are due within 30 days after publication of this Notice in the Congressional Record.

Addresses: Submit written comments (an original and ten copies) to the Executive Director, Office of Compliance, Room LA 200, 110 Second Street, S.E., Washington, D.C. 20540-1999. Those wishing to receive notification of receipts of comments are requested to include a self-addressed, stamped post card. Comments may also be transmitted by facsimile (''FAX'') machine to (202) 426–1913. This is not a toll-free call. Copies of comments submitted by the public will be available for review at the Law Library Reading Room, LM–201, Law Library of Congress, James Madison Memorial Building, Washington, D.C., Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For Further Information Contact: Executive Director, Office of Compliance at (202) 724–9250. This notice is also available in the following formats: large print, braille, audio tape, and electronic file on computer disk. Requests for this notice in an alternative format should be made to Mr. Russell Jackson, Director, Service Department, Office of the Sergeant at Arms and Doorkeeper of the Senate, (202) 224–2705.

SUPPLEMENTARY INFORMATION:

I. Background

The Congressional Accountability Act of 1995 (''CAA'' or ''Act'') was enacted into law on January 23, 1995. In general, the CAA applies the rights and protections of eleven federal labor and employment law statutes to covered employees and employing offices within the legislative branch. Section 303 of the CAA directs that the Executive Director of the Office of Compliance (''Office'') shall, subject to the approval of the Board of Directors (''Board'') of the Office, adopt rules governing the procedures for the Office, and may amend those rules in the same manner. The procedural rules currently in effect, approved by the Board and adopted by the Executive Director, were published December 22, 1995 in the Congressional Record (141 Cong. R. S19239 (daily ed., Dec. 22, 1995)). Amendments to these rules, approved by the Board and adopted by the Executive Director, were published September 19, 1996 in the Congressional Record (142 Cong. R. H10672 and S10980 (daily ed., Sept. 19, 1996)). The proposed revisions and additions that follow establish procedures for consideration of matters arising under Parts B and C of title II of the CAA, which are generally effective January 1, 1997.

A summary of the proposed amendments is set forth below in Section II; the text of the provisions that are proposed to be added or revised is found in Section III. The Executive Director invites comment from interested persons on the content of these proposed amendments to the procedural rules.

II. Summary of Proposed Amendments to the Procedural Rules

(A) Several revisions are proposed to provide for consideration of matters arising under sections 210 and 215 (Parts B and C of title II) of the CAA. For example, technical changes in the procedural rules will be necessary in order to provide for the exercise of various rights and responsibilities under sections 210 and 215 of the Act by the General Counsel, charging individuals and entities responsible for correcting violations. These proposed revisions are as follows:

Section 1.01 is proposed to be amended by inserting references to Parts B and C of title II of the CAA in order to clarify that the procedural rules now govern procedures under those Parts of the Act.

Section 1.02(i) is proposed to be amended to redefine the term ''party'' to include, as appropriate, a charging individual or an entity alleged to be responsible for correcting a violation.

Section 1.03(a)(3) is to be revised to provide for, as appropriate, the filing of documents with the General Counsel.

Section 1.04(d) is proposed to be amended to provide for appropriate disclosure to the public of decisions under section 210 of the CAA and to provide, in accordance with section 416(f) of the CAA, that the Board may, at its discretion, make public decisions which are not otherwise required to be made public.

Section 1.05(a) is to be revised to allow for a charging individual or party or an entity alleged to be responsible for correcting a violation to designate a representative.

Sections 1.07(a), 5.04 and 7.12 are to be revised to make clear that Section 416(c), relating to confidentiality requirements, does not apply to proceedings under section 215 of the Act, but does apply to the deliberations of hearing officers and the Board under section 215.

Section 5.01(a)(2), (b)(2), (c)(2) and (d) is proposed to be amended to allow for the filing of complaints alleging violation of sections 210 and 215 of the CAA.

Section 7.07(f), relating to conduct of hearings, is to be revised to provide that, if the representative of a charging party or an entity alleged to be responsible for correcting a violation has a conflict of interest, that representative may be disqualified.

Section 8.03(a) relating to compliance with final decisions is to be revised to implement sections 210 and 215 of the CAA.

Section 8.04 ''Judicial Review'' is proposed to be revised to state that the United States Court of Appeals for the Federal Circuit shall have jurisdiction, as appropriate, over petitions under sections 210(d)(4) and 215(c)(5) of the Act.

(B) Proposed Subpart D of these regulations implements the provisions of section 215(c) of the CAA, which sets forth the procedures for inspections, citations, notices, and notifications, hearings and review, variance procedures, and compliance regarding enforcement of rights and protections of the Occupational Safety and Health Act, as applied by the CAA. Under section 215(c), any employing office or covered employee may request the General Counsel to inspect and investigate places of employment under the jurisdiction of employing offices. A citation or notice may be issued by the General Counsel to any employing office that is responsible for correcting a violation of section 215, or that has failed to correct a violation within the period permitted for correction. A notification may be issued to any employing office that has failed to correct a violation within the permitted time. If a violation remains uncorrected, the General Counsel may file a complaint against the employing office with the Office, which is submitted to a hearing officer for decision, with subsequent review by the Board. Under section 215(c)(4), an employing office may apply to the Board for a variance from an applicable health and safety standard. In considering such application, the Board shall exercise the authority of the Secretary of Labor under sections 6(b) and 6(d) of the Occupational Safety and Health Act of 1970 (''OSHAct'') to issue either a temporary or permanent variance, if specified conditions are met.

The Executive Director has modeled these proposed rules under section 215(c), to the greatest extent practicable, on the enforcement procedures set forth in the regulations

of the Secretary of Labor to implement comparable provisions of the OSHAct (29 C.F.R., parts 1903 and 1905). The proposed rules do not follow provisions of the Secretary's regulations that are inapplicable, incompatible with the structure of the Office of Compliance, and/or inconsistent with the express statutory procedures of section 215(c) of the CAA. In addition, the Secretary has identified some provisions of Part 1903 as ''general enforcement policies rather than substantive or procedural rules, [and thus] such policies may be modified in specific circumstances where the Secretary or his designee determines that an alternative course of action would better serve the objectives of the Act.'' 29 CFR §1903.1. These enforcement policies (such as the Secretary's policy regarding employee rescue activities, 29 C.F.R. §1903.14(f)) are not included in these rules. Enforcement policies, if any, should be issued by the General Counsel, to whom investigatory and enforcement authorities are assigned under section 215.

The Board finds that the proposed rules govern ''procedures of the Office.'' Thus, they may appropriately be issued under section 303 of the CAA.

III. Text of proposed amendments to procedural rules

§1.01 Scope and Policy

These rules of the Office of Compliance govern the procedures for consideration and resolution of alleged violations of the laws made applicable under Parts A, B, C, and D of title II of the Congressional Accountability Act of 1995. The rules include procedures for counseling, mediation, and for electing between filing a complaint with the Office of Compliance and filing a civil action in a district court of the United States. The rules also address the procedures for variances and compliance, investigation and enforcement under Part C of title II and procedures for the conduct of hearings held as a result of the filing of a complaint and for appeals to the Board of Directors of the Office of Compliance from Hearing Officer decisions, as well as other matters of general applicability to the dispute resolution process and to the operations of the Office of Compliance. It is the policy of the Office that these rules shall be applied with due regard to the rights of all parties and in a manner that expedites the resolution of disputes.

§1.02(i)

(i) *Party*. The term ''party'' means: (1) an employee or employing office in a proceeding under Part A of title II of the Act; (2) a charging individual, an entity alleged to be responsible for correcting a violation, or the General Counsel in a proceeding under Part B of title II of the Act; (3) an employee, employing office, or as appropriate, the General Counsel in a proceeding under Part C of title II of the Act; or (4) a labor organization, individual employing office or employing activity, or, as appropriate, the General Counsel in a proceeding under Part D of title II of the Act.

§1.03(a)(3)

(3) *Faxing documents*. Documents transmitted by FAX machine will be deemed filed on the date received at the Office at *202-426-1913*, or, in the case of any document to be filed or submitted to the General Counsel, on the date received at the Office of the General Counsel at *202-426-1663*. A FAX filing will be timely only if the document is *received* no later than 5:00 PM Eastern Time on the last day of the applicable filing period. Any party using a FAX machine to file a document bears the responsibility for ensuring both that the document is timely and accurately transmitted and confirming that the Office has received a facsimile of the document. The party or individual filing the document may rely on its FAX status report sheet to show that it filed the document in a timely manner, provided that the status report indicates the date of the FAX, the receiver's FAX number, the number of pages included in the FAX, and that transmission was completed.

§1.04(d)

(d) *Final decisions*. Pursuant to section 416(f) of the Act, a final decision entered by a Hearing Officer or by the Board under section 405(g) or 406(e) of the Act, which is in favor of the complaining covered employee, or in favor of the charging party under section 210 of the Act, or reverses a Hearing Officer's decision in favor of a complaining covered employee or charging party, shall be made public, except as otherwise ordered by the Board. The Board may make public any other decision at its discretion.

§1.05(a)

(a) An employee, other charging individual or party, a witness, a labor organization, an employing office, or an entity alleged to be responsible for correcting a violation wishing to be represented by another individual must file with the Office a written notice of designation of representative. The representative may be, but is not required to be, an attorney.

§1.07(a)

(a) In General. Section 416(a) of the CAA provides that counseling under section 402 shall be strictly confidential, except that the Office and a covered employee may agree to notify the employing office of the allegations. Section 416(b) provides that all mediation shall be strictly confidential. Section 416(c) provides that all proceedings and deliberations of hearing officers and the Board, including any related records shall be confidential, except for release of records necessary for judicial actions, access by certain committees of Congress, and publication of certain final decisions. Section 416(c) does not apply to proceedings under section 215 of the Act, but does apply to the deliberations of hearing officers and the Board under section 215. See also sections 1.06, 5.04 and 7.12 of these rules.

SUBPART D COMPLIANCE, INVESTIGATION, ENFORCEMENT AND VARIANCE PROCEDURES UNDER SECTION 215 OF THE CAA (OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970)

Inspections, Citations, and Complaints

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INSPECTIONS, CITATIONS AND COMPLAINTS

§4.01 Purpose and scope.

The purpose of sections 4.01 through 4.15 of this subpart is to prescribe rules and procedures for enforcement of the inspection and citation provisions of section 215(c)(1) through (3) of the CAA. For the purpose of sections 4.01 through 4.15, references to the ''General Counsel'' include any designee of the General Counsel.

§4.02 Authority for inspection.

Under section 215(c)(1) of the CAA, upon written request of any employing office or covered employee, the General Counsel is authorized to enter without delay and at reasonable times any place of employment under the jurisdiction of an employing office; to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment, and all pertinent conditions, structures, machines, apparatus, devices, equipment and materials therein; to question privately any employing office, operator, agent or employee; and to review records required by the CAA and regulations promulgated thereunder, and other records which are directly related to the purpose of the inspection.

§4.03 Requests for inspections by employees and covered employing offices.

(a) *By covered employees and representatives.* (1) Any covered employee or representative of covered employees who believes that a violation of section 215 of the CAA exists in any place of employment under the jurisdiction of employing offices may request an inspection of such place of employment by giving notice of the alleged violation to the General Counsel. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employee or the representative of the employees. A copy shall be provided to the employing office or its agent by the General Counsel or the General Counsel's designee no later than at the time of inspection, except that, upon the written request of the person giving such notice, his or her name and the names of individual employees referred to therein shall not appear in such copy or on any record published, released, or made available by the General Counsel.

(2) If upon receipt of such notification the General Counsel's designee determines that the notice meets the requirements set forth in subparagraph (1) of this section, and that there are reasonable grounds to believe that the alleged violation exists, he or she shall cause an inspection to be made as soon as practicable, to determine if such alleged violation exists. Inspections under this section shall not be limited to matters referred to in the notice.

(3) Prior to or during any inspection of a place of employment, any covered employee or representative of employees may notify the General Counsel's designee, in writing, of any violation of section 215 of the CAA which he or she has reason to believe exists in such place of employment. Any such notice shall comply with the requirements of subparagraph (1) of this section.

(b) *By employing offices.* Upon written request of any employing office, the General

Counsel or the General Counsel's designee shall inspect and investigate places of employment under the jurisdiction of employing offices under section 215(c)(1) of the CAA. Any such requests shall be reduced to writing on a form available from the Office.

§ 4.04 Objection to inspection.

Upon a refusal to permit the General Counsel's designee, in exercise of his or her official duties, to enter without delay and at reasonable times any place of employment or any place therein, to inspect, to review records, or to question any employing office, operator, agent, or employee, in accordance with section 4.02 or to permit a representative of employees to accompany the General Counsel's designee during the physical inspection of any workplace in accordance with section 4.07, the General Counsel's designee shall terminate the inspection or confine the inspection to other areas, conditions, structures, machines, apparatus, devices, equipment, materials, records, or interviews concerning which no objection is raised. The General Counsel's designee shall endeavor to ascertain the reason for such refusal, and shall immediately report the refusal and the reason therefor to the General Counsel, who shall take appropriate action.

§ 4.05 Entry not a waiver.

Any permission to enter, inspect, review records, or question any person, shall not imply or be conditioned upon a waiver of any cause of action or citation under the CAA.

§ 4.06 Advance notice of inspections.

Advance notice of inspections may be given under circumstances determined appropriate by the General Counsel.

§ 4.07 Conduct of inspections.

(a) Subject to the provisions of section 4.02, inspections shall take place at such times and in such places of employment as the General Counsel may direct. At the beginning of an inspection, the General Counsel's designee shall present his or her credentials to the operator of the facility or the management employee in charge at the place of employment to be inspected; explain the nature and purpose of the inspection; and indicate generally the scope of the inspection and the records specified in section 4.02 which he or she wishes to review. However, such designation of records shall not preclude access to additional records specified in section 4.02.

(b) The General Counsel's designee shall have authority to take environmental samples and to take or obtain photographs related to the purpose of the inspection, employ other reasonable investigative techniques, and question privately, any employing office, operator, agent or employee of a covered facility. As used herein, the term ''employ other reasonable investigative techniques'' includes, but is not limited to, the use of devices to measure employee exposures and the attachment of personal sampling equipment such as dosimeters, pumps, badges and other similar devices to employees in order to monitor their exposures.

(c) The conduct of inspections shall be such as to preclude unreasonable disruption of the operations of the employing office.

(d) At the conclusion of an inspection, the General Counsel's designee shall confer with the employing office or its representative and informally advise it of any apparent safety or health violations disclosed by the inspection. During such conference, the employing office shall be afforded an opportunity to bring to the attention of the General Counsel's designee any pertinent information regarding conditions in the workplace.

(e) Inspections shall be conducted in accordance with the requirements of this subpart.

§ 4.08 Representatives of employing offices and employees.

(a) The General Counsel's designee shall be in charge of inspections and questioning of persons. A representative of the employing office and a representative authorized by its employees shall be given an opportunity to accompany the General Counsel's designee during the physical inspection of any workplace for the purpose of aiding such inspection. The General Counsel's designee may permit additional employing office representatives and additional representatives authorized by employees to accompany the designee where he or she determines that such additional representatives will further aid the inspection. A different employing office and employee representative may accompany the General Counsel's designee during each different phase of an inspection if this will not interfere with the conduct of the inspection.

(b) The General Counsel's designee shall have sole authority to resolve all disputes as to who is the representative authorized by the employing office and employees for the purpose of this section. If there is no authorized representative of employees, or if the General Counsel's designee is unable to determine with reasonable certainty who is such representative, he or she shall consult with a reasonable number of employees concerning matters of safety and health in the workplace.

(c) The representative(s) authorized by employees shall be an employee(s) of the employing office. However, if in the judgment of the General Counsel's designee, good cause has been shown why accompaniment by a third party who is not an employee of the employing office (such as an industrial hygienist or a safety engineer) is reasonably necessary to the conduct of an effective and thorough physical inspection of the workplace, such third party may accompany the General Counsel's designee during the inspection.

(d) The General Counsel's designee may deny the right of accompaniment under this section to any person whose conduct interferes with a fair and orderly inspection. With regard to information classified by an agency of the U.S. Government in the interest of national security, only persons authorized to have access to such information may accompany the General Counsel's designee in areas containing such information.

§ 4.09 Consultation with employees.

The General Counsel's designee may consult with employees concerning matters of occupational safety and health to the extent they deem necessary for the conduct of an effective and thorough inspection. During the course of an inspection, any employee shall be afforded an opportunity to bring any violation of section 215 of the CAA which he or she has reason to believe exists in the workplace to the attention of the General Counsel's designee.

§ 4.10 Inspection not warranted; informal review.

(a) If the General Counsel's designee determines that an inspection is not warranted because there are no reasonable grounds to believe that a violation or danger exists with respect to a notice of violation under section 4.03(a), he or she shall notify the party giving the notice in writing of such determination. Upon the request of the complaining party or the employing office, the General Counsel, at his or her discretion, may hold an informal conference in which the complaining party and the employing office may present their views orally and in writing. After considering all written and oral views presented, the General Counsel may affirm, modify, or reverse the designee's determination and furnish the complaining party and the employing office with written notification of this decision and the reasons therefor. The decision of the General Counsel shall be final and not reviewable.

(b) If the General Counsel's designee determines that an inspection is not warranted because the requirements of section 4.03(a)(1) have not been met, he or she shall notify the complaining party in writing of such determination. Such determination shall be without prejudice to the filing of a new complaint meeting the requirements of section 4.03(a)(1).

§ 4.11 Citations.

(a) If, on the basis of the inspection, the General Counsel believes that a violation of any requirement of section 215 of the CAA, or of any standard, rule or order promulgated pursuant to section 215 of the CAA, has occurred, he or she shall issue a citation to the employing office responsible for correction of the violation, as determined under section 1.106 of the Board's regulations implementing section 215 of the CAA. A citation may be issued even though after being informed of an alleged violation by the General Counsel, the employing office immediately abates, or initiates steps to abate, such alleged violation. Any citation shall be issued with reasonable promptness after termination of the inspection.

(b) Any citation shall describe with particularity the nature of the alleged violation, including a reference to the provision(s) of the CAA, standard, rule, regulation, or order alleged to have been violated. Any citation shall also fix a reasonable time or times for the abatement of the alleged violation.

(c) If a citation is issued for a violation alleged in a request for inspection under section 4.03(a)(1), or a notification of violation under section 4.03(a)(3), a copy of the citation shall also be sent to the employee or representative of employees who made such request or notification.

(d) After an inspection, if the General Counsel determines that a citation is not warranted with respect to a danger or violation alleged to exist in a request for inspection under section 4.03(a)(1) or a notification of violation under section 4.03(a)(3), the informal review procedures prescribed in 4.15 shall be applicable. After considering all views presented, the General Counsel shall affirm the previous determination, order a reinspection, or issue a citation if he or she believes that the inspection disclosed a violation. The General Counsel shall furnish the party that submitted the notice and the employing office with written notification of the determination and the reasons therefor. The determination of the General Counsel shall be final and not reviewable.

(e) Every citation shall state that the issuance of a citation does not constitute a finding that a violation of section 215 has occurred.

§ 4.12 Imminent danger.

(a) Whenever and as soon as a designee of the General Counsel concludes on the basis of an inspection that conditions or practices exist in any place of employment which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided for by section 215(c), he or she shall inform the affected employees and employing offices of the danger and that he or she is recommending the filing of a petition to restrain such conditions or practices and for other appropriate relief in accordance with section 13(a) of the OSHAct, as applied by section 215(b) of the

CAA. Appropriate citations may be issued with respect to an imminent danger even though, after being informed of such danger by the General Counsel's designee, the employing office immediately eliminates the imminence of the danger and initiates steps to abate such danger.

§4.13 Posting of citations.

(a) Upon receipt of any citation under section 215 of the CAA, the employing office shall immediately post such citation, or a copy thereof, unedited, at or near each place an alleged violation referred to in the citation occurred, except as provided below. Where, because of the nature of the employing office's operations, it is not practicable to post the citation at or near each place of alleged violation, such citation shall be posted, unedited, in a prominent place where it will be readily observable by all affected employees. For example, where employing offices are engaged in activities which are physically dispersed, the citation may be posted at the location to which employees report each day. Where employees do not primarily work at or report to a single location, the citation may be posted at the location from which the employees operate to carry out their activities. The employing office shall take steps to ensure that the citation is not altered, defaced, or covered by other material.

(b) Each citation, or a copy thereof, shall remain posted until the violation has been abated, or for 3 working days, whichever is later. The pendency of any proceedings regarding the citation shall not affect its posting responsibility under this section unless and until the Board issues a final order vacating the citation.

(c) An employing office to whom a citation has been issued may post a notice in the same location where such citation is posted indicating that the citation is being contested before the Board, and such notice may explain the reasons for such contest. The employing office may also indicate that specified steps have been taken to abate the violation.

§4.14 Failure to correct a violation for which a citation has been issued; notice of failure to correct violation; complaint.

(a) If the General Counsel determines that an employing office has failed to correct an alleged violation for which a citation has been issued within the period permitted for its correction, he or she may issue a notification to the employing office of such failure prior to filing a complaint against the employing office under section 215(c)(3) of the CAA. Such notification shall fix a reasonable time or times for abatement of the alleged violation for which the citation was issued and shall be posted in accordance with section 4.13 of these rules. Nothing in these rules shall require the General Counsel to issue such a notification as a prerequisite to filing a complaint under section 215(c)(3) of the CAA.

(b) If after issuing a citation or notification, the General Counsel believes that a violation has not been corrected, the General Counsel may file a complaint with the Office against the employing office named in the citation or notification pursuant to section 215(c)(3) of the CAA. The complaint shall be submitted to a Hearing Officer for decision pursuant to subsections (b) through (h) of section 405, subject to review by the Board pursuant to section 406. The procedures of sections 7.01 through 7.16 of these rules govern complaint proceedings under this section.

§4.15 Informal conferences.

At the request of an affected employing office, employee, or representative of employees, the General Counsel may hold an informal conference for the purpose of discussing any issues raised by an inspection, citation, or notice issued by the General Counsel. The settlement of any citation or notice at such conference shall be subject to the approval of the Executive Director under section 414 of the CAA and section 9.05 of these rules. If the conference is requested by the employing office, an affected employee or the employee's representative shall be afforded an opportunity to participate, at the discretion of the General Counsel. If the conference is requested by an employee or representative of employees, the employing office shall be afforded an opportunity to participate, at the discretion of the General Counsel. Any party may be represented by counsel at such conference.

RULES OF PRACTICE FOR VARIANCES, LIMITATIONS, VARIATIONS, TOLERANCES, AND EXEMPTIONS

§4.20 Purpose and scope.

Sections 4.20 through 4.31 contain rules of practice for administrative proceedings to grant variances and other relief under sections 6(b)(6)(A) and 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970, as applied by section 215(c)(4) of the CAA.

§4.21 Definitions.

As used in sections 4.20 through 4.31, unless the context clearly requires otherwise—

(a) *OSHAct* means the Williams-Steiger Occupational Safety and Health Act of 1970, as applied to covered employees and employing offices under section 215 of the CAA.

(b) *Party* means a person admitted to participate in a hearing conducted in accordance with this subpart. An applicant for relief and any affected employee shall be entitled to be named parties. The General Counsel shall be deemed a party without the necessity of being named.

(c) *Affected employee* means an employee who would be affected by the grant or denial of a variance, limitation, variation, tolerance, or exemption, or any one of the employee's authorized representatives, such as the employee's collective bargaining agent.

§4.22 Effect of variances.

All variances granted pursuant to this part shall have only future effect. In its discretion, the Board may decline to entertain an application for a variance on a subject or issue concerning which a citation has been issued to the employing office involved and a proceeding on the citation or a related issue concerning a proposed penalty or period of abatement is pending before the General Counsel, a hearing officer, or the Board until the completion of such proceeding.

§4.23 Public notice of a granted variance, limitation, variation, tolerance, or exemption.

Every final action granting a variance, limitation, variation, tolerance, or exemption under this part shall be made public. Every such final action shall specify the alternative to the standard involved which the particular variance permits.

§4.24 Form of documents.

(a) Any applications for variances and other papers that are filed in proceedings under sections 4.20 through 4.31 of these rules shall be written or typed. All applications for variances and other papers filed in variance proceedings shall be signed by the applying employing office, or its representative, and shall contain the information required by section 4.25 or 4.26 of these rules, as applicable.

§4.25 Applications for temporary variances and other relief.

(a) *Application for variance.* Any employing office, or class of employing offices, desiring a variance from a standard, or portion thereof, authorized by section 6(b)(6)(A) of the OSHAct, as applied by section 215 of the CAA, may file a written application containing the information specified in paragraph (b) of this section with the Board. Pursuant to section 215(c)(4) of the CAA, the Board may refer any matter appropriate for hearing to a hearing officer under subsections (b) through (h) of section 405, subject to review by the Board pursuant to section 406. The procedures set forth at sections 7.01 through 7.16 of these rules shall govern hearings under this subpart.

(b) *Contents.* An application filed pursuant to paragraph (a) of this section shall include:

(1) The name and address of the applicant;

(2) The address of the place or places of employment involved;

(3) A specification of the standard or portion thereof from which the applicant seeks a variance;

(4) A representation by the applicant, supported by representations from qualified persons having first-hand knowledge of the facts represented, that the applicant is unable to comply with the standard or portion thereof by its effective date and a detailed statement of the reasons therefor;

(5) A statement of the steps the applicant has taken and will take, with specific dates where appropriate, to protect employees against the hazard covered by the standard;

(6) A statement of when the applicant expects to be able to comply with the standard and of what steps the applicant has taken and will take, with specific dates where appropriate, to come into compliance with the standard;

(7) A statement of the facts the applicant would show to establish that (i) the applicant is unable to comply with a standard by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the standard or because necessary construction or alteration of facilities cannot be completed by the effective date; (ii) the applicant is taking all available steps to safeguard its employees against the hazards covered by the standard; and (iii) the applicant has an effective program for coming into compliance with the standard as quickly as practicable;

(8) Any request for a hearing, as provided in this part;

(9) A statement that the applicant has informed its affected employees of the application by giving a copy thereof to their authorized representative, posting a statement, giving a summary of the application and specifying where a copy may be examined, at the place or places where notices to employees are normally posted, and by other appropriate means; and

(10) A description of how affected employees have been informed of the application and of their right to petition the Board for a hearing.

(c) *Interim order*—(1) *Application.* An application may also be made for an interim order to be effective until a decision is rendered on the application for the variance filed previously or concurrently. An application for an interim order may include statements of fact and arguments as to why the order should be granted. The hearing officer to whom the Board has referred the application may rule ex parte upon the application.

(2) *Notice of denial of application.* If an application filed pursuant to paragraph (c)(1) of this section is denied, the applicant shall be given prompt notice of the denial, which shall include, or be accompanied by, a brief statement of the grounds therefor.

(3) *Notice of the grant of an interim order.* If an interim order is granted, a copy of the order shall be served upon the applicant for

the order and other parties and the terms of the order shall be made public. It shall be a condition of the order that the affected employing office shall give notice thereof to affected employees by the same means to be used to inform them of an application for a variance.

§4.26 Applications for permanent variances and other relief.

(a) *Application for variance.* Any employing office, or class of employing offices, desiring a variance authorized by section 6(d) of the OSHAct, as applied by section 215 of the CAA, may file a written application containing the information specified in paragraph (b) of this section, with the Board. Pursuant to section 215(c)(4) of the CAA, the Board may refer any matter appropriate for hearing to a Hearing Officer under subsections (b) through (h) of section 405, subject to review by the Board pursuant to section 406.

(b) *Contents.* An application filed pursuant to paragraph (a) of this section shall include:

(1) The name and address of the applicant;

(2) The address of the place or places of employment involved;

(3) A description of the conditions, practices, means, methods, operations, or processes used or proposed to be used by the applicant;

(4) A statement showing how the conditions, practices, means, methods, operations, or processes used or proposed to be used would provide employment and places of employment to employees which are as safe and healthful as those required by the standard from which a variance is sought;

(5) A certification that the applicant has informed its employees of the application by (i) giving a copy thereof to their authorized representative; (ii) posting a statement giving a summary of the application and specifying where a copy may be examined, at the place or places where notices to employees are normally posted (or in lieu of such summary, the posting of the application itself); and (iii) by other appropriate means;

(6) Any request for a hearing, as provided in this part; and

(7) A description of how employees have been informed of the application and of their right to petition the Board for a hearing.

(c) *Interim order*—(1) *Application.* An application may also be made for an interim order to be effective until a decision is rendered on the application for the variance filed previously or concurrently. An application for an interim order may include statements of fact and arguments as to why the order should be granted. The hearing officer to whom the Board has referred the application may rule ex parte upon the application.

(2) *Notice of denial of application.* If an application filed pursuant to paragraph (c)(1) of this section is denied, the applicant shall be given prompt notice of the denial, which shall include, or be accompanied by, a brief statement of the grounds therefor.

(3) *Notice of the grant of an interim order.* If an interim order is granted, a copy of the order shall be served upon the applicant for the order and other parties and the terms of the order shall be made public. It shall be a condition of the order that the affected employing office shall give notice thereof to affected employees by the same means to be used to inform them of an application for a variance.

§4.27 Modification or revocation of orders.

(a) *Modification or revocation.* An affected employing office or an affected employee may apply in writing to the Board for a modification or revocation of an order issued under section 6(b)(6)(A), or 6(d) of the OSHAct, as applied by section 215 of the CAA. The application shall contain:

(i) The name and address of the applicant;

(ii) A description of the relief which is sought;

(iii) A statement setting forth with particularity the grounds for relief;

(iv) If the applicant is an employing office, a certification that the applicant has informed its affected employees of the application by:

(A) Giving a copy thereof to their authorized representative;

(B) Posting at the place or places where notices to employees are normally posted, a statement giving a summary of the application and specifying where a copy of the full application may be examined (or, in lieu of the summary, posting the application itself); and

(C) Other appropriate means.

(v) If the applicant is an affected employee, a certification that a copy of the application has been furnished to the employing office; and

(vi) Any request for a hearing, as provided in this part.

(b) *Renewal.* Any final order issued under section 6(b)(6)(A) of the OSHAct, as applied by section 215 of the CAA, may be renewed or extended as permitted by the applicable section and in the manner prescribed for its issuance.

§4.28 Action on applications.

(a) *Defective applications.* (1) If an application filed pursuant to sections 4.25(a), 4.26(a), or 4.27 does not conform to the applicable section, the Hearing Officer or the Board, as applicable, may deny the application.

(2) Prompt notice of the denial of an application shall be given to the applicant.

(3) A notice of denial shall include, or be accompanied by, a brief statement of the grounds for the denial.

(4) A denial of an application pursuant to this paragraph shall be without prejudice to the filing of another application.

(b) *Adequate applications.* (1) If an application has not been denied pursuant to paragraph (a) of this section, the Office shall cause to be published a notice of the filing of the application.

(2) A notice of the filing of an application shall include:

(i) The terms, or an accurate summary, of the application;

(ii) A reference to the section of the OSHAct applied by section 215 of the CAA under which the application has been filed;

(iii) An invitation to interested persons to submit within a stated period of time written data, views, or arguments regarding the application; and

(iv) Information to affected employing offices, employees, and appropriate authority having jurisdiction over employment or places of employment covered in the application of any right to request a hearing on the application.

§4.29 Consolidation of proceedings.

On the motion of the Hearing Officer or the Board or that of any party, the Hearing Officer or the Board may consolidate or contemporaneously consider two or more proceedings which involve the same or closely related issues.

§4.30 Consent findings and rules or orders.

(a) *General.* At any time before the receipt of evidence in any hearing, or during any hearing a reasonable opportunity may be afforded to permit negotiation by the parties of an agreement containing consent findings and a rule or order disposing of the whole or any part of the proceeding. The allowance of such opportunity and the duration thereof shall be in the discretion of the Hearing Officer, after consideration of the nature of the proceeding, the requirements of the public interest, the representations of the parties, and the probability of an agreement which will result in a just disposition of the issues involved.

(b) *Contents.* Any agreement containing consent findings and rule or order disposing of a proceeding shall also provide:

(1) That the rule or order shall have the same force and effect as if made after a full hearing;

(2) That the entire record on which any rule or order may be based shall consist solely of the application and the agreement;

(3) A waiver of any further procedural steps before the Hearing Officer and the Board ; and

(4) A waiver of any right to challenge or contest the validity of the findings and of the rule or order made in accordance with the agreement.

(c) *Submission.* On or before the expiration of the time granted for negotiations, the parties or their counsel may:

(1) Submit the proposed agreement to the Hearing Officer for his or her consideration; or

(2) Inform the Hearing Officer that agreement cannot be reached.

(d) *Disposition.* In the event an agreement containing consent findings and rule or order is submitted within the time allowed therefor, the Hearing Officer may accept such agreement by issuing his or her decision based upon the agreed findings.

§4.31 Order of proceedings and burden of proof.

(a) *Order of proceeding.* Except as may be ordered otherwise by the Hearing Officer, the party applicant for relief shall proceed first at a hearing.

(b) *Burden of proof.* The party applicant shall have the burden of proof.

§5.01(a)(2)

(a)(2) The General Counsel may file a complaint alleging a violation of section 210, 215 or 220 of the Act.

§5.01(b)(2)

(b)(2) A complaint may be filed by the General Counsel

(i) after the investigation of a charge filed under section 210 or 220 of the Act, or

(ii) after the issuance of a citation or notification under section 215 of the Act.

§5.01(c)(2)

(c)(2) Complaints filed by the General Counsel. A complaint filed by the General Counsel shall be in writing, signed by the General Counsel or his designee and shall contain the following information:

(i) the name, address and telephone number of, as applicable, (A) each entity responsible for correction of an alleged violation of section 210(b), (B) each employing office alleged to have violated section 215, or (C) each employing office and/or labor organization alleged to have violated section 220, against which complaint is brought;

(ii) notice of the charge filed alleging a violation of section 210 or 220 and/or issuance of a citation or notification under section 215;

(iii) a description of the acts and conduct that are alleged to be violations of the Act, including all relevant dates and places and the names and titles of the responsible individuals; and

(iv) a statement of the relief or remedy sought.

§5.01(d)

(d) Amendments to the complaint may be permitted by the Office or, after assignment, by a Hearing Officer, on the following conditions: that all parties to the proceeding have adequate notice to prepare to meet the new allegations; that the amendments, as appropriate, relate to the violations for which the

employee has completed counseling and mediation, or relate to the charge(s) investigated and/or the citation or notification issued by the General Counsel; and that permitting such amendments will not unduly prejudice the rights of the employing office, the labor organization, or other parties, unduly delay the completion of the hearing or otherwise interfere with or impede the proceedings.

§5.04 Confidentiality.

Pursuant to section 416(c) of the Act, all proceedings and deliberations of Hearing Officers and the Board, including any related records, shall be confidential. Section 416(c) does not apply to proceedings under section 215 of the Act, but does apply to the deliberations of Hearing Officers and the Board under section 215. A violation of the confidentiality requirements of the Act and these rules could result in the imposition of sanctions. Nothing in these rules shall prevent the Executive Director from reporting statistical information to the Senate and House of Representatives, so long as that statistical information does not reveal the identity of the employees involved or of employing offices that are the subject of a matter.

§7.07(f)

(f) If the Hearing Officer concludes that a representative of an employee, a witness, a charging party, a labor organization, an employing office, or an entity alleged to be responsible for correcting a violation has a conflict of interest, he or she may, after giving the representative an opportunity to respond, disqualify the representative. In that event, within the time limits for hearing and decision established by the Act, the affected party shall be afforded reasonable time to retain other representation.

§7.12

Pursuant to section 416 of the Act, all proceedings and deliberations of Hearing Officers and the Board, including the transcripts of hearings and any related records, shall be confidential, except as specified in section 416(d), (e), and (f) of the Act. All parties to the proceeding and their representatives, and witnesses who appear at the hearing, will be advised of the importance of confidentiality in this process and of their obligations, subject to sanctions, to maintain it. This provision shall not apply to proceedings under section 215 of the Act, but shall apply to the deliberations of Hearing Officers and the Board under that section.

§8.03(a)

(a) Unless the Board has, in its discretion, stayed the final decision of the Office during the pendency of an appeal pursuant to section 407 of the Act, and except as provided in sections 210(d)(5) and 215(c)(6), a party required to take any action under the terms of a final decision of the Office shall carry out its terms promptly, and shall within 30 days after the decision or order becomes final and goes into effect by its terms, provide the Office and all other parties to the proceedings with a compliance report specifying the manner in which compliance with the provisions of the decision or order has been accomplished. If complete compliance has not been accomplished within 30 days, the party required to take any such action shall submit a compliance report specifying why compliance with any provision of the decision order has not yet been fully accomplished, the steps being taken to assure full compliance, and the anticipated date by which full compliance will be achieved.

§8.04 Judicial review.

Pursuant to section 407 of the Act, (a) the United States Court of Appeals for the Federal Circuit shall have jurisdiction over any proceeding commenced by a petition of:

(1) a party aggrieved by a final decision of the Board under section 406(e) in cases arising under part A of title II;

(2) a charging individual or respondent before the Board who files a petition under section 210(d)(4);

(3) the General Counsel or a respondent before the Board who files a petition under section 215(c)(5); or

(4) the General Counsel or a respondent before the Board who files a petition under section 220(c)(3) of the Act.

(b) The U.S. Court of Appeals for the Federal Circuit shall have jurisdiction over any petition of the General Counsel, filed in the name of the Office and at the direction of the Board, to enforce a final decision under section 405(g) or 406(e) with respect to a violation of part A, B, C, or D of title II of the Act.

(c) The party filing a petition for review shall serve a copy on the opposing party or parties or their representative(s).

Signed at Washington, D.C. on this 20th day of December, 1996.

RICKY SILBERMAN,
Executive Director,
Office of Compliance.

NOTICE OF ADOPTION OF REGULATION AND SUBMISSION FOR APPROVAL

Mr. THURMOND. Mr. President, pursuant to section 304(b) of the Congressional Accountability Act of 1995 (2 U.S.C. sec. 1384(b)), a notice of adoption of regulation and submission for approval was submitted by the Office of Compliance, U.S. Congress. The notice contains final regulations related to the extension of rights and protections under the Americans With Disabilities Act of 1990 (Regulations under section 210 of the Congressional Accountability Act of 1995).

The Congressional Accountability Act requires this notice be printed in the CONGRESSIONAL RECORD, therefore I ask unanimous consent that the notice be printed in the RECORD.

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

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990 RELATING TO PUBLIC SERVICES AND ACCOMMODATIONS

NOTICE OF ADOPTION OF REGULATION AND SUBMISSION FOR APPROVAL

Summary: The Board of Directors, Office of Compliance, after considering comments to its Notice of Proposed Rulemaking published September 19, 1996, in the Congressional Record, has adopted, and is submitting for approval by the Congress, final regulations implementing section 210 of the Congressional Accountability Act of 1995 (''CAA'').

For Further Information Contact: Executive Director, Office of Compliance, Room LA 200, Library of Congress, Washington, D.C. 20540-1999. Telephone: (202) 724–9250. TDD: (202) 426–1912.

SUPPLEMENTARY INFORMATION

Background and Summary

The Congressional Accountability Act of 1995 (''CAA''), P.L. 104–1, was enacted into law on January 23, 1995. 2 U.S.C. §§ 1301 *et seq.* In general, the CAA applies the rights and protections of eleven federal labor and employment statutes to covered employees and entities within the legislative branch. Section 210(b) provides that the rights and protections against discrimination in the provision of public services and accommodations established by the provisions of Titles II and III (sections 201 through 230, 302, 303, and 309) of the Americans With Disabilities Act of 1990, 42 U.S.C. §§ 12131-12150, 12182, 12183, and 12189 (''ADA'') shall apply to specified Legislative Branch entities. 2 U.S.C. §1331(b). Title II of the ADA generally prohibits discrimination on the basis of disability in the provision of services, programs, or activities by any ''public entity.'' Section 210(b)(2) of the CAA defines the term ''public entity'' for Title II purposes as any entity listed above that provides public services, programs, or activities. 2 U.S.C. §1331(b)(2). Title III of the ADA generally prohibits discrimination on the basis of disability by public accommodations and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with accessibility standards.

Section 210(e) of the CAA requires the Board of Directors of the Office of Compliance established under the CAA to issue regulations implementing the section. 2 U.S.C. §1331(e). Section 210(e) further states that such regulations ''shall be the same as substantive regulations promulgated by the Attorney General and the Secretary of Transportation to implement the statutory provisions referred to in subsection (b) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.'' *Id.* Section 210(e) further provides that the regulations shall include a method of identifying, for purposes of this section and for different categories of violations of subsection (b), the entity responsible for correction of a particular violation. 2 U.S.C. §1331(e).

On September 19, 1996, the Board published in the Congressional Record a Notice of Proposed Rulemaking (''NPR'') (142 Cong. Rec. S11019 (daily ed., Sept. 19, 1996)). In response to the NPR, the Board received three written comments.[1] After full consideration of the comments received in response to the proposed regulations, the Board has adopted and is submitting these regulations for approval by the Congress.

I. Summary of Comments and Board's Final Rules

A. Request for additional rulemaking proceedings

One commenter requested that the Board withdraw its proposed regulations and engage in what it termed ''investigative rulemaking,'' which apparently is to include discussions with involved parties regarding the nature and scope of the regulations. This request was also made by the commenter regarding the proposed rules under section 215, which the Board has discussed in the preamble to the final rules submitted concurrently with these rules. The Board determines that further rulemaking proceedings are not required for the reasons set forth in

[1] One of these commenters made no comments regarding any specific portion of the proposed rules, except to encourage the Board to ensure that the anti-retaliation provisions of section 207 of the CAA are applied to the statutory and regulatory proceedings under section 210. As the Board noted in NPR, although section 207 provides a comprehensive retaliation protection for employees (including applicants and former employees who may invoke their rights under section 210), section 207 does not apply to nonemployees who may enjoy rights and protections against discrimination under section 210.

the preamble to the final rules under section 215.

B. Specific issues regarding adoption of the Attorney General's title II regulations

1. Self-evaluation, notice, and designation of responsible employee and adoption of grievance provisions (sections 35.105, 35.106, and 35.107).—The Board proposed adoption of the Attorney General's regulations at sections 35.106 through 35.107, which require covered entities to conduct a self-evaluation of their facilities for compliance with disability access requirements and to provide notice to individuals informing them of their rights and protections under the ADA and, for entities that employ 50 or more employees, to maintain the self-evaluation on file and available for inspection for three years, designate a responsible employee, and adopt a grievance procedure.

One commenter argued that, although these sections are within the scope of regulations to be adopted under section 210(e), there is ''good cause'' not to adopt the self-evaluation requirements of section 35.105. In the commenter's view, the General Counsel's inspections under section 210(f) of the CAA serve the same purpose as the self-evaluation under section 35.105 of the Attorney General's regulations. The Board does not agree.

In order to modify an adopted regulation, the Board must have good cause to believe that the modification would be ''more effective'' for the implementation of the rights and responsibilities under section 210. 2 U.S.C. §1331. That a regulatory requirement may arguably serve the same purpose as other statutory requirements of the CAA does not establish that its elimination would result in a ''more effective'' implementation of section 210 rights and protections.

On the contrary, requiring entities to conduct a self-evaluation after January 1, 1997 (the effective date of section 210), and requiring larger entities to retain a record of that self-evaluation, would likely assist the General Counsel in conducting the section 210(f) inspections for the 105th Congress in an expeditious manner. Moreover, it is conceivable that a self-evaluation might reveal information or raise accessibility issues that may not arise from the General Counsel's inspections. Thus, in the Board's view, requiring entities to proactively investigate their facilities and activities for compliance, rather than placing sole reliance on the General Counsel's inspections, would enhance overall compliance with section 210. Because there is no ''good cause'' to modify section 35.105, the Board adopts it, as proposed in the NPR.

2. Employment discrimination provisions (section 35.140).—The Board proposed adoption of the employment discrimination provisions of section 35.140 as part of its regulations under section 210(e) of the CAA. But the Board also proposed to add a statement that, pursuant to section 210(c) of the CAA, section 201 provided the exclusive remedy for any such act of employment discrimination.

Two commenters recommended that the Board not adopt section 35.140. One commenter argued that section 35.140 implements title I of the ADA (which is not incorporated into section 210 of the CAA). The two commenters also argued that the Board's adoption of section 35.140 might be misinterpreted as an adoption of the ADA regulations of the Equal Employment Opportunity Commission (''EEOC'') and, therefore, constitute improper executive branch enforcement of the CAA.

The Board has carefully considered these comments and, after doing so, has determined that adoption of section 35.140, as proposed, is appropriate. Contrary to the commenter's statement, section 35.140 was promulgated by the Attorney General to implement title II of the ADA, which the Attorney General has interpreted to apply to all activities of a public entity, including employment. *See* 56 Fed. Reg. at 35707 (preamble to final rule regarding part 35). Accordingly, since section 35.140 implements a provision of title II of the ADA that is made applicable to covered entities under section 210(b) of the CAA, it is within the scope of Board rulemaking authority and mandate under section 210(e) of the CAA.

The EEOC's ADA regulations referenced in section 35.140 are effective only insofar as such regulations are relevant to a covered employee's claim under title II of the ADA, as applied by section 210. By adopting section 35.140, the Board does not intend to establish rights or provide substantive legal rules applicable to any claim under title I of the ADA, as applied by section 201 of the ADA; however, the Board recognizes that this distinction between titles I and II of the ADA may, as a practical matter, be blurred since both types of claims might conceivably be brought in a single employment discrimination case under section 201 of the CAA. Moreover, adoption of section 35.106 would not constitute executive branch enforcement since any claim (and the resulting interpretation of the law thereof) would be in a proceeding under section 201 of the CAA before the hearing officer of the Office and/or before the Board.

Accordingly, section 35.106 will be included within the Board's final regulations.

3. Substitution of the terms ''disability'' for ''handicaps'' and ''TTY's'' for ''TDD's'' (sections 35.150, and sections 35.104 and 35.161).—The Board will substitute the term ''disability'' for ''handicap'' in section 35.150(b)(2)(ii) of the regulations, as recommended by a commenter.

In sections 35.104 and 35.161 and elsewhere in the proposed regulations, the Board substituted the term ''text telephones'' (''TTY's'') for ''telecommunication devices for the deaf'' (''TDD's''), which was used in the text of the regulations. The Board will use the terms used by the Attorney General in the regulations, as recommended by one commenter.

4. Subpart F (compliance procedures).—In the NPR, the Board determined that Subpart F, which sets forth administrative enforcement procedures under title II of the ADA, implements provisions of the ADA which are applied by section 210(b) of the CAA and, therefore, is within the Board's rulemaking authority under section 210(e)(2). The Board expressed its intention to adopt Subpart F as regulations under section 210(e), but also to incorporate those provisions into the Office's procedural rules, with appropriate modification to conform to section 210 and pre-existing provisions of the Office's procedural rules.

Two commenters have requested that the provisions of Subpart F, with the Board's intended modifications to conform to the statute, be included within the Board's regulations herein so that the text of those regulations may be considered and approved by the Congress. As the Board determined in the NPR, Subpart F is within the scope of rulemaking under section 210(e). Moreover, the provisions of Subpart F apply only to claims under section 210 of the CAA and are in no way duplicative of other procedures already adopted under section 303 of the CAA. Accordingly, the final regulations include Subpart F, with appropriate modification to conform to the statutory procedures of section 210(e). The Board will renumber Subpart F as new Part 2 of the final regulations to make clear that such procedures govern proceedings under section 210, including those brought under title II or title III. There is ''good cause'' to have one set of procedures governing claims under section 210.

C. Specific issues regarding the Attorney General's title III regulations

1. Section 36.104 (definitions).—One commenter recommended that the definition of ''place of public accommodation'' in proposed section 36.104, which lists the kinds of facilities or activities that may meet the definition, delete references to terms such as ''inn,'' ''hotel,'' ''motel,'' ''motion picture house,'' etc., since such facilities do not exist within the Legislative Branch. But the definition of ''place of public accommodation'' contained in section 36.104 tracks the statutory language of section 301(7) of the ADA. The terms used in section 36.104 are merely representative examples of the types of facilities that fall within the 12 categories of ''places of public accommodation'' in the statute. *See* 56 Fed. Reg. at 7458 (preamble to Attorney General's title III regulations). The Board finds no basis for concluding that deletion of these references would be ''more effective'' for the implementation of title II to covered entities. Accordingly, the Board will not alter this definition.

2. Section 36.207 (places of public accommodation in private residences).—The Board proposed adoption of section 36.207 of the Attorney General's title III regulations, which deal with the situation where all or part of a residence may be used as a place of public accommodation. One commenter requested that the Board exempt House Members' residences from this regulation because, in the commenter's view, it would be unnecessary and burdensome for a Member, potentially in office for only two years, to be required to incur large financial expenses in making modifications to his/her home to comply with section 210.

The commenter's concern is apparently based on the erroneous assumption that compliance with section 210 would, in all cases, require a Member using his/her residence as a District Office to make expensive and extensive physical alterations in the residence to meet the law's requirements. On the contrary, as the General Counsel made clear in his Report to the Congress on compliance with section 210, ''[a]lthough it is sometimes the case that accessibility requires barrier removal as the only effective option, most covered entities can meet ADA requirements by modifying the way their programs are operated to ensure that individuals with disabilities may have access to them.'' General Counsel's Report at p. 5. Moreover, to the Board's knowledge, no Member is required to use his/her residence as a location for the Member's public activity. Thus, one option for that Member would be to locate his/her public activity (the District Office, constituent meetings, public gatherings, etc.) in a separate office or other appropriate facility. Still other compliance options in this context (including technical assistance to meet accessibility standards) may be acceptable to the General Counsel, who has enforcement authority regarding compliance under section 210.

In any event, the Board may not entertain a request to exempt any entity by regulation from the coverage of the CAA, in whole or in part, without statutory authorization. Nothing in section 210, the provisions of the ADA applied thereunder, or the Attorney General's regulations adopted by the Board, authorizes the Board to provide regulatory exemptions from the public accommodations accessibility requirements. *See White* v. *INS*, 75 F.3d 213, 215 (5th Cir. 1996) (agency cannot promulgate even substantive rules that are contrary to statute).

The Board also declines the commenter's suggestion that the Board modify section 35.207 to impose section 210 requirements only if the Member uses the home as a public

accommodation ''regularly or on a day-to-day basis.'' If an entity's facility or activity constitutes a ''place of public accommodations'' under the provisions of title III of the ADA, as applied by section 210 of the CAA, the duty to meet accessibility requirements applies, regardless of whether the operator of the public accommodation maintains the accommodation on a permanent, temporary, seasonal, or intermittent basis. Under the statute, once the conditions of coverage are met, the obligation to ensure accessibility attaches so long as the portion of the facility at issue continues to constitute a ''place of public accommodation.'' This statutory requirement cannot be altered by the Board.

3. Section 36.305(c) (access to multiplex cinemas).—The Board will delete proposed section 36.305(c) (relating to accessibility standards for multiplex cinemas) from its final regulations, as recommended by two commenters, because it does not appear to have any conceivable applicability to facilities in the Legislative Branch.

4. Capitol buildings and grounds as historical properties.—One commenter has requested that the Board issue regulations declaring the Capitol Buildings and grounds as historical properties for section 210 purposes, based on statutes the commenter contends establish the recognition of the historic nature of such properties by Congress. *See, e.g.,* 40 U.S.C. §§ 71a, 162-63. However, neither section 210 of the CAA, the provisions of the ADA applied thereunder, nor the Attorney General's regulations adopted by the Board authorizes the Board to declare in its regulations any particular properties as historic. The historic nature of such properties, if relevant in a proceeding under section 210, may be raised and established by the appropriate responding entity before the General Counsel in an investigatory proceeding and/or before the hearing officer or the Board in an appropriate adjudicatory proceeding.

D. Future changes in text of disability access standards

The commenters generally agreed with the Board's proposed approach regarding future changes in the regulations of the Attorney General and/or the Secretary of Transportation. However, one commenter suggested that the Board expressly state the manner and frequency by which it and the Office plan to inform covered entities and employees of such changes in such rules and materials. As stated in the NPR, the Board will make any changes in the regulations under the procedures of section 304 of the CAA. Those changes will be made as frequently as needed and it is impossible in the abstract for the Board to establish a pre-set schedule under which as yet unanticipated and unknown changes to regulations will be made.

One commenter expressed concern that the Board not make changes to any external documents or standards without following the rulemaking procedures of section 304 of the CAA. The Board agrees that any changes to the regulations themselves should be subject to ordinary rulemaking procedures under section 304. However, adoption of changes to the text of external documents, such as the ADA Accessibility Guidelines for Buildings and Facilities included as an appendix to the Attorney General's part 36 regulations, should not be subject to notice and comment under section 304 unless the Attorney General makes changes to such external documents pursuant to a notice and comment procedures of the APA. Where changes in those standards are adopted by the Attorney General without notice and comment under the Administrative Procedure Act, such changes are not within the Board's definition of ''substantive regulations to implement'' the ADA and thus the notice and comment procedures would not be required to make such changes under the CAA. *See* 142 Cong. Rec. at S11020. Of course, if changes in the appendices and other external documents are made by the Attorney General pursuant to the notice and comment procedures of the APA, the Board would likewise be required to follow the procedures of section 304 of the CAA to adopt those changes.

E. Technical and nomenclature changes

One commenter has suggested a number of technical and nomenclature changes to the text of the proposed regulations. The Board has considered each of the suggested changes and, where appropriate, incorporated them into the final regulations. However, unless otherwise expressly stated, by making such changes, the Board does not intend a substantive change in the meaning of the regulations.[2]

II. Method of Approval

The Board received no comments on the method of approval for these regulations. Therefore, the Board continues to recommend that (1) the version of the proposed regulations that shall apply to the Senate and employees of the Senate should be approved by the Senate by resolution; (2) the version of the proposed regulations that shall apply to the House of Representatives and employees of the House of Representatives should be approved by the House of Representatives by resolution; and (3) the version of the proposed regulations that shall apply to other covered employees and entities should be approved by the Congress by concurrent resolution.

Signed at Washington, D.C. on this 20th day of December, 1996

GLEN D. NAGER,
Chair of the Board,
Office of Compliance.

Accordingly, the Board of Directors of the Office of Compliance hereby adopts and submits for approval by the Congress the following regulations:

ADOPTED REGULATIONS

APPLICATION OF RIGHTS AND PROTECTIONS OF THE AMERICANS WITH DISABILITIES ACT OF 1990 RELATING TO PUBLIC SERVICES AND ACCOMMODATIONS (SECTION 210 OF THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995)

PART 1 MATTERS OF GENERAL APPLICABILITY TO ALL REGULATIONS PROMULGATED UNDER SECTION 210 OF THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995

Sec.
1.101 Purpose and scope
1.102 Definitions
1.103 Notice of protection
1.104 Authority of the Board
1.105 Method for identifying the entity responsible for correction of violations of section 210

§ 1.101 Purpose and scope.

(a) *Section 210 of the CAA.* Enacted into law on January 23, 1995, the Congressional Accountability Act (''CAA'') directly applies the rights and protections of eleven federal labor and employment law and public access statutes to covered employees and employing offices within the legislative branch. Section 210(b) of the CAA provides that the rights and protections against discrimination in the provision of public services and accommodations established by the provisions of Title II and III (sections 201 through 230, 302, 303, and 309) of the Americans With Disabilities Act of 1990, 42 U.S.C. §§ 12131-12150, 12182, 12183, and 12189 (''ADA'') shall apply to the following entities:

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Capitol Guide Service;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(8) the Office of the Attending Physician and

(9) the Office of Compliance.

2 U.S.C. §1331(b). Title II of the ADA generally prohibits discrimination on the basis of disability in the provision of public services, programs, activities by any ''public entity.'' Section 210(b)(2) of the CAA provides that for the purpose of applying Title II of the ADA the term ''public entity'' means any entity listed above that provides public services, programs, or activities. Title III of the ADA generally prohibits discrimination on the basis of disability by public accommodations and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with accessibility standards. Section 225(f) of the CAA provides that, ''[e]xcept where inconsistent with definitions and exemptions provided in this Act, the definitions and exemptions of the [ADA] shall apply under this Act.'' 2 U.S.C. §1361(f)(1).

Section 210(f) of the CAA requires that the General Counsel of the Office of Compliance on a regular basis, and at least once each Congress, conduct periodic inspections of all covered facilities and to report to Congress on compliance with disability access standards under section 210. 2 U.S.C. §1331(f).

(b) *Purpose and scope of regulations.* The regulations set forth herein (Parts 1, 35, 36, 37, and 38) are the substantive regulations that the Board of Directors of the Office of Compliance has promulgated pursuant to section 210(e) of the CAA. Part 1 contains the general provisions applicable to all regulations under section 210, including the method of identifying entities responsible for correcting a violation of section 210. Part 35 contains the provisions regarding nondiscrimination on the basis of disability in the provision of public services, programs, or activities of covered entities. Part 36 contains the provisions regarding nondiscrimination on the basis of disability by public accommodations. Part 37 contains the provisions regarding transportation services for individuals with disabilities. Part 38 contains the provisions regarding accessibility specifications for transportation vehicles.

§ 1.102 Definitions.

Except as otherwise specifically provided in these regulations, as used in these regulations:

(a) *Act or CAA* means the Congressional Accountability Act of 1995 (Pub. L. 104–1, 109 Stat. 3, 2 U.S.C. §§ 1301-1438).

(b) *ADA* means the provisions of the Americans With Disabilities Act of 1990 (42 U.S.C. §§ 12131–12150, 12182, 12183, and 12189) applied to covered entities by Section 210 of the CAA.

[2] An example of one technical or nomenclature change that the Board does not adopt is the suggestion that the term ''public'' be deleted from proposed section 35.102(a)(modifying ''services, programs, or activities''), since it does not appear in the text of the Attorney General's regulations. However, in contrast to title II of the ADA, which applies to *all* activities of a covered public entity (whether public or nonpublic), section 210(b)(2) makes clear that a Legislative Branch entity is a defined covered entity if it ''provides public services, programs, or activities.'' Thus, the addition of the term ''public'' in proposed section 35.102(a) is a ''technical'' change in the Attorney General's regulations required by the language of section 210(b) of the CAA.

(c) The term *covered entity* includes any of the following entities that either provides public services, programs, or activities, and/or that operates a place of public accommodation within the meaning of section 210 of the CAA: (1) each office of the Senate, including each office of a Senator and each committee; (2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee; (3) each joint committee of the Congress; (4) the Capitol Guide Service; (5) the Capitol Police; (6) the Congressional Budget Office; (7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden); (8) the Office of the Attending Physician; and (9) the Office of Compliance.

(d) *Board* means the Board of Directors of the Office of Compliance.

(e) *Office* means the Office of Compliance.

(f) *General Counsel* means the General Counsel of the Office of Compliance.

§ 1.103 Notice of protection.

Pursuant to section 301(h) of the CAA, the Office shall prepare, in a manner suitable for posting, a notice explaining the provisions of section 210 of the CAA. Copies of such notice may be obtained from the Office of Compliance.

§ 1.104 Authority of the Board.

Pursuant to sections 210 and 304 of the CAA, the Board is authorized to issue regulations to implement the rights and protections against discrimination on the basis of disability in the provision of public services and accommodations under the incorporated provisions of the ADA. Section 210(e) of the CAA directs the Board to promulgate regulations implementing section 210 that are ''the same as substantive regulations promulgated by the Attorney General and the Secretary of Transportation to implement the statutory provisions referred to in subsection (b) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.'' 2 U.S.C. §1331(e). The regulations issued by the Board herein are on all matters for which section 210 of the CAA requires a regulation to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of promulgation of these regulations, that, with the exception of the regulations adopted and set forth herein, there are no other ''substantive regulations promulgated by the Attorney General and the Secretary of Transportation to implement the statutory provisions referred to in subsection (b) [of section 210 of the CAA]'' that need be adopted.

In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Attorney General and the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the Legislative Branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Attorney General and/or the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulations or of the statutory provisions of the CAA upon which they are based.

§ 1.105 Method for identifying the entity responsible for correction of violations of section 210.

(a) *Purpose and Scope.* Section 210(e)(3) of the CAA provides that regulations under section 210(e) include a method of identifying, for purposes of this section and for categories of violations of section 210(b), the entity responsible for correcting a particular violation. This section 1.105 sets forth the method for identifying responsible entities for the purpose of allocating responsibility for correcting violations of section 210(b).

(b) *Categories of violations.* Violations of the rights and protections established in section 210(b) of the CAA that may form the basis for a charge filed with the General Counsel under section 210(d)(1) of the CAA or for a complaint filed by the General Counsel under section 210(d)(3) of the CAA fall into one (or both) of two categories:

(i) *Title II violations.* A covered entity may violate section 210(b) if it discriminates against a qualified individual with a disability within the meaning of those provisions of Title II of the ADA (sections 210 through 230), applied to Legislative Branch entities under section 210(b) of the CAA.

(ii) *Title III violations.* A covered entity may also violate section 210(b) if it discriminates against a qualified individual with a disability within the meaning of those provisions of Title III of the ADA (sections 302, 303, and 309) applied to Legislative Branch entities under section 210(b) of the CAA.

(c) *Entity Responsible for Correcting a Violation of Title II Rights and Protections.* Correction of a violation of the rights and protections against discrimination under Title II of the ADA, as applied by section 210(b) of the CAA, is the responsibility of any entity listed in subsection (a) of section 210 of the CAA that is a ''public entity,'' as defined by section 210(b)(2) of the CAA, and that provides the specific public service, program, or activity that forms the basis for the particular violation of Title II rights and protections set forth in the charge of discrimination filed with the General Counsel under section 210(d)(1) of the CAA or the complaint filed by the General Counsel with the Office under section 210(d)(3) of the CAA. As used in this section, an entity provides a public service, program, or activity if it does so itself, or by a person or other entity (whether public or private and regardless of whether that entity is covered under the CAA) under a contractual or other arrangement or relationship with the entity.

(d) *Entity Responsible for Correction of Title III Rights and Protections.* Correction of a violation of the rights and protections against discrimination under Title III of the ADA, as applied by section 210(b) of the CAA, is the responsibility of any entity listed in subsection (a) of section 210 of the CAA that ''operates a place of public accommodation'' (as defined in this section) that forms the basis, in whole or in part, for the particular violation of Title III rights and protections set forth in the charge filed with the General Counsel under section 210(d)(1) of the CAA and/or the complaint filed by the General Counsel with the Office under section 210(d)(3) of the CAA.

(i) Definitions.

As used in this section:

Public accommodation has the meaning set forth in Part 36 of these regulations.

Operates, with respect to the operations of a place of public accommodation, includes the superintendence, control, management, or direction of the function of the aspects of the public accommodation that constitute an architectural barrier or communication barrier that is structural in nature, or that otherwise forms the basis for a violation of the rights and protections of Title III of the ADA as applied under section 210(b) of the CAA.

(ii) As used in this section, an entity operates a place of public accommodation if it does so itself, or by a person or other entity (whether public or private and regardless of whether that entity is covered under the CAA) under a contractual or other arrangement or relationship with the entity.

(e) *Allocation of Responsibility for Correction of Title II and/or Title III Violations.* Where more than one entity is deemed an entity responsible for correction of a violation of Title II and/or Title III rights and protections under the method set forth in this section, as between those parties, allocation of responsibility for complying with the obligations of Title II and/or Title III of the ADA as applied by section 210(b), and for correction of violations thereunder, may be determined by contract or other enforceable arrangement or relationship.

PART 2 INVESTIGATION AND ENFORCEMENT PROCEDURES

§ 2.101 Charge filed with the General Counsel.

(a) Who may file.

(1) Any qualified individual with a disability, as defined in section 201(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131(2)), as applied by section 210 of the CAA and section 35.104 of the Board's regulations thereunder, who believes that he or she has been subjected to discrimination on the basis of a disability in violation of section 210 of the CAA by a covered entity, may file a charge against any entity responsible for correcting the violation with the General Counsel. A charge may not be filed under section 210 of the CAA by a covered employee alleging employment discrimination on the basis of disability; the exclusive remedy for such discrimination are the procedures under section 201 of the CAA and subpart B of the Office's procedural rules.

(b) *When to file.* A charge under this section must be filed with the General Counsel not later than 180 days from the date of the alleged discrimination.

(c) *Form and Contents.* A charge shall be written or typed on a charge form available from the Office. All charges shall be signed and verified by the qualified individual with a disability (hereinafter referred to as the ''charging party''), or his or her representative, and shall contain the following information:

(i) the full name, mailing address, and telephone number(s) of the charging party;

(ii) the name, address, and telephone number of the covered entit(ies) against which the charge is brought, if known (hereinafter referred to as the ''respondent'');

(iii) the name(s) and title(s) of the individual(s), if known, involved in the conduct that the charging party claims is a violation of section 210 and/or the location and description of the places or conditions within covered facilities that the charging party claims is a violation of section 210;

(iv) a description of the conduct, locations, or conditions that form the basis of the charge, and a brief description of why the charging party believes the conduct, locations, or conditions is a violation of section 210; and

(v) the name, address, and telephone number of the representative, if any, who will act on behalf of the charging party.

§ 2.102 Service of charge or notice of charge

Within ten (10) days after the filing of a charge with the General Counsel's Office (excluding weekends or holidays), the General Counsel shall serve the respondent with a

copy of the charge, by certified mail, return receipt requested, or in person, except when it is determined that providing a copy of the charge would impede the law enforcement functions of the General Counsel. Where a copy of the charge is not provided, the respondent will be served with a notice of the charge within ten (10) days after the filing of the charge. The notice shall include the date, place and circumstances of the alleged violation of section 210. Where appropriate, the notice may include the identity of the person filing the charge.

§ 2.103 Investigations by the General Counsel

The General Counsel or the General Counsel's designated representative shall promptly investigate each complaint alleging violations of section 210 of the CAA. As part of the investigation, the General Counsel will accept any statement of position or evidence with respect to the charge which the charging party or the respondent wishes to submit. The General Counsel will use other methods to investigate the charge, as appropriate.

§ 2.104 Mediation

If, upon investigation, the General Counsel believes that a violation of section 210 may have occurred and that mediation may be helpful in resolving the dispute, the General Counsel may request, but not participate in, mediation under subsections (b) through (d) of section 403 of the CAA and the Office's procedural rules thereunder, between the charging party and any entity responsible for correcting the alleged violation.

§ 2.105 Dismissal of charge

Where the General Counsel determines that a complaint will not be filed, the General Counsel shall dismiss the charge.

§ 2.106 Complaint by the General Counsel

(a) After completing the investigation, and where mediation under section 2.104, if any, has not succeeded in resolving the dispute, and where the General Counsel has not settled or dismissed the charge, and if the General Counsel believes that a violation of section 210 may have occurred, the General Counsel may file with the Office a complaint against any entity responsible for correcting the violation.

(b) The complaint filed by the General Counsel under subsection (a) shall be submitted to a hearing officer for decision pursuant to subsections (b) through (h) of section 405 of the CAA. Any person who has filed a charge under section 2.101 of these rules may intervene as of right with the full rights of a party. The procedures of sections 405 through 407 of the CAA and the Office's procedural rules thereunder shall apply to hearings and related proceedings under this subpart.

§ 2.107 Settlement of Complaints

Any settlement entered into by the parties to any process described in this subpart shall be in writing and not become effective unless it is approved by the Executive Director under section 414 of the CAA and the Office's procedural rules thereunder.

§ 2.108 Compliance Date

In any proceedings under this section, if it is demonstrated by the entity responsible for correcting the violation that new appropriated funds are necessary to comply with an order requiring correction of a violation of section 210, compliance shall take place as soon as possible, but no later than the fiscal year following the end of the fiscal year in which the order requiring correction becomes final and not subject to further review.

PART 35—NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PUBLIC SERVICES, PROGRAMS, OR ACTIVITIES

Subpart A—General

Sec.

Subpart B—General Requirements

Subpart C—Employment

Subpart D—Program Accessibility

Subpart E—Communications

Subpart A—General

§ 35.101 Purpose.

The purpose of this part is to effectuate section 210 of the Congressional Accountability Act of 1995 (2 U.S.C. 1331 *et seq.*) which, *inter alia*, applies the rights and protections of subtitle A of title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131–12150), which prohibits discrimination on the basis of disability by public entities.

§ 35.102 Application.

(a) Except as provided in paragraph (b) of this section, this part applies to all public services, programs, and activities provided or made available by public entities as defined by section 210 of the Congressional Accountability Act of 1995.

(b) To the extent that public transportation services, programs, and activities of public entities are covered by subtitle B of title II of the ADA, as applied by section 210 of the Congressional Accountability Act, they are not subject to the requirements of this part.

§ 35.103 Relationship to other laws.

(a) *Rule of interpretation.* Except as otherwise provided in this part, this part shall not be construed to apply a lesser standard than the standards applied under title V of the Rehabilitation Act of 1973 (29 U.S.C. 791) or the regulations issued by Federal agencies pursuant to that title.

(b) *Other laws.* This part does not invalidate or limit the remedies, rights, and procedures of any other Federal laws otherwise applicable to covered entities that provide greater or equal protection for the rights of individuals with disabilities or individuals associated with them.

§ 35.104 Definitions.

For purposes of this part, the term—

Act or CAA means the Congressional Accountability Act of 1995 (Pub. L. 104–1, 109 Stat. 3, 2 U.S.C. §§ 1301–1438).

ADA means the Americans with Disabilities Act (42 U.S.C. 12101–12213 and 47 U.S.C. 225 and 611), as applied to covered entities by section 210 of the CAA.

Auxiliary aids and services includes—

(1) Qualified interpreters, notetakers, transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDD's), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(2) Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(3) Acquisition or modification of equipment or devices; and

(4) Other similar services and actions.

Board means the Board of Directors of the Office of Compliance.

Current illegal use of drugs means illegal use of drugs that occurred recently enough to justify a reasonable belief that a person's drug use is current or that continuing use is a real and ongoing problem.

Disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

(1)(i) The phrase *physical or mental impairment* means—

(A) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine;

(B) Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(ii) The phrase *physical or mental impairment* includes, but is not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

(iii) The phrase *physical or mental impairment* does not include homosexuality or bisexuality.

(2) The phrase *major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) The phrase *has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) The phrase *is regarded as having an impairment* means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a public entity as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by a public entity as having such an impairment.

(5) The term *disability* does not include—

(i) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(ii) Compulsive gambling, kleptomania, or pyromania; or

(iii) Psychoactive substance use disorders resulting from current illegal use of drugs.

Drug means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

Facility means all or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located.

General Counsel means the General Counsel of the Office of Compliance.

Historic preservation programs means programs conducted by a public entity that have preservation of historic properties as a primary purpose.

Historic properties means those properties that are listed or eligible for listing in the National Register of Historic Places or properties designated as historic under State or local law.

Illegal use of drugs means the use of one or more drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). The term *illegal use of drugs* does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

Individual with a disability means a person who has a disability. The term *individual with a disability* does not include an individual who is currently engaging in the illegal use of drugs, when the public entity acts on the basis of such use.

Public entity means any of the following entities that provides public services, programs, or activities:

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Capitol Guide Service;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(8) the Office of the Attending Physician; and

(9) the Office of Compliance.

Qualified individual with a disability means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

Qualified interpreter means an interpreter who is able to interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary.

Section 504 means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93–112, 87 Stat. 394 (29 U.S.C. 794)), as amended.

§ 35.105 Self-evaluation.

(a) A public entity shall, within one year of the effective date of this part, evaluate its current services, policies, and practices, and the effects thereof, that do not or may not meet the requirements of this part and, to the extent modification of any such services, policies, and practices is required, the public entity shall proceed to make the necessary modifications.

(b) A public entity shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the self-evaluation process by submitting comments.

(c) A public entity that employs 50 or more persons shall, for at least three years following completion of the self-evaluation, maintain on file and make available for public inspection:

(1) A list of the interested persons consulted;

(2) A description of areas examined and any problems identified; and

(3) A description of any modifications made.

§ 35.106 Notice.

A public entity shall make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of this part and its applicability to the public services, programs, or activities of the public entity, and make such information available to them in such manner as the head of the entity finds necessary to apprise such persons of the protections against discrimination assured them by the CAA and this part.

§ 35.107 Designation of responsible employee and adoption of grievance procedures.

(a) *Designation of responsible employee.* A public entity that employs 50 or more persons shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part, including any investigation of any complaint communicated to it alleging its noncompliance with this part or alleging any actions that would be prohibited by this part. The public entity shall make available to all interested individuals the name, office address, and telephone number of the employee or employees designated pursuant to this paragraph.

(b) *Complaint procedure.* A public entity that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by this part.

§§ 35.108–35.129 [Reserved]

Subpart B—General Requirements

§ 35.130 General prohibitions against discrimination.

(a) No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the public services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.

(b)(1) A public entity, in providing any public aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability—

(i) Deny a qualified individual with a disability the opportunity to participate in or benefit from the public aid, benefit, or service;

(ii) Afford a qualified individual with a disability an opportunity to participate in or benefit from the public aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified individual with a disability with a public aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate public aids, benefits, or services to individuals with disabilities or to any class of individuals with disabilities than is provided to others unless such action is necessary to provide qualified individuals with disabilities with public aids, benefits, or services that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified individual with a disability by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability in providing any public aid, benefit, or service to beneficiaries of the public entity's program;

(vi) Deny a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards;

(vii) Otherwise limit a qualified individual with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the public aid, benefit, or service.

(2) A public entity may not deny a qualified individual with a disability the opportunity to participate in public services, programs, or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) A public entity may not, directly or through contractual or other arrangements, utilize criteria or methods of administration:

(i) That have the effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability;

(ii) That have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the public entity's public program with respect to individuals with disabilities; or

(iii) That perpetuate the discrimination of another public entity if both public entities are subject to common administrative control.

(4) A public entity may not, in determining the site or location of a facility, make selections—

(i) That have the effect of excluding individuals with disabilities from, denying them the public benefits of, or otherwise subjecting them to discrimination; or

(ii) That have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the public service, program, or activity with respect to individuals with disabilities.

(5) A public entity, in the selection of procurement contractors, may not use criteria that subject qualified individuals with disabilities to discrimination on the basis of disability.

(6) A public entity may not administer a licensing or certification program in a manner that subjects qualified individuals with disabilities to discrimination on the basis of disability, nor may a public entity establish requirements for the public programs or activities of licensees or certified entities that subject qualified individuals with disabilities to discrimination on the basis of disability. The public programs or activities of entities that are licensed or certified by a public entity are not, themselves, covered by this part.

(7) A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the public service, program, or activity.

(8) A public entity shall not impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any

public service, program, or activity, unless such criteria can be shown to be necessary for the provision of the public service, program, or activity being offered.

(c) Nothing in this part prohibits a public entity from providing public benefits, services, or advantages to individuals with disabilities, or to a particular class of individuals with disabilities beyond those required by this part.

(d) A public entity shall administer public services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

(e)(1) Nothing in this part shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit provided under the CAA or this part which such individual chooses not to accept.

(2) Nothing in the CAA or this part authorizes the representative or guardian of an individual with a disability to decline food, water, medical treatment, or medical services for that individual.

(f) A public entity may not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the costs of measures, such as the provision of auxiliary aids or program accessibility, that are required to provide that individual or group with the nondiscriminatory treatment required by the CAA or this part.

(g) A public entity shall not exclude or otherwise deny equal public services, programs, or activities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

§ 35.131 Illegal use of drugs.

(a) *General.* (1) Except as provided in paragraph (b) of this section, this part does not prohibit discrimination against an individual based on that individual's current illegal use of drugs.

(2) A public entity shall not discriminate on the basis of illegal use of drugs against an individual who is not engaging in current illegal use of drugs and who—

(i) Has successfully completed a supervised drug rehabilitation program or has otherwise been rehabilitated successfully;

(ii) Is participating in a supervised rehabilitation program; or

(iii) Is erroneously regarded as engaging in such use.

(b) *Health and drug rehabilitation services.* (1) A public entity shall not deny public health services, or public services provided in connection with drug rehabilitation, to an individual on the basis of that individual's current illegal use of drugs, if the individual is otherwise entitled to such services.

(2) A drug rehabilitation or treatment program may deny participation to individuals who engage in illegal use of drugs while they are in the program.

(c) *Drug testing.* (1) This part does not prohibit a public entity from adopting or administering reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual who formerly engaged in the illegal use of drugs is not now engaging in current illegal use of drugs.

(2) Nothing in paragraph (c) of this section shall be construed to encourage, prohibit, restrict, or authorize the conduct of testing for the illegal use of drugs.

§ 35.132 Smoking.

This part does not preclude the prohibition of, or the imposition of restrictions on, smoking in transportation covered by this part.

§ 35.133 Maintenance of accessible features.

(a) A public entity shall maintain in operable working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities by the CAA or this part.

(b) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

§ 35.134 [Reserved]

§ 35.135 Personal devices and services.

This part does not require a public entity to provide to individuals with disabilities personal devices, such as wheelchairs; individually prescribed devices, such as prescription eyeglasses or hearing aids; readers for personal use or study; or services of a personal nature including assistance in eating, toileting, or dressing.

§§ 35.136–35.139 [Reserved]

Subpart C—Employment

§ 35.140 Employment discrimination prohibited.

(a) No qualified individual with a disability shall, on the basis of disability, be subjected to discrimination in employment under any service, program, or activity conducted by a public entity.

(b)(1) For purposes of this part, the requirements of title I of the Americans With Disabilities Act (''ADA''), as established by the regulations of the Equal Employment Opportunity Commission in 29 CFR part 1630, apply to employment in any service, program, or activity conducted by a public entity if that public entity is also subject to the jurisdiction of title I of the ADA, as applied by section 201 of the CAA.

(2) For the purposes of this part, the requirements of section 504 of the Rehabilitation Act of 1973, as established by the regulations of the Department of Justice in 28 CFR part 41, as those requirements pertain to employment, apply to employment in any service, program, or activity conducted by a public entity if that public entity is not also subject to the jurisdiction of title I of the ADA, as applied by section 201 of the CAA.

(c) Notwithstanding anything contained in this subpart, with respect to any claim of employment discrimination asserted by any covered employee, the exclusive remedy shall be under section 201 of the CAA.

§§ 35.141–35.148 [Reserved]

Subpart D—Program Accessibility

§ 35.149 Discrimination prohibited.

Except as otherwise provided in § 35.150, no qualified individual with a disability shall, because a public entity's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the public services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.

§ 35.150 Existing facilities.

(a) *General.* A public entity shall operate each public service, program, or activity so that the public service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. This paragraph does not—

(1) Necessarily require a public entity to make each of its existing facilities accessible to and usable by individuals with disabilities;

(2) Require a public entity to take any action that would threaten or destroy the historic significance of an historic property; or

(3) Require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a public service, program, or activity or in undue financial and administrative burdens. In those circumstances where personnel of the public entity believe that the proposed action would fundamentally alter the public service, program, or activity or would result in undue financial and administrative burdens, a public entity has the burden of proving that compliance with § 35.150(a) of this part would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the head of a public entity or his or her designee after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, a public entity shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with disabilities receive the public benefits or services provided by the public entity.

(b) *Methods*—(1) *General.* A public entity may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock or other conveyances, or any other methods that result in making its public services, programs, or activities readily accessible to and usable by individuals with disabilities. A public entity is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. A public entity, in making alterations to existing buildings, shall meet the accessibility requirements of § 35.151. In choosing among available methods for meeting the requirements of this section, a public entity shall give priority to those methods that offer public services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate.

(2) *Historic preservation programs.* In meeting the requirements of § 35.150(a) in historic preservation programs, a public entity shall give priority to methods that provide physical access to individuals with disabilities. In cases where a physical alteration to an historic property is not required because of paragraph (a)(2) or (a)(3) of this section, alternative methods of achieving program accessibility include—

(i) Using audio-visual materials and devices to depict those portions of an historic property that cannot otherwise be made accessible;

(ii) Assigning persons to guide individuals with disabilities into or through portions of historic properties that cannot otherwise be made accessible; or

(iii) Adopting other innovative methods.

(c) *Time period for compliance.* Where structural changes in facilities are undertaken to comply with the obligations established under this section, such changes shall be made by within three years of January 1, 1997, but in any event as expeditiously as possible.

(d) *Transition plan.* (1) In the event that structural changes to facilities will be undertaken to achieve program accessibility, a public entity that employs 50 or more persons shall develop, within six months of January 1, 1997, a transition plan setting forth the steps necessary to complete such changes. A public entity shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the development of the transition plan by submitting comments. A copy of

the transition plan shall be made available for public inspection.

(2) If a public entity has responsibility or authority over streets, roads, or walkways, its transition plan shall include a schedule for providing curb ramps or other sloped areas where pedestrian walks cross curbs, giving priority to walkways serving entities covered by the CAA, including covered offices and facilities, transportation, places of public accommodation, and employers, followed by walkways serving other areas.

(3) The plan shall, at a minimum—

(i) Identify physical obstacles in the public entity's facilities that limit the accessibility of its public programs or activities to individuals with disabilities;

(ii) Describe in detail the methods that will be used to make the facilities accessible;

(iii) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(iv) Indicate the official responsible for implementation of the plan.

§ 35.151 New construction and alterations.

(a) *Design and construction.* Each facility or part of a facility constructed by, on behalf of, or for the use of a public entity shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities, if the construction was commenced after January 1, 1997.

(b) *Alteration.* Each facility or part of a facility altered by, on behalf of, or for the use of a public entity in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by individuals with disabilities, if the alteration was commenced after January 1, 1997.

(c) *Accessibility standards.* Design, construction, or alteration of facilities in conformance with the Uniform Federal Accessibility Standards (UFAS) (Appendix B to Part 36 of these regulations) or with the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG) (Appendix A to Part 36 of these regulations) shall be deemed to comply with the requirements of this section with respect to those facilities, except that the elevator exemption contained at 4.1.3(5) and 4.1.6(1)(j) of ADAAG shall not apply. Departures from particular requirements of either standard by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided.

(d) *Alterations: Historic properties.* (1) Alterations to historic properties shall comply, to the maximum extent feasible, with section 4.1.7 of UFAS or section 4.1.7 of ADAAG.

(2) If it is not feasible to provide physical access to a historic property in a manner that will not threaten or destroy the historic significance of the building or facility, alternative methods of access shall be provided pursuant to the requirements of § 35.150.

(e) *Curb ramps.* (1) Newly constructed or altered streets, roads, and highways must contain curb ramps or other sloped areas at any intersection having curbs or other barriers to entry from a street level pedestrian walkway.

(2) Newly constructed or altered street level pedestrian walkways must contain curb ramps or other sloped areas at intersections to streets, roads, or highways.

§§ 35.152–35.159 [Reserved]

Subpart E—Communications

§ 35.160 General.

(a) A public entity shall take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others.

(b)(1) A public entity shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a public service, program, or activity conducted by a public entity.

(2) In determining what type of auxiliary aid and service is necessary, a public entity shall give primary consideration to the requests of the individual with disabilities.

§ 35.161 Telecommunication devices for the deaf (TDD's).

Where a public entity communicates by telephone with applicants and beneficiaries, TDD's or equally effective telecommunication systems shall be used to communicate with individuals with impaired hearing or speech.

§ 35.162 Telephone emergency services.

Telephone emergency services, including 911 services, shall provide direct access to individuals who use TDD's and computer modems.

§ 35.163 Information and signage.

(a) A public entity shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible public services, activities, and facilities.

(b) A public entity shall provide signage at all inaccessible entrances to each of its public facilities, directing users to an accessible entrance or to a location at which they can obtain information about accessible public facilities. The international symbol for accessibility shall be used at each accessible entrance of a public facility.

§ 35.164 Duties.

This subpart does not require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a public service, program, or activity or in undue financial and administrative burdens. In those circumstances where personnel of the public entity believe that the proposed action would fundamentally alter the public service, program, or activity or would result in undue financial and administrative burdens, a public entity has the burden of proving that compliance with this subpart would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the head of the public entity or his or her designee after considering all resources available for use in the funding and operation of the public service, program, or activity and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this subpart would result in such an alteration or such burdens, a public entity shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the public benefits or services provided by the public entity.

§§ 35.165–35.169 [Reserved]

§§35.170–35.999 [Reserved]

PART 36—NONDISCRIMINATION ON THE BASIS OF DISABILITY BY PUBLIC ACCOMMODATIONS

Subpart A—General

Subpart A—General

§ 36.101 Purpose.

The purpose of this part is to implement section 210 of the Congressional Accountability Act of 1995 (2 U.S.C. 1331 *et seq.*) which, *inter alia*, applies the rights and protections of sections of title III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181), which prohibits discrimination on the basis of disability by public accommodations and requires places of public accommodation to be designed, constructed, and altered in compliance with the accessibility standards established by this part.

§ 36.102 Application.

(a) *General.* This part applies to any—

(1) Public accommodation; or

(2) covered entity that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes.

(b) *Public accommodations.* (1) The requirements of this part applicable to public accommodations are set forth in subparts B, C, and D of this part.

(2) The requirements of subparts B and C of this part obligate a public accommodation only with respect to the operations of a place of public accommodation.

(3) The requirements of subpart D of this part obligate a public accommodation only with respect to a facility used as, or designed or constructed for use as, a place of public accommodation.

(c) *Examinations and courses. The requirements of this part applicable to covered entities*

that offer examinations or courses as specified in paragraph (a) of this section are set forth in § 36.309.

§ 36.103 Relationship to other laws.

(a) *Rule of interpretation.* Except as otherwise provided in this part, this part shall not be construed to apply a lesser standard than the standards applied under title V of the Rehabilitation Act of 1973 (29 U.S.C. 791) or the regulations issued by Federal agencies pursuant to that title.

(b) *Other laws.* This part does not invalidate or limit the remedies, rights, and procedures of any other Federal laws otherwise applicable to covered entities that provide greater or equal protection for the rights of individuals with disabilities or individuals associated with them.

§ 36.104 Definitions.

For purposes of this part, the term—

Act or *CAA* means the Congressional Accountability Act of 1995 (Pub. L. 104–1, 109 Stat. 3, 2 U.S.C. §§1301–1438).

ADA means the Americans with Disabilities Act of 1990 (Pub. L. 101–336, 104 Stat. 327, 42 U.S.C. 12101–12213 and 47 U.S.C. 225 and 611), as applied to covered entities by section 210 of the CAA.

Covered entity means any entity listed in section 210(a) of the CAA insofar as it operates a place of public accommodation.

Current illegal use of drugs means illegal use of drugs that occurred recently enough to justify a reasonable belief that a person's drug use is current or that continuing use is a real and ongoing problem.

Disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

(1) The phrase *physical or mental impairment* means—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine;

(ii) Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;

(iii) The phrase physical or mental impairment includes, but is not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism;

(iv) The phrase *physical or mental impairment* does not include homosexuality or bisexuality.

(2) The phrase *major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) The phrase *has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) The phrase *is regarded as having an impairment* means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a covered entity as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by a covered entity as having such an impairment.

(5) The term *disability* does not include—

(i) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(ii) Compulsive gambling, kleptomania, or pyromania; or

(iii) Psychoactive substance use disorders resulting from current illegal use of drugs.

Drug means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

Facility means all or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located.

Illegal use of drugs means the use of one or more drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). The term ''illegal use of drugs'' does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

Individual with a disability means a person who has a disability. The term ''individual with a disability'' does not include an individual who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

Place of public accommodation means a facility, operated by a covered entity, whose operations fall within at least one of the following categories—

(1) An inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of the establishment as the residence of the proprietor;

(2) A restaurant, bar, or other establishment serving food or drink;

(3) A motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;

(4) An auditorium, convention center, lecture hall, or other place of public gathering;

(5) A bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;

(6) A laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;

(7) A terminal, depot, or other station used for specified public transportation;

(8) A museum, library, gallery, or other place of public display or collection;

(9) A park, zoo, amusement park, or other place of recreation;

(10) A nursery, elementary, secondary, undergraduate, or postgraduate covered school, or other place of education;

(11) A day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and

(12) A gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

Public accommodation means a covered entity that operates a place of public accommodation.

Public entity means any of the following entities that provides public services, programs, or activities:

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Capitol Guide Service;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(8) the Office of the Attending Physician; and

(9) the Office of Compliance.

Qualified interpreter means an interpreter who is able to interpret effectively, accurately and impartially both receptively and expressively, using any necessary specialized vocabulary.

Readily achievable means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable factors to be considered include—

(1) The nature and cost of the action needed under this part;

(2) The overall financial resources of the site or sites involved in the action; the number of persons employed at the site; the effect on expenses and resources; legitimate safety requirements that are necessary for safe operation, including crime prevention measures; or the impact otherwise of the action upon the operation of the site;

(3) The geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent entity;

(4) If applicable, the overall financial resources of any parent entity; the overall size of the parent entity with respect to the number of its employees; the number, type, and location of its facilities; and

(5) If applicable, the type of operation or operations of any parent entity, including the composition, structure, and functions of the workforce of the parent entity.

Service animal means any guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

Specified public transportation means transportation by bus, rail, or any other conveyance (other than by aircraft) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

Undue burden means significant difficulty or expense. In determining whether an action would result in an undue burden, factors to be considered include—

(1) The nature and cost of the action needed under this part;

(2) The overall financial resources of the site or sites involved in the action; the number of persons employed at the site; the effect on expenses and resources; legitimate safety requirements that are necessary for safe operation, including crime prevention measures; or the impact otherwise of the action upon the operation of the site;

(3) The geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent entity;

(4) If applicable, the overall financial resources of any parent entity; the overall size of the parent entity with respect to the number of its employees; the number, type, and location of its facilities; and

(5) If applicable, the type of operation or operations of any parent entity, including the composition, structure, and functions of the workforce of the parent entity.

Subpart B—General Requirements

§ 36.201 General.

No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any covered entity who operates a place of public accommodation.

§ 36.202 Activities.

(a) *Denial of participation.* A public accommodation shall not subject an individual or class of individuals on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation.

(b) *Participation in unequal benefit.* A public accommodation shall not afford an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other individuals.

(c) *Separate benefit.* A public accommodation shall not provide an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with a good, service, facility, privilege, advantage, or accommodation that is different or separate from that provided to other individuals, unless such action is necessary to provide the individual or class of individuals with a good, service, facility, privilege, advantage, or accommodation, or other opportunity that is as effective as that provided to others.

(d) *Individual or class of individuals.* For purposes of paragraphs (a) through (c) of this section, the term ''individual or class of individuals'' refers to the clients or customers of the public accommodation that enter into the contractual, licensing, or other arrangement.

§ 36.203 Integrated settings.

(a) *General.* A public accommodation shall afford goods, services, facilities, privileges, advantages, and accommodations to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

(b) *Opportunity to participate.* Notwithstanding the existence of separate or different programs or activities provided in accordance with this subpart, a public accommodation shall not deny an individual with a disability an opportunity to participate in such programs or activities that are not separate or different.

(c) *Accommodations and services.* (1) Nothing in this part shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit available under this part that such individual chooses not to accept.

(2) Nothing in the CAA or this part authorizes the representative or guardian of an individual with a disability to decline food, water, medical treatment, or medical services for that individual.

§ 36.204 Administrative methods.

A public accommodation shall not, directly or through contractual or other arrangements, utilize standards or criteria or methods of administration that have the effect of discriminating on the basis of disability, or that perpetuate the discrimination of others who are subject to common administrative control.

§ 36.205 Association.

A public accommodation shall not exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

§ 36.206 [Reserved]

§ 36.207 Places of public accommodation located in private residences.

(a) When a place of public accommodation is located in a private residence, the portion of the residence used exclusively as a residence is not covered by this part, but that portion used exclusively in the operation of the place of public accommodation or that portion used both for the place of public accommodation and for residential purposes is covered by this part.

(b) The portion of the residence covered under paragraph (a) of this section extends to those elements used to enter the place of public accommodation, including the homeowner's front sidewalk, if any, the door or entryway, and hallways; and those portions of the residence, interior or exterior, available to or used by customers or clients, including restrooms.

§ 36.208 Direct threat.

(a) This part does not require a public accommodation to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of that public accommodation when that individual poses a direct threat to the health or safety of others.

(b) *Direct threat* means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services.

(c) In determining whether an individual poses a direct threat to the health or safety of others, a public accommodation must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures will mitigate the risk.

§ 36.209 Illegal use of drugs.

(a) *General.* (1) Except as provided in paragraph (b) of this section, this part does not prohibit discrimination against an individual based on that individual's current illegal use of drugs.

(2) A public accommodation shall not discriminate on the basis of illegal use of drugs against an individual who is not engaging in current illegal use of drugs and who

(i) Has successfully completed a supervised drug rehabilitation program or has otherwise been rehabilitated successfully;

(ii) Is participating in a supervised rehabilitation program; or

(iii) Is erroneously regarded as engaging in such use.

(b) *Health and drug rehabilitation services.* (1) A public accommodation shall not deny health services, or services provided in connection with drug rehabilitation, to an individual on the basis of that individual's current illegal use of drugs, if the individual is otherwise entitled to such services.

(2) A drug rehabilitation or treatment program may deny participation to individuals who engage in illegal use of drugs while they are in the program.

(c) *Drug testing.* (1) This part does not prohibit a public accommodation from adopting or administering reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual who formerly engaged in the illegal use of drugs is not now engaging in current illegal use of drugs.

(2) Nothing in this paragraph (c) shall be construed to encourage, prohibit, restrict, or authorize the conducting of testing for the illegal use of drugs.

§ 36.210 Smoking.

This part does not preclude the prohibition of, or the imposition of restrictions on, smoking in places of public accommodation.

§ 36.211 Maintenance of accessible features.

(a) A public accommodation shall maintain in operable working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities by the CAA or this part.

(b) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

§ 36.212 Insurance.

(a) This part shall not be construed to prohibit or restrict—

(1) A covered entity that administers benefit plans from underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with applicable law; or

(2) A person or organization covered by this part from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that are based on underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with applicable law; or

(3) A person or organization covered by this part from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that is not subject to applicable laws that regulate insurance.

(b) Paragraphs (a)(1), (2), and (3) of this section shall not be used as a subterfuge to evade the purposes of the CAA or this part.

(c) A public accommodation shall not refuse to serve an individual with a disability because its insurance company conditions coverage or rates on the absence of individuals with disabilities.

§ 36.213 Relationship of subpart B to subparts C and D of this part.

Subpart B of this part sets forth the general principles of nondiscrimination applicable to all entities subject to this part. Subparts C and D of this part provide guidance on the application of the statute to specific situations. The specific provisions, including the limitations on those provisions, control over the general provisions in circumstances where both specific and general provisions apply.

§§36.214–36.299 [Reserved]

Subpart C—Specific Requirements

§ 36.301 Eligibility criteria.

(a) *General.* A public accommodation shall not impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered.

(b) *Safety.* A public accommodation may impose legitimate safety requirements that are necessary for safe operation. Safety requirements must be based on actual risks

and not on mere speculation, stereotypes, or generalizations about individuals with disabilities.

(c) *Charges.* A public accommodation may not impose a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the costs of measures, such as the provision of auxiliary aids, barrier removal, alternatives to barrier removal, and reasonable modifications in policies, practices, or procedures, that are required to provide that individual or group with the nondiscriminatory treatment required by the CAA or this part.

§ 36.302 Modifications in policies, practices, or procedures.

(a) *General.* A public accommodation shall make reasonable modifications in policies, practices, or procedures, when the modifications are necessary to afford goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the public accommodation can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations.

(b) *Specialties*—(1) *General.* A public accommodation may refer an individual with a disability to another public accommodation, if that individual is seeking, or requires, treatment or services outside of the referring public accommodation's area of specialization, and if, in the normal course of its operations, the referring public accommodation would make a similar referral for an individual without a disability who seeks or requires the same treatment or services.

(2) *Illustration—medical specialties.* A health care provider may refer an individual with a disability to another provider, if that individual is seeking, or requires, treatment or services outside of the referring provider's area of specialization, and if the referring provider would make a similar referral for an individual without a disability who seeks or requires the same treatment or services. A physician who specializes in treating only a particular condition cannot refuse to treat an individual with a disability for that condition, but is not required to treat the individual for a different condition.

(c) *Service animals*—(1) *General.* Generally, a public accommodation shall modify policies, practices, or procedures to permit the use of a service animal by an individual with a disability.

(2) *Care or supervision of service animals.* Nothing in this part requires a public accommodation to supervise or care for a service animal.

(d) *Check-out aisles.* A store with check-out aisles shall ensure that an adequate number of accessible check-out aisles is kept open during store hours, or shall otherwise modify its policies and practices, in order to ensure that an equivalent level of convenient service is provided to individuals with disabilities as is provided to others. If only one check-out aisle is accessible, and it is generally used for express service, one way of providing equivalent service is to allow persons with mobility impairments to make all their purchases at that aisle.

§ 36.303 Auxiliary aids and services.

(a) *General.* A public accommodation shall take those steps that may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the public accommodation can demonstrate that taking those steps would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations being offered or would result in an undue burden, i.e., significant difficulty or expense.

(b) *Examples.* The term ''auxiliary aids and service'' includes

(1) Qualified interpreters, notetakers, computer-aided transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDD's), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(2) Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(3) Acquisition or modification of equipment or devices; and

(4) Other similar services and actions.

(c) *Effective communication.* A public accommodation shall furnish appropriate auxiliary aids and services where necessary to ensure effective communication with individuals with disabilities.

(d) Telecommunication devices for the deaf (TDD's). (1) A public accommodation that offers a customer, client, patient, or participant the opportunity to make outgoing telephone calls on more than an incidental convenience basis shall make available, upon request, a TDD for the use of an individual who has impaired hearing or a communication disorder.

(2) This part does not require a public accommodation to use a TDD for receiving or making telephone calls incident to its operations.

(f) *Alternatives.* If provision of a particular auxiliary aid or service by a public accommodation would result in a fundamental alteration in the nature of the goods, services, facilities, privileges, advantages, or accommodations being offered or in an undue burden, i.e., significant difficulty or expense, the public accommodation shall provide an alternative auxiliary aid or service, if one exists, that would not result in such an alteration or such burden but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the goods, services, facilities, privileges, advantages, or accommodations offered by the public accommodation.

§36.304 Removal of barriers.

(a) *General.* A public accommodation shall remove architectural barriers in existing facilities, including communication barriers that are structural in nature, where such removal is readily achievable, i.e., easily accomplishable and able to be carried out without much difficulty or expense.

(b) *Examples.* Examples of steps to remove barriers include, but are not limited to, the following actions—

(1) Installing ramps;

(2) Making curb cuts in sidewalks and entrances;

(3) Repositioning shelves;

(4) Rearranging tables, chairs, vending machines, display racks, and other furniture;

(5) Repositioning telephones;

(6) Adding raised markings on elevator control buttons;

(7) Installing flashing alarm lights;

(8) Widening doors;

(9) Installing offset hinges to widen doorways;

(10) Eliminating a turnstile or providing an alternative accessible path;

(11) Installing accessible door hardware;

(12) Installing grab bars in toilet stalls;

(13) Rearranging toilet partitions to increase maneuvering space;

(14) Insulating lavatory pipes under sinks to prevent burns;

(15) Installing a raised toilet seat;

(16) Installing a full-length bathroom mirror;

(17) Repositioning the paper towel dispenser in a bathroom;

(18) Creating designated accessible parking spaces;

(19) Installing an accessible paper cup dispenser at an existing inaccessible water fountain;

(20) Removing high pile, low density carpeting; or

(21) Installing vehicle hand controls.

(c) *Priorities.* A public accommodation is urged to take measures to comply with the barrier removal requirements of this section in accordance with the following order of priorities.

(1) First, a public accommodation should take measures to provide access to a place of public accommodation from public sidewalks, parking, or public transportation. These measures include, for example, installing an entrance ramp, widening entrances, and providing accessible parking spaces.

(2) Second, a public accommodation should take measures to provide access to those areas of a place of public accommodation where goods and services are made available to the public. These measures include, for example, adjusting the layout of display racks, rearranging tables, providing Brailled and raised character signage, widening doors, providing visual alarms, and installing ramps.

(3) Third, a public accommodation should take measures to provide access to restroom facilities. These measures include, for example, removal of obstructing furniture or vending machines, widening of doors, installation of ramps, providing accessible signage, widening of toilet stalls, and installation of grab bars.

(4) Fourth, a public accommodation should take any other measures necessary to provide access to the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation.

(d) *Relationship to alterations requirements of subpart D of this part.* (1) Except as provided in paragraph (d)(2) of this section, measures taken to comply with the barrier removal requirements of this section shall comply with the applicable requirements for alterations in § 36.402 and §§ 36.404-36.406 of this part for the element being altered. The path of travel requirements of § 36.403 shall not apply to measures taken solely to comply with the barrier removal requirements of this section.

(2) If, as a result of compliance with the alterations requirements specified in paragraph (d)(1) of this section, the measures required to remove a barrier would not be readily achievable, a public accommodation may take other readily achievable measures to remove the barrier that do not fully comply with the specified requirements. Such measures include, for example, providing a ramp with a steeper slope or widening a doorway to a narrower width than that mandated by the alterations requirements. No measure shall be taken, however, that poses a significant risk to the health or safety of individuals with disabilities or others.

(e) *Portable ramps.* Portable ramps should be used to comply with this section only when installation of a permanent ramp is not readily achievable. In order to avoid any significant risk to the health or safety of individuals with disabilities or others in using portable ramps, due consideration shall be given to safety features such as nonslip surfaces, railings, anchoring, and strength of materials.

(f) *Selling or serving space.* The rearrangement of temporary or movable structures, such as furniture, equipment, and display racks is not readily achievable to the extent

that it results in a significant loss of selling or serving space.

(g) *Limitation on barrier removal obligations.* (1) The requirements for barrier removal under §36.304 shall not be interpreted to exceed the standards for alterations in subpart D of this part.

(2) To the extent that relevant standards for alterations are not provided in subpart D of this part, then the requirements of §36.304 shall not be interpreted to exceed the standards for new construction in subpart D of this part.

(3) This section does not apply to rolling stock and other conveyances to the extent that §36.310 applies to rolling stock and other conveyances.

§36.305 Alternatives to barrier removal.

(a) *General.* Where a public accommodation can demonstrate that barrier removal is not readily achievable, the public accommodation shall not fail to make its goods, services, facilities, privileges, advantages, or accommodations available through alternative methods, if those methods are readily achievable.

(b) *Examples.* Examples of alternatives to barrier removal include, but are not limited to, the following actions—

(1) Providing curb service or home delivery;

(2) Retrieving merchandise from inaccessible shelves or racks;

(3) Relocating activities to accessible locations.

§36.306 Personal devices and services.

This part does not require a public accommodation to provide its customers, clients, or participants with personal devices, such as wheelchairs; individually prescribed devices, such as prescription eyeglasses or hearing aids; or services of a personal nature including assistance in eating, toileting, or dressing.

§36.307 Accessible or special goods.

(a) This part does not require a public accommodation to alter its inventory to include accessible or special goods that are designed for, or facilitate use by, individuals with disabilities.

(b) A public accommodation shall order accessible or special goods at the request of an individual with disabilities, if, in the normal course of its operation, it makes special orders on request for unstocked goods, and if the accessible or special goods can be obtained from a supplier with whom the public accommodation customarily does business.

(c) Examples of accessible or special goods include items such as Brailled versions of books, books on audio cassettes, closed-captioned video tapes, special sizes or lines of clothing, and special foods to meet particular dietary needs.

§36.308 Seating in assembly areas.

(a) *Existing facilities.* (1) To the extent that it is readily achievable, a public accommodation in assembly areas shall—

(i) Provide a reasonable number of wheelchair seating spaces and seats with removable aisle-side arm rests; and

(ii) Locate the wheelchair seating spaces so that they—

(A) Are dispersed throughout the seating area;

(B) Provide lines of sight and choice of admission prices comparable to those for members of the general public;

(C) Adjoin an accessible route that also serves as a means of egress in case of emergency; and

(D) Permit individuals who use wheelchairs to sit with family members or other companions.

(2) If removal of seats is not readily achievable, a public accommodation shall provide, to the extent that it is readily achievable to do so, a portable chair or other means to permit a family member or other companion to sit with an individual who uses a wheelchair.

(3) The requirements of paragraph (a) of this section shall not be interpreted to exceed the standards for alterations in subpart D of this part.

(b) *New construction and alterations.* The provision and location of wheelchair seating spaces in newly constructed or altered assembly areas shall be governed by the standards for new construction and alterations in subpart D of this part.

§36.309 Examinations and courses.

(a) *General.* Any covered entity that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes shall offer such examinations or courses in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.

(b) *Examinations.* (1) Any covered entity offering an examination covered by this section must assure that—

(i) The examination is selected and administered so as to best ensure that, when the examination is administered to an individual with a disability that impairs sensory, manual, or speaking skills, the examination results accurately reflect the individual's aptitude or achievement level or whatever other factor the examination purports to measure, rather than reflecting the individual's impaired sensory, manual, or speaking skills (except where those skills are the factors that the examination purports to measure);

(ii) An examination that is designed for individuals with impaired sensory, manual, or speaking skills is offered at equally convenient locations, as often, and in as timely a manner as are other examinations; and

(iii) The examination is administered in facilities that are accessible to individuals with disabilities or alternative accessible arrangements are made.

(2) Required modifications to an examination may include changes in the length of time permitted for completion of the examination and adaptation of the manner in which the examination is given.

(3) A covered entity offering an examination covered by this section shall provide appropriate auxiliary aids for persons with impaired sensory, manual, or speaking skills, unless that covered entity can demonstrate that offering a particular auxiliary aid would fundamentally alter the measurement of the skills or knowledge the examination is intended to test or would result in an undue burden. Auxiliary aids and services required by this section may include taped examinations, interpreters or other effective methods of making orally delivered materials available to individuals with hearing impairments, Brailled or large print examinations and answer sheets or qualified readers for individuals with visual impairments or learning disabilities, transcribers for individuals with manual impairments, and other similar services and actions.

(4) Alternative accessible arrangements may include, for example, provision of an examination at an individual's home with a proctor if accessible facilities or equipment are unavailable. Alternative arrangements must provide comparable conditions to those provided for nondisabled individuals.

(c) *Courses.* (1) Any covered entity that offers a course covered by this section must make such modifications to that course as are necessary to ensure that the place and manner in which the course is given are accessible to individuals with disabilities.

(2) Required modifications may include changes in the length of time permitted for the completion of the course, substitution of specific requirements, or adaptation of the manner in which the course is conducted or course materials are distributed.

(3) A covered entity that offers a course covered by this section shall provide appropriate auxiliary aids and services for persons with impaired sensory, manual, or speaking skills, unless the covered entity can demonstrate that offering a particular auxiliary aid or service would fundamentally alter the course or would result in an undue burden. Auxiliary aids and services required by this section may include taped texts, interpreters or other effective methods of making orally delivered materials available to individuals with hearing impairments, Brailled or large print texts or qualified readers for individuals with visual impairments and learning disabilities, classroom equipment adapted for use by individuals with manual impairments, and other similar services and actions.

(4) Courses must be administered in facilities that are accessible to individuals with disabilities or alternative accessible arrangements must be made.

(5) Alternative accessible arrangements may include, for example, provision of the course through videotape, cassettes, or prepared notes. Alternative arrangements must provide comparable conditions to those provided for nondisabled individuals.

§36.310 Transportation provided by public accommodations.

(a) *General.* (1) A public accommodation that provides transportation services, but that is not primarily engaged in the business of transporting people, is subject to the general and specific provisions in subparts B, C, and D of this part for its transportation operations, except as provided in this section.

(2) *Examples.* Transportation services subject to this section include, but are not limited to, shuttle services operated between transportation terminals and places of public accommodation and customer shuttle bus services operated by covered entities

(b) *Barrier removal.* A public accommodation subject to this section shall remove transportation barriers in existing vehicles and rail passenger cars used for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift) where such removal is readily achievable.

(c) *Requirements for vehicles and systems.* A public accommodation subject to this section shall comply with the requirements pertaining to vehicles and transportation systems in the regulations issued by the Board of Directors of the Office of Compliance.

§§36.311—36.400 [Reserved]

Subpart D—New Construction and Alterations

§36.401 New construction.

(a) *General.* (1) Except as provided in paragraphs (b) and (c) of this section, discrimination for purposes of this part includes a failure to design and construct facilities for first occupancy after July 23, 1997, that are readily accessible to and usable by individuals with disabilities.

(2) For purposes of this section, a facility is designed and constructed for first occupancy after July 23, 1997, only—

(i) If the last application for a building permit or permit extension for the facility is certified to be complete, by an appropriate governmental authority after January 1, 1997 (or, in those jurisdictions where the government does not certify completion of applications, if the last application for a building permit or permit extension for the facility is received by the appropriate governmental authority after January 1, 1997); and

(ii) If the first certificate of occupancy for the facility is issued after July 23, 1997.

(b) *Place of public accommodation located in private residences.*

(1) When a place of public accommodation is located in a private residence, the portion of the residence used exclusively as a residence is not covered by this subpart, but that portion used exclusively in the operation of the place of public accommodation or that portion used both for the place of public accommodation and for residential purposes is covered by the new construction and alterations requirements of this subpart.

(2) The portion of the residence covered under paragraph (b)(1) of this section extends to those elements used to enter the place of public accommodation, including the homeowner's front sidewalk, if any, the door or entryway, and hallways; and those portions of the residence, interior or exterior, available to or used by employees or visitors of the place of public accommodation, including restrooms.

(c) *Exception for structural impracticability.* (1) Full compliance with the requirements of this section is not required where an entity can demonstrate that it is structurally impracticable to meet the requirements. Full compliance will be considered structurally impracticable only in those rare circumstances when the unique characteristics of terrain prevent the incorporation of accessibility features.

(2) If full compliance with this section would be structurally impracticable, compliance with this section is required to the extent that it is not structurally impracticable. In that case, any portion of the facility that can be made accessible shall be made accessible to the extent that it is not structurally impracticable.

(3) If providing accessibility in conformance with this section to individuals with certain disabilities (e.g., those who use wheelchairs) would be structurally impracticable, accessibility shall nonetheless be ensured to persons with other types of disabilities (e.g., those who use crutches or who have sight, hearing, or mental impairments) in accordance with this section.

(d) *Elevator exemption.* (1) For purposes of this paragraph (d)—

Professional office of a health care provider means a location where a person or entity regulated by a State to provide professional services related to the physical or mental health of an individual makes such services available to the public. The facility housing the ''professional office of a health care provider'' only includes floor levels housing at least one health care provider, or any floor level designed or intended for use by at least one health care provider.

(2) This section does not require the installation of an elevator in a facility that is less than three stories or has less than 3000 square feet per story, except with respect to any facility that houses one or more of the following:

(i) A professional office of a health care provider.

(ii) A terminal, depot, or other station used for specified public transportation. In such a facility, any area housing passenger services, including boarding and debarking, loading and unloading, baggage claim, dining facilities, and other common areas open to the public, must be on an accessible route from an accessible entrance.

(3) The elevator exemption set forth in this paragraph (d) does not obviate or limit in any way the obligation to comply with the other accessibility requirements established in paragraph (a) of this section. For example, in a facility that houses a professional office of a health care provider, the floors that are above or below an accessible ground floor and that do not house a professional office of a health care provider, must meet the requirements of this section but for the elevator.

§36.402 Alterations.

(a) *General.* (1) Any alteration to a place of public accommodation, after January 1, 1997, shall be made so as to ensure that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(2) An alteration is deemed to be undertaken after January 1, 1997, if the physical alteration of the property begins after that date.

(b) *Alteration.* For the purposes of this part, an alteration is a change to a place of public accommodation that affects or could affect the usability of the building or facility or any part thereof.

(1) Alterations include, but are not limited to, remodeling, renovation, rehabilitation, reconstruction, historic restoration, changes or rearrangement in structural parts or elements, and changes or rearrangement in the plan configuration of walls and full-height partitions. Normal maintenance, reroofing, painting or wallpapering, asbestos removal, or changes to mechanical and electrical systems are not alterations unless they affect the usability of the building or facility.

(2) If existing elements, spaces, or common areas are altered, then each such altered element, space, or area shall comply with the applicable provisions of appendix A to this part.

(c) *To the maximum extent feasible.* The phrase ''to the maximum extent feasible,'' as used in this section, applies to the occasional case where the nature of an existing facility makes it virtually impossible to comply fully with applicable accessibility standards through a planned alteration. In these circumstances, the alteration shall provide the maximum physical accessibility feasible. Any altered features of the facility that can be made accessible shall be made accessible. If providing accessibility in conformance with this section to individuals with certain disabilities (e.g., those who use wheelchairs) would not be feasible, the facility shall be made accessible to persons with other types of disabilities (e.g., those who use crutches, those who have impaired vision or hearing, or those who have other impairments).

§36.403 Alterations: Path of travel.

(a) *General.* An alteration that affects or could affect the usability of or access to an area of a facility that contains a primary function shall be made so as to ensure that, to the maximum extent feasible, the path of travel to the altered area and the restrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the cost and scope of such alterations is disproportionate to the cost of the overall alteration.

(b) *Primary function.* A ''primary function'' is a major activity for which the facility is intended. Areas that contain a primary function include, but are not limited to, the customer services lobby of a bank, the dining area of a cafeteria, the meeting rooms in a conference center, as well as offices and other work areas in which the activities of the public accommodation or other covered entity using the facility are carried out. Mechanical rooms, boiler rooms, supply storage rooms, employee lounges or locker rooms, janitorial closets, entrances, corridors, and restrooms are not areas containing a primary function.

(c) *Alterations to an area containing a primary function.* (1) Alterations that affect the usability of or access to an area containing a primary function include, but are not limited to—

(i) Remodeling merchandise display areas or employee work areas in a department store;

(ii) Replacing an inaccessible floor surface in the customer service or employee work areas of a bank;

(iii) Redesigning the assembly line area of a factory; or

(iv) Installing a computer center in an accounting firm.

(2) For the purposes of this section, alterations to windows, hardware, controls, electrical outlets, and signage shall not be deemed to be alterations that affect the usability of or access to an area containing a primary function.

(d) *Path of travel.* (1) A ''path of travel'' includes a continuous, unobstructed way of pedestrian passage by means of which the altered area may be approached, entered, and exited, and which connects the altered area with an exterior approach (including sidewalks, streets, and parking areas), an entrance to the facility, and other parts of the facility.

(2) An accessible path of travel may consist of walks and sidewalks, curb ramps and other interior or exterior pedestrian ramps; clear floor paths through lobbies, corridors, rooms, and other improved areas; parking access aisles; elevators and lifts; or a combination of these elements.

(3) For the purposes of this part, the term ''path of travel'' also includes the restrooms, telephones, and drinking fountains serving the altered area.

(e) *Disproportionality.* (1) Alterations made to provide an accessible path of travel to the altered area will be deemed disproportionate to the overall alteration when the cost exceeds 20% of the cost of the alteration to the primary function area.

(2) Costs that may be counted as expenditures required to provide an accessible path of travel may include:

(i) Costs associated with providing an accessible entrance and an accessible route to the altered area, for example, the cost of widening doorways or installing ramps;

(ii) Costs associated with making restrooms accessible, such as installing grab bars, enlarging toilet stalls, insulating pipes, or installing accessible faucet controls;

(iii) Costs associated with providing accessible telephones, such as relocating the telephone to an accessible height, installing amplification devices, or installing a telecommunications device for deaf persons (TDD);

(iv) Costs associated with relocating an inaccessible drinking fountain.

(f) *Duty to provide accessible features in the event of disproportionality.* (1) When the cost of alterations necessary to make the path of travel to the altered area fully accessible is disproportionate to the cost of the overall alteration, the path of travel shall be made accessible to the extent that it can be made accessible without incurring disproportionate costs.

(2) In choosing which accessible elements to provide, priority should be given to those elements that will provide the greatest access, in the following order:

(i) An accessible entrance;

(ii) An accessible route to the altered area;

(iii) At least one accessible restroom for each sex or a single unisex restroom;

(iv) Accessible telephones;

(v) Accessible drinking fountains; and

(vi) When possible, additional accessible elements such as parking, storage, and alarms.

(g) *Series of smaller alterations.* (1) The obligation to provide an accessible path of travel

may not be evaded by performing a series of small alterations to the area served by a single path of travel if those alterations could have been performed as a single undertaking.

(2) (i) If an area containing a primary function has been altered without providing an accessible path of travel to that area, and subsequent alterations of that area, or a different area on the same path of travel, are undertaken within three years of the original alteration, the total cost of alterations to the primary function areas on that path of travel during the preceding three year period shall be considered in determining whether the cost of making that path of travel accessible is disproportionate.

(ii) Only alterations undertaken after January 1, 1997, shall be considered in determining if the cost of providing an accessible path of travel is disproportionate to the overall cost of the alterations.

§ 36.404 Alterations: Elevator exemption.

(a) This section does not require the installation of an elevator in an altered facility that is less than three stories or has less than 3,000 square feet per story, except with respect to any facility that houses the professional office of a health care provider, a terminal, depot, or other station used for specified public transportation.

For the purposes of this section, ''professional office of a health care provider'' means a location where a person or entity employed by a covered entity and/or regulated by a State to provide professional services related to the physical or mental health of an individual makes such services available to the public. The facility that houses a ''professional office of a health care provider'' only includes floor levels housing by at least one health care provider, or any floor level designed or intended for use by at least one health care provider.

(b) The exemption provided in paragraph (a) of this section does not obviate or limit in any way the obligation to comply with the other accessibility requirements established in this subpart. For example, alterations to floors above or below the accessible ground floor must be accessible regardless of whether the altered facility has an elevator.

§ 36.405 Alterations: Historic preservation.

(a) Alterations to buildings or facilities that are eligible for listing in the National Register of Historic Places under the National Historic Preservation Act (16 U.S.C. 470 *et seq.*), or are designated as historic under State or local law, shall comply to the maximum extent feasible with section 4.1.7 of appendix A to this part.

(b) If it is determined under the procedures set out in section 4.1.7 of appendix A that it is not feasible to provide physical access to an historic property that is a place of public accommodation in a manner that will not threaten or destroy the historic significance of the building or facility, alternative methods of access shall be provided pursuant to the requirements of subpart C of this part.

§ 36.406 Standards for new construction and alterations.

(a) New construction and alterations subject to this part shall comply with the standards for accessible design published as appendix A to this part (ADAAG).

(b) The chart in the appendix to this section provides guidance to the user in reading appendix A to this part (ADAAG) together with subparts A through D of this part, when determining requirements for a particular facility.

Appendix to § 36.406

This chart has no effect for purposes of compliance or enforcement. It does not necessarily provide complete or mandatory information.

	Subparts A–D	ADAAG
Application, General.	36.102(b)(3): public accommodations. 36.102(c): commercial facilities 36.102(e): public entities 36.103 (other laws) 36.401 (''for first occupancy'') 36.402(a)(alterations)	1,2,3,4.1.1.
Definitions	36.104: facility, place of public accommodation, public accommodation, public entity.	3.5 Definitions, including; addition, alteration, building, element, facility, space, story.
	36.401(d)(1)(i), 36.404(a)(1): professional office of a health care provider 36.402: alteration; usability 36.402(c): to the maximum extent feasible	4.1.6(i), technical infeasibility.
	36.401(a) General . .	4.1.2.
New Construction: General.	36.207 Places of public accommodation in private residences.	4.1.3.
Work Areas		4.1.1(3).
Structural Impracticability.	36.401(c)	4.1.1(5)(a).
Elevator Exemption.	36.401(d) 36.404	4.1.3(5).
Other Exceptions		4.1.1(5), 4.1.3(5) and throughout.
Alterations: General.	36.402	4.1.6(1).
Alterations Affecting an Area Containing A Primary Function; Path of Travel; Disproportionality.	36.403	4.1.6(2).
Alterations: Special Technical Provisions.		4.1.6(3).
Additions	36.401–36.405	4.1.5.
Historic Preservation.	36.405	4.1.7.
Technical Provisions.		4.2 through 4.35.
Facilities		6.
Business and Mercantile.		7.
Libraries		8.
Transient Lodging (Hotels, Homeless Shelters Etc.).		9.
Transportation Facilities.		10.

§ 36.407 Temporary suspension of certain detectable warning requirements.

The detectable warning requirements contained in sections 4.7.7, 4.29.5, and 4.29.6 of appendix A to this part are suspended temporarily until July 26, 1998.

§§ 36.408—36.499 [Reserved]

§§ 36.501—36.608 [Reserved]

APPENDIX A TO PART 36—STANDARDS FOR ACCESSIBLE DESIGN

[Copies of this appendix may be obtained from the Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540–1999.]

APPENDIX B TO PART 36—UNIFORM FEDERAL ACCESSIBILITY STANDARDS

[Copies of this appendix may be obtained from the Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540–1999.]

PART 37—TRANSPORTATION SERVICES FOR INDIVIDUALS WITH DISABILITIES (CAA)

Subpart A—General

Sec.
37.1 Purpose.
37.3 Definitions
37.5 Nondiscrimination.
37.7 Standards for accessible vehicles.
37.9 Standards for accessible transportation facilities.
37.11 [Reserved]
37.13 Effective date for certain vehicle lift specifications.
37.15–37.19 [Reserved]

Subpart B—Applicability

37.21 Applicability: General.
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37.25 [Reserved]
37.27 Transportation for elementary and secondary education systems.
37.29 [Reserved]
37.31 Vanpools.
37.33–37.35 [Reserved]
37.37 Other applications.
37.39 [Reserved]

Subpart C—Transportation Facilities

37.41 Construction of transportation facilities by public entities.
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37.47 Key stations in light and rapid rail systems.
37.49–37.59 [Reserved]
37.61 Public transportation programs and activities in existing facilities.
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Subpart D—Acquisition of Accessible Vehicles by Public Entities.

37.71 Purchase or lease of new non-rail vehicles by public entities operating fixed route systems.
37.73 Purchase or lease of used non-rail vehicles by public entities operating fixed route systems.
37.75 Remanufacture of non-rail vehicles and purchase or lease of remanufactured non-rail vehicles by public entities operating fixed route systems.
37.77 Purchase or lease of new non-rail vehicles by public entities operating demand responsive systems for the general public.
37.79 Purchase or lease of new rail vehicles by public entities operating rapid or light rail systems.
37.81 Purchase or lease of used rail vehicles by public entities operating rapid or light rail systems.
37.83 Remanufacture of rail vehicles and purchase or lease of remanufactured rail vehicles by public entities operating rapid or light rail systems.
37.85–37.91 [Reserved]
37.93 One car per train rule.
37.95 [Reserved]
37.97–37.99 [Reserved]

Subpart E—Acquisition of Accessible Vehicles by Covered Entities.

37.101 Purchase or lease of vehicles by covered entities not primarily engaged in the business of transporting people.
37.103 [Reserved]
37.105 Equivalent service standard.
37.107–37.109 [Reserved]
37.111–37.119 [Reserved]

Subpart F—Paratransit as a complement to fixed route service

37.121 Requirement for comparable complementary paratransit service
37.123 ADA paratransit eligibility: Standards
37.125 ADA paratransit eligibility: Process.
37.127 Complementary paratransit for visitors.
37.129 Types of service.
37.131 Service criteria for complementary paratransit.
37.133 Subscription service.
37.135 Submission of paratransit plan.
37.137 Paratransit plan development.
37.139 Plan contents.
37.141 Requirements for a joint paratransit plan.
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37.147 Considerations during General Counsel review.
37.149 Disapproved plans.
37.151 Waiver for undue financial burden.
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Subpart A—General

§ 37.1 Purpose.

The purpose of this part is to implement the transportation and related provisions of titles II and III of the Americans with Disabilities Act of 1990, as applied by section 210 of the Congressional Accountability Act of 1995 (2 U.S.C. 1331 et seq.).

§ 37.3 Definitions

As used in this part:

Accessible means, with respect to vehicles and facilities, complying with the accessibility requirements of parts 37 and 38 of these regulations.

Act or *CAA* means the Congressional Accountability Act of 1995 (Pub.L. 104-1, 109 Stat. 3, 2 U.S.C. §§ 1301–1438).

ADA means the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12131–12150, 12182, 12183, and 12189) as applied to covered entities by section 210 of the CAA.

Alteration means a change to an existing facility, including, but not limited to, remodeling, renovation, rehabilitation, reconstruction, historic restoration, changes or rearrangement in structural parts or elements, and changes or rearrangement in the plan configuration of walls and full-height partitions. Normal maintenance, reroofing, painting or wallpapering, asbestos removal, or changes to mechanical or electrical systems are not alterations unless they affect the usability of the building or facility.

Automated guideway transit system or *AGT* means a fixed-guideway transit system which operates with automated (driverless) individual vehicles or multi-car trains. Service may be on a fixed schedule or in response to a passenger-activated call button.

Auxiliary aids and services includes:

(1) Qualified interpreters, notetakers, transcription services, written materials, telephone headset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, closed and open captioning, text telephones (also known as TTYs), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(2) Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(3) Acquisition or modification of equipment or devices; or

(4) Other similar services or actions.

Board means the Board of Directors of the Office of Compliance.

Bus means any of several types of self-propelled vehicles, generally rubber-tired, intended for use on city streets, highways, and busways, including but not limited to minibuses, forty- and thirty-foot buses, articulated buses, double-deck buses, and electrically powered trolley buses, used by public entities to provide designated public transportation service and by covered entities to provide transportation service including, but not limited to, specified public transportation services. Self-propelled, rubber-tired vehicles designed to look like antique or vintage trolleys are considered buses.

Commuter bus service means fixed route bus service, characterized by service predominantly in one direction during peak periods, limited stops, use of multi-ride tickets, and routes of extended length, usually between the central business district and outlying suburbs. Commuter bus service may also include other service, characterized by a limited route structure, limited stops, and a coordinated relationship to another mode of transportation.

Covered entity means any entity listed in section 210(a) of the CAA that operates a place of public accommodation within the meaning of section 210 of the CAA.

Demand responsive system means any system of transporting individuals, including the provision of designated public transportation service by public entities and the provision of transportation service by covered entities, including but not limited to specified public transportation service, which is not a fixed route system.

Designated public transportation means transportation provided by a public entity (other than public school transportation) by bus, rail, or other conveyance (other than transportation by aircraft or intercity or commuter rail transportation) that provides the general public with general or special service, including charter service, on a regular and continuing basis.

Disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

(1) The phrase *physical or mental impairment* means—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory including speech organs, cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine;

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;

(iii) The term *physical or mental impairment* includes, but is not limited to, such contagious or noncontagious diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease, tuberculosis, drug addiction and alcoholism;

(iv) The phrase *physical or mental impairment* does not include homosexuality or bisexuality.

(2) The phrase *major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working; or

(3) The phrase *has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities; or

(4) The phrase *is regarded as having such an impairment* means

(i) Has a physical or mental impairment that does not substantially limit major life activities, but which is treated by a public or covered entity as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits a major life activity only as a result of the attitudes of others toward such an impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by a public or covered entity as having such an impairment.

(5) The term *disability* does not include

(i) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(ii) Compulsive gambling, kleptomania, or pyromania;

(iii) Psychoactive substance abuse disorders resulting from the current illegal use of drugs.

Facility means all or any portion of buildings, structures, sites, complexes, equipment, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located.

Fixed route system means a system of transporting individuals (other than by aircraft), including the provision of designated public transportation service by public entities and the provision of transportation service by covered entities, including, but not limited to, specified public transportation service, on which a vehicle is operated along a prescribed route according to a fixed schedule.

General Counsel means the General Counsel of the Office of Compliance.

Individual with a disability means a person who has a disability, but does not include an individual who is currently engaging in the illegal use of drugs, when a public or covered entity acts on the basis of such use.

Light rail means a streetcar-type vehicle operated on city streets, semi-exclusive rights of way, or exclusive rights of way. Service may be provided by step-entry vehicles or by level boarding.

New vehicle means a vehicle which is offered for sale or lease after manufacture without any prior use.

Office means the Office of Compliance.

Operates includes, with respect to a fixed route or demand responsive system, the provision of transportation service by a public or covered entity itself or by a person under a contractual or other arrangement or relationship with the entity.

Over-the-road bus means a bus characterized by an elevated passenger deck located over a baggage compartment.

Paratransit means comparable transportation service required by the CAA for individuals with disabilities who are unable to use fixed route transportation systems.

Private entity means any entity other than a public or covered entity.

Public entity means any of the following entities that provides public services, programs, or activities:

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Capitol Guide Service;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(8) the Office of the Attending Physician; and

(9) the Office of Compliance.

Purchase or lease, with respect to vehicles, means the time at which a public or covered

entity is legally obligated to obtain the vehicles, such as the time of contract execution.

Public school transportation means transportation by schoolbus vehicles of schoolchildren, personnel, and equipment to and from a public elementary or secondary school and school-related activities.

Rapid rail means a subway-type transit vehicle railway operated on exclusive private rights of way with high level platform stations. Rapid rail also may operate on elevated or at grade level track separated from other traffic.

Remanufactured vehicle means a vehicle which has been structurally restored and has had new or rebuilt major components installed to extend its service life.

Service animal means any guide dog, signal dog, or other animal individually trained to work or perform tasks for an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

Solicitation means the closing date for the submission of bids or offers in a procurement.

Station means where a public entity providing rail transportation owns the property, concession areas, to the extent that such public entity exercises control over the selection, design, construction, or alteration of the property, but this term does not include flag stops (i.e., stations which are not regularly scheduled stops but at which trains will stop board or detrain passengers only on signal or advance notice).

Transit facility means, for purposes of determining the number of text telephones needed consistent with §10.3.1(12) of Appendix A to this part, a physical structure the primary function of which is to facilitate access to and from a transportation system which has scheduled stops at the structure. The term does not include an open structure or a physical structure the primary purpose of which is other than providing transportation services.

Used vehicle means a vehicle with prior use.

Vanpool means a voluntary commuter ridesharing arrangement, using vans with a seating capacity greater than 7 persons (including the driver) or buses, which provides transportation to a group of individuals traveling directly from their homes to their regular places of work within the same geographical area, and in which the commuter/driver does not receive compensation beyond reimbursement for his or her costs of providing the service.

Vehicle, as the term is applied to covered entities, does not include a rail passenger car, railroad locomotive, railroad freight car, or railroad caboose, or other rail rolling stock described in section 242 or title III of the Americans With Disabilities Act, which is not applied to covered entities by section 210 of the CAA.

Wheelchair means a mobility aid belonging to any class of three or four-wheeled devices, usable indoors, designed for and used by individuals with mobility impairments, whether operated manually or powered. A ''*common wheelchair*'' is such a device which does not exceed 30 inches in width and 48 inches in length measured two inches above the ground, and does not weigh more than 600 pounds when occupied.

§ 37.5 Nondiscrimination.

(a) No covered entity shall discriminate against an individual with a disability in connection with the provision of transportation service.

(b) Notwithstanding the provision of any special transportation service to individuals with disabilities, an entity shall not, on the basis of disability, deny to any individual with a disability the opportunity to use the entity's transportation service for the general public, if the individual is capable of using that service.

(c) An entity shall not require an individual with a disability to use designated priority seats, if the individual does not choose to use these seats.

(d) An entity shall not impose special charges, not authorized by this part, on individuals with disabilities, including individuals who use wheelchairs, for providing services required by this part or otherwise necessary to accommodate them.

(e) An entity shall not require that an individual with disabilities be accompanied by an attendant.

(f) An entity shall not refuse to serve an individual with a disability or require anything contrary to this part because its insurance company conditions coverage or rates on the absence of individuals with disabilities or requirements contrary to this part.

(g) It is not discrimination under this part for an entity to refuse to provide service to an individual with disabilities because that individual engages in violent, seriously disruptive, or illegal conduct. However, an entity shall not refuse to provide service to an individual with disabilities solely because the individual's disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience employees of the entity or other persons.

§ 37.7 Standards for accessible vehicles.

(a) For purposes of this part, a vehicle shall be considered to be readily accessible to and usable by individuals with disabilities if it meets the requirements of this part and the standards set forth in part 38 of these regulations.

(b)(1) For purposes of implementing the equivalent facilitation provision in §38.2 of these regulations, the following parties may submit to the General Counsel of the applicable operating administration a request for a determination of equivalent facilitation:

(i) A public or covered entity that provides transportation services and is subject to the provisions of subpart D or subpart E of this part; or

(ii) The manufacturer of a vehicle or a vehicle component or subsystem to be used by such entity to comply with this part.

(2) The requesting party shall provide the following information with its request:

(i) Entity name, address, contact person and telephone;

(ii) Specific provision of part 38 of these regulations concerning which the entity is seeking a determination of equivalent facilitation;

(iii) [Reserved]

(iv) Alternative method of compliance, with demonstration of how the alternative meets or exceeds the level of accessibility or usability of the vehicle provided in part 38; and

(v) Documentation of the public participation used in developing an alternative method of compliance.

(3) In the case of a request by a public entity that provides transportation services subject to the provisions of subpart D of this part, the required public participation shall include the following:

(i) The entity shall contact individuals with disabilities and groups representing them in the community. Consultation with these individuals and groups shall take place at all stages of the development of the request for equivalent facilitation. All documents and other information concerning the request shall be available, upon request to members of the public.

(ii) The entity shall make its proposed request available for public comment before the request is made final or transmitted to the General Counsel. In making the request available for public review, the entity shall ensure that it is available, upon request, in accessible formats.

(iii) The entity shall sponsor at least one public hearing on the request and shall provide adequate notice of the hearing, including advertisement in appropriate media, such as newspapers of general and special interest circulation and radio announcements.

(4) In the case of a request by a covered entity that provides transportation services subject to the provisions of subpart E of this part, the covered entity shall consult, in person, in writing, or by other appropriate means, with representatives of national and local organizations representing people with those disabilities who would be affected by the request.

(5) A determination of compliance will be made by the General Counsel of the concerned operating administration on a case-by-case basis.

(6) Determinations of equivalent facilitation are made only with respect to vehicles or vehicle components used in the provision of transportation services covered by subpart D or subpart E of this part, and pertain only to the specific situation concerning which the determination is made. Entities shall not cite these determinations as indicating that a product or method constitute equivalent facilitation in situations other than those to which the determination is made. Entities shall not claim that a determination of equivalent facilitation indicates approval or endorsement of any product or method by the Office.

(c) Over-the-road buses acquired by public entities (or by a contractor to a public entity as provided in §37.23 of this part) shall comply with §38.23 and subpart G of part 38 of these regulations.

§ 37.9 Standards for accessible transportation facilities.

(a) For purposes of this part, a transportation facility shall be considered to be readily accessible to and usable by individuals with disabilities if it meets the requirements of this part and the standards set forth in Appendix A to this part.

(b) Facility alterations begun before January 1, 1997, in a good faith effort to make a facility accessible to individuals with disabilities may be used to meet the key station requirements set forth in §37.47 of this part, even if these alterations are not consistent with the standards set forth in Appendix A to this part, if the modifications complied with the Uniform Federal Accessibility Standard (UFAS) or ANSI A117.1 (1980) (American National Standards Specification for Making Buildings and Facilities Accessible to and Usable by, the Physically Handicapped). This paragraph applies only to alterations of individual elements and spaces and only to the extent that provisions covering those elements or spaces are contained in UFAS or ANSI A117.1, as applicable.

(c) Public entities shall ensure the construction of new bus stop pads are in compliance with section 10.2.1(1) of appendix A to this part, to the extent construction specifications are within their control.

(d)(1) For purposes of implementing the equivalent facilitation provision in section 2.2 of appendix A to this part, the following parties may submit to the General Counsel a request for a determination of equivalent facilitation:

(i) A public or covered entity that provides transportation services subject to the provisions of subpart C of this part, or any other appropriate party with the concurrence of the General Counsel.

(ii) The manufacturer of a product or accessibility feature to be used in the facility of such entity to comply with this part.

(2) The requesting party shall provide the following information with its request:

(i) Entity name, address, contact person and telephone;

(ii) Specific provision of appendix A to part 37 of these regulations concerning which the entity is seeking a determination of equivalent facilitation;

(iii) [Reserved];

(iv) Alternative method of compliance, with demonstration of how the alternative meets or exceeds the level of accessibility or usability of the vehicle provided in appendix A to this part; and

(v) Documentation of the public participation used in developing an alternative method of compliance.

(3) In the case of a request by a public entity that provides transportation facilities, the required public participation shall include the following:

(i) The entity shall contact individuals with disabilities and groups representing them in the community. Consultation with these individuals and groups shall take place at all stages of the development of the request for equivalent facilitation. All documents and other information concerning the request shall be available, upon request to members of the public.

(ii) The entity shall make its proposed request available for public comment before the request is made final or transmitted to the General Counsel. In making the request available for public review, the entity shall ensure that it is available, upon request, in accessible formats.

(iii) The entity shall sponsor at least one public hearing on the request and shall provide adequate notice of the hearing, including advertisement in appropriate medial, such as newspapers of general and special interest circulation and radio announcements.

(4) In the case of a request by a covered entity, the covered entity shall consult, in person, in writing, or by other appropriate means, with representatives of national and local organizations representing people with those disabilities who would be affected by the request.

(5) A determination of compliance will be made by the General Counsel on a case-by-case basis.

(6) Determinations of equivalent facilitation are made only with respect to vehicles or vehicle components used in the provision of transportation services covered by subpart D or subpart E of this part, and pertain only to the specific situation concerning which the determination is made. Entities shall not cite these determinations as indicating that a product or method constitute equivalent facilitations in situations other than those to which the determination is made. Entities shall not claim that a determination of equivalent facilitation indicates approval or endorsement of any product or method by the Office .

§ 37.11 [Reserved]

§ 37.13 Effective date for certain vehicle lift specifications.

The vehicle lift specifications identified in §§ 38.23(b)(6) and 38.83(b)(6) apply to solicitations for vehicles under this part after December 31, 1996.

§ 37.15 Temporary suspension of certain detectable warning requirements.

The detectable warning requirements contained in sections 4.7.7, 4.29.5, and 3.29.6 of appendix A to this part are suspended temporarily until July 26, 1998.

§§ 37.17–37.19 [Reserved]

Subpart B—Applicability

§ 37.21 Applicability: General

(a) This part applies to the following entities:

(1) Any public entity that provides designated public transportation; and

(2) Any covered entity that is not primarily engaged in the business of transporting people but operates a demand responsive or fixed route system.

(b) Entities to which this part applies also may be subject to CAA regulations of the Office of Compliance (parts 35 or 36, as applicable). The provisions of this part shall be interpreted in a manner that will make them consistent with applicable Office of Compliance regulations. In any case of apparent inconsistency, the provisions of this part shall prevail.

§ 37.23 Service under contract

(a) When a public entity enters into a contractual or other arrangement or relationship with a private entity to operate fixed route or demand responsive service, the public entity shall ensure that the private entity meets the requirements of this part that would apply to the public entity if the public entity itself provided the service.

(b) A public entity which enters into a contractual or other arrangement or relationship with a private entity to provide fixed route service shall ensure that the percentage of accessible vehicles operated by the public entity in its overall fixed route or demand responsive fleet is not diminished as a result.

§ 37.25 [Reserved]

§ 37.27 Transportation for elementary and secondary education systems.

(a) The requirements of this part do not apply to public school transportation.

(b) The requirements of this part do not apply to the transportation of school children to and from a covered elementary or secondary school, and its school-related activities, if the school is providing transportation service to students with disabilities equivalent to that provided to students without disabilities. The test of equivalence is the same as that provided in §37.105. If the school does not meet the criteria of this paragraph for exemption from the requirements of this part, it is subject to the requirements of this part for covered entities not primarily engaged in transporting people.

§ 37.29 [Reserved]

§ 37.31 Vanpools.

Vanpool systems which are operated by public entities, or in which public entities own or purchase or lease the vehicles, are subject to the requirements of this part for demand responsive service for the general public operated by public entities. A vanpool system in this category is deemed to be providing equivalent service to individuals with disabilities if a vehicle that an individual with disabilities can use is made available to and used by a vanpool in which such an individual chooses to participate.

§§ 37.33–37.35 [Reserved]

§ 37.37 Other applications.

(a) Shuttle systems and other transportation services operated by public accommodations are subject to the requirements of this part for covered entities not primarily engaged in the business of transporting people. Either the requirements for demand responsive or fixed route service may apply, depending upon the characteristics of each individual system of transportation.

(b) Conveyances used by members of the public primarily for recreational purposes rather than for transportation (e.g., amusement park rides, ski lifts, or historic rail cars or trolleys operated in museum settings) are not subject to the requirements of this part. Such conveyances are subject to the Board's regulations implementing the non-transportation provisions of title II or title III of the ADA, as applied by section 210 of the CAA, as applicable.

(c) Transportation services provided by an employer solely for its own employees are not subject to the requirements of this part. Such services are subject to the requirements of section 201 of the CAA.

§ 37.39 [Reserved]

Subpart C—Transportation Facilities

§ 37.41 Construction of transportation facilities by public entities.

A public entity shall construct any new facility to be used in providing designated public transportation services so that the facility is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. For purposes of this section, a facility or station is ''new'' if its construction begins (i.e., issuance of notice to proceed) after December 31, 1996.

§ 37.43 Alteration of transportation facilities by public entity.

(a)(1) When a public entity alters an existing facility or a part of an existing facility used in providing designated public transportation services in a way that affects or could affect the usability of the facility or part of the facility, the entity shall make the alterations (or ensure that the alterations are made) in such a manner, to the maximum extent feasible, that the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon the completion of such alterations.

(2) When a public entity undertakes an alteration that affects or could affect the usability of or access to an area of a facility containing a primary function, the entity shall make the alteration in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of the alterations. *Provided,* that alterations to the path of travel, drinking fountains, telephones and bathrooms are not required to be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, if the cost and scope of doing so would be disproportionate.

(3) The requirements of this paragraph also apply to the alteration of existing intercity or commuter rail stations by the responsible person for, owner of, or person in control of the station.

(4) The requirements of this section apply to any alteration which begins (i.e., issuance of notice to proceed or work order, as applicable) after December 31, 1996.

(b) As used in this section, the phrase *to the maximum extent feasible* applies to the occasional case where the nature of an existing facility makes it impossible to comply fully with applicable accessibility standards through a planned alteration. In these circumstances, the entity shall provide the maximum physical accessibility feasible. Any altered features of the facility or portion of the facility that can be made accessible shall be made accessible. If providing accessibility to certain individuals with disabilities (e.g., those who use wheelchairs) would not be feasible, the facility shall be made accessible to individuals with other types of disabilities (e.g., those who use crutches, those who have impaired vision or hearing, or those who have other impairments).

(c) As used in this section, a *primary function* is a major activity for which the facility is intended. Areas of transportation facilities that involve primary functions include, but

are not necessarily limited to, ticket purchase and collection areas, passenger waiting areas, train or bus platforms, baggage checking and return areas and employment areas (except those involving non-occupiable spaces accessed only by ladders, catwalks, crawl spaces, vary narrow passageways, or freight [non-passenger] elevators which are frequented only by repair personnel).

(d) As used in this section, a *path of travel* includes a continuous, unobstructed way of pedestrian passage by means of which the altered area may be approached, entered, and exited, and which connects the altered area with an exterior approach (including sidewalks, parking areas, and streets), an entrance to the facility, and other parts of the facility. The term also includes the restrooms, telephones, and drinking fountains serving the altered area. An accessible path of travel may include walks and sidewalks, curb ramps and other interior or exterior pedestrian ramps, clear floor paths through corridors, waiting areas, concourses, and other improved areas, parking access aisles, elevators and lifts, bridges, tunnels, or other passageways between platforms, or a combination of these and other elements.

(e)(1) Alterations made to provide an accessible path of travel to the altered area will be deemed disproportionate to the overall alteration when the cost exceeds 20 percent of the cost of the alteration to the primary function area (without regard to the costs of accessibility modifications).

(2) Costs that may be counted as expenditures required to provide an accessible path of travel include:

(i) Costs associated with providing an accessible entrance and an accessible route to the altered area (e.g., widening doorways and installing ramps);

(ii) Costs associated with making restrooms accessible (e.g., grab bars, enlarged toilet stalls, accessible faucet controls);

(iii) Costs associated with providing accessible telephones (e.g., relocation of phones to an accessible height, installation of amplification devices or TTYs);

(iv) Costs associated with relocating an inaccessible drinking fountain.

(f)(1) When the cost of alterations necessary to make a path of travel to the altered area fully accessible is disproportionate to the cost of the overall alteration, then such areas shall be made accessible to the maximum extent without resulting in disproportionate costs;

(2) In this situation, the public entity should give priority to accessible elements that will provide the greatest access, in the following order:

(i) An accessible entrance;

(ii) An accessible route to the altered area;

(iii) At least one accessible restroom for each sex or a single unisex restroom (where there are one or more restrooms);

(iv) Accessible telephones;

(v) Accessible drinking fountains;

(vi) When possible, other accessible elements (e.g., parking, storage, alarms).

(g) If a public entity performs a series of small alterations to the area served by a single path of travel rather than making the alterations as part of a single undertaking, it shall nonetheless be responsible for providing an accessible path of travel.

(h)(1) If an area containing a primary function has been altered without providing an accessible path of travel to that area, and subsequent alterations of that area, or a different area on the same path of travel, are undertaken within three years of the original alteration, the total cost of alteration to the primary function areas on that path of travel during the preceding three year period shall be considered in determining whether the cost of making that path of travel is disproportionate;

(2) For the first three years after January 1, 1997, only alterations undertaken between that date and the date of the alteration at issue shall be considered in determining if the cost of providing accessible features is disproportionate to the overall cost of the alteration.

(3) Only alterations undertaken after January 1, 1997, shall be considered in determining if the cost of providing an accessible path of travel is disproportionate to the overall cost of the alteration.

§ 37.45 Construction and alteration of transportation facilities by covered entities.

In constructing and altering transit facilities, covered entities shall comply with the regulations of the Board implementing title III of the ADA, as applied by section 210 of the CAA (part 36).

§ 37.47 Key stations in light and rapid rail systems.

(a) Each public entity that provides designated public transportation by means of a light or rapid rail system shall make key stations on its system readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. This requirement is separate from and in addition to requirements set forth in §37.43 of this part.

(b) Each public entity shall determine which stations on its system are key stations. The entity shall identify key stations, using the planning and public participation process set forth in paragraph (d) of this section, and taking into consideration the following criteria:

(1) Stations where passenger boardings exceed average station passenger boardings on the rail system by at least fifteen percent, unless such a station is close to another accessible station;

(2) Transfer stations on a rail line or between rail lines;

(3) Major interchange points with other transportation modes, including stations connecting with major parking facilities, bus terminals, intercity or commuter rail stations, passenger vessel terminals, or airports;

(4) End stations, unless an end station is close to another accessible station; and

(5) Stations serving major activity centers, such as employment or government centers, institutions of higher education, hospitals or other major health care facilities, or other facilities that are major trip generators for individuals with disabilities.

(c)(1) Unless an entity receives an extension under paragraph (c)(2) of this section, the public entity shall achieve accessibility of key stations as soon as practicable, but in no case later than January 1, 2000, except that an entity is not required to complete installation of detectable warnings required by section 10.3.2(2) of appendix A to this part until January 1, 2001.

(2) The General Counsel may grant an extension of this completion date for key station accessibility for a period up to January 1, 2025, provided that two-thirds of key stations are made accessible by January 1, 2015. Extensions may be granted as provided in paragraph (e) of this section.

(d) The public entity shall develop a plan for compliance for this section. The plan shall be submitted to the General Counsel's office by July 1, 1997.

(1) The public entity shall consult with individuals with disabilities affected by the plan. The public entity also shall hold at least one public hearing on the plan and solicit comments on it. The plan submitted to General Counsel shall document this public participation, including summaries of the consultation with individuals with disabilities and the comments received at the hearing and during the comment period. The plan also shall summarize the public entity's responses to the comments and consultation.

(2) The plan shall establish milestones for the achievement of required accessibility of key stations, consistent with the requirements of this section.

(e) A public entity wishing to apply for an extension of the January 1, 2000, deadline for key station accessibility shall include a request for an extension with its plan submitted to the General Counsel under paragraph (d) of this section. Extensions may be granted only with respect to key stations which need extraordinarily expensive structural changes to, or replacement of, existing facilities (e.g., installations of elevators, raising the entire passenger platform, or alterations of similar magnitude and cost). Requests for extensions shall provide for completion of key station accessibility within the time limits set forth in paragraph (c) of this section. The General Counsel may approve, approve with conditions, modify, or disapprove any request for an extension.

§§ 37.49–37.59 [Reserved]

§ 37.61 Public transportation programs and activities in existing facilities.

(a) A public entity shall operate a designated public transportation program or activity conducted in an existing facility so that, when viewed in its entirety, the program or activity is readily accessible to and usable by individuals with disabilities.

(b) This section does not require a public entity to make structural changes to existing facilities in order to make the facilities accessible by individuals who use wheelchairs, unless and to the extent required by §37.43 (with respect to alterations) or §37.47 of this part (with respect to key stations). Entities shall comply with other applicable accessibility requirements for such facilities.

(c) Public entities, with respect to facilities that, as provided in paragraph (b) of this section, are not required to be made accessible to individuals who use wheelchairs, are not required to provide to such individuals services made available to the general public at such facilities when the individuals could not utilize or benefit from the services.

§§ 37.63–37.69 [Reserved]

Subpart D—Acquisition of Accessible Vehicles by Public Entities.

§ 37.71 Purchase or lease of new non-rail vehicles by public entities operating fixed route systems.

(a) Except as provided elsewhere in this section, each public entity operating a fixed route system making a solicitation after January 31, 1997, to purchase or lease a new bus or other new vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) A public entity may purchase or lease a new bus that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, if it applies for, and the General Counsel grants, a waiver as provided for in this section.

(c) Before submitting a request for such a waiver, the public entity shall hold at least one public hearing concerning the proposed request.

(d) The General Counsel may grant a request for such a waiver if the public entity demonstrates to the General Counsel's satisfaction that—

(1) The initial solicitation for new buses made by the public entity specified that all new buses were to be lift-equipped and were to be otherwise accessible to and usable by individuals with disabilities;

(2) Hydraulic, electromechanical, or other lifts for such new buses could not be provided

by any qualified lift manufacturer to the manufacturer of such new buses in sufficient time to comply with the solicitation; and

(3) Any further delay in purchasing new buses equipped with such necessary lifts would significantly impair transportation services in the community served by the public entity.

(e) The public entity shall include with its waiver request a copy of the initial solicitation and written documentation from the bus manufacturer of its good faith efforts to obtain lifts in time to comply with the solicitation, and a full justification for the assertion that the delay in bus procurement needed to obtain a lift-equipped bus would significantly impair transportation services in the community. This documentation shall include a specific date at which the lifts could be supplied, copies of advertisements in trade publications and inquiries to trade associations seeking lifts, and documentation of the public hearing.

(f) Any waiver granted by the General Counsel under this section shall be subject to the following conditions:

(1) The waiver shall apply only to the particular bus delivery to which the waiver request pertains;

(2) The waiver shall include a termination date, which will be based on information concerning when lifts will become available for installation on the new buses the public entity is purchasing. Buses delivered after this date, even though procured under a solicitation to which a waiver applied, shall be equipped with lifts;

(3) Any bus obtained subject to the waiver shall be capable of accepting a lift, and the public entity shall install a lift as soon as soon as one becomes available;

(4) Such other terms and conditions as the General Counsel may impose.

(g)(1) When the General Counsel grants a waiver under this section, he/she shall promptly notify any appropriate committees of Congress.

(2) If the General Counsel has reasonable cause to believe that a public entity fraudulently applied for a waiver under this section, the General Counsel shall:

(i) Cancel the waiver if it is still in effect; and

(ii) Take other appropriate action.

§ 37.73 Purchase or lease of used non-rail vehicles by public entities operating a fixed route system.

(a) Except as provided elsewhere in this section, each public entity operating a fixed route system purchasing or leasing, after January 31, 1997, a used bus or other used vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) A public entity may purchase or lease a used vehicle for use on its fixed route system that is not readily accessible to and usable by individuals with disabilities if, after making demonstrated good faith efforts to obtain an accessible vehicle, it is unable to do so.

(c) Good faith efforts shall include at least the following steps:

(1) An initial solicitation for used vehicles specifying that all used vehicles are to be lift-equipped and otherwise accessible to and usable by individuals with disabilities, or, if an initial solicitation is not used, a documented communication so stating;

(2) A nationwide search for accessible vehicles, involving specific inquiries to used vehicle dealers and other transit providers; and

(3) Advertising in trade publications and contacting trade associations.

(d) Each public entity purchasing or leasing used vehicles that are not readily accessible to and usable by individuals with disabilities shall retain documentation of the specific good faith efforts it made for three years from the date the vehicles were purchased. These records shall be made available, on request, to the General Counsel and the public.

§ 37.75 Remanufacture of non-rail vehicles and purchase or lease of remanufactured non-rail vehicles by public entities operating fixed route systems.

(a) This section applies to any public entity operating a fixed route system which takes one of the following actions:

(1) After January 31, 1997, remanufactures a bus or other vehicle so as to extend its useful life for five years or more or makes a solicitation for such remanufacturing; or

(2) Purchases or leases a bus or other vehicle which has been remanufactured so as to extend its useful life for five years or more, where the purchase or lease occurs after January 31, 1997, and during the period in which the useful life of the vehicle is extended.

(b) Vehicles acquired through the actions listed in paragraph (a) of this section shall, to the maximum extent feasible, be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) For purposes of this section, it shall be considered feasible to remanufacture a bus or other motor vehicle so as to be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless an engineering analysis demonstrates that including accessibility features required by this part would have a significant adverse effect on the structural integrity of the vehicle.

(d) If a public entity operates a fixed route system, any segment of which is included on the National Register of Historic Places, and if making a vehicle of historic character used solely on such segment readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity has only to make (or purchase or lease a remanufactured vehicle with) those modifications to make the vehicle accessible which do not alter the historic character of such vehicle, in consultation with the National Register of Historic Places.

(e) A public entity operating a fixed route system as described in paragraph (d) of this section may apply in writing to the General Counsel for a determination of the historic character of the vehicle. The General Counsel shall refer such requests to the National Register of Historic Places, and shall rely on its advice in making determinations of the historic character of the vehicle.

§ 37.77 Purchase or lease of new non-rail vehicles by public entities operating a demand responsive system for the general public.

(a) Except as provided in this section, a public entity operating a demand responsive system for the general public making a solicitation after January 31, 1997, to purchase or lease a new bus or other new vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) If the system, when viewed in its entirety, provides a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service it provides to individuals without disabilities, it may purchase new vehicles that are not readily accessible to and usable by individuals with disabilities.

(c) For purposes of this section, a demand responsive system, when viewed in its entirety, shall be deemed to provide equivalent service if the service available to individuals with disabilities, including individuals who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual and is equivalent to the service provided other individuals with respect to the following service characteristics:

(1) Response time;

(2) Fares;

(3) Geographic area of service;

(4) Hours and days of service;

(5) Restrictions or priorities based on trip purpose;

(6) Availability of information and reservations capability; and

(7) Any constraints on capacity or service availability.

(d) A public entity, which determines that its service to individuals with disabilities is equivalent to that provided other persons shall, before any procurement of an inaccessible vehicle, make a certificate that it provides equivalent service meeting the standards of paragraph (c) of this section. A public entity shall make such a certificate and retain it in its files, subject to inspection on request of the General Counsel. All certificates under this paragraph may be made in connection with a particular procurement or in advance of a procurement; however, no certificate shall be valid for more than one year.

(e) The waiver mechanism set forth in §37.71(b)-(g) (unavailability of lifts) of this subpart shall also be available to public entities operating a demand responsive system for the general public.

§ 37.79 Purchase or lease of new rail vehicles by public entities operating rapid or light rail systems.

Each public entity operating a rapid or light rail system making a solicitation after January 31, 1997, to purchase or lease a new rapid or light rail vehicle for use on the system shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

§ 37.81 Purchase or lease of used rail vehicles by public entities operating rapid or light rail systems.

(a) Except as provided elsewhere in this section, each public entity operating a rapid or light rail system which, after January 31, 1997, purchases or leases a used rapid or light rail vehicle for use on the system shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) A public entity may purchase or lease a used rapid or light rail vehicle for use on its rapid or light rail system that is not readily accessible to and usable by individuals if, after making demonstrated good faith efforts to obtain an accessible vehicle, it is unable to do so.

(c) Good faith efforts shall include at least the following steps:

(1) The initial solicitation for used vehicles made by the public entity specifying that all used vehicles were to be accessible to and usable by individuals with disabilities, or, if a solicitation is not used, a documented communication so stating;

(2) A nationwide search for accessible vehicles, involving specific inquiries to manufacturers and other transit providers; and

(3) Advertising in trade publications and contacting trade associations.

(d) Each public entity purchasing or leasing used rapid or light rail vehicles that are not readily accessible to and usable by individuals with disabilities shall retain documentation of the specific good faith efforts it made for three years from the date the vehicles were purchased. These records shall be made available, on request, to the General Counsel and the public.

§ 37.83 Remanufacture of rail vehicles and purchase or lease of remanufactured rail vehicles by public entities operating rapid or light rail systems.

(a) This section applies to any public entity operating a rapid or light rail system which takes one of the following actions:

(1) After January 31, 1997, remanufactures a light or rapid rail vehicle so as to extend its useful life for five years or more or makes a solicitation for such remanufacturing;

(2) Purchases or leases a light or rapid rail vehicle which has been remanufactured so as to extend its useful life for five years or more, where the purchase or lease occurs after January 31, 1997, and during the period in which the useful life of the vehicle is extended.

(b) Vehicles acquired through the actions listed in paragraph (a) of this section shall, to the maximum extent feasible, be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) For purposes of this section, it shall be considered feasible to remanufacture a rapid or light rail vehicle so as to be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless an engineering analysis demonstrates that doing so would have a significant adverse effect on the structural integrity of the vehicle.

(d) If a public entity operates a rapid or light rail system any segment of which is included on the National Register of Historic Places and if making a rapid or light rail vehicle of historic character used solely on such segment readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity need only make (or purchase or lease a remanufactured vehicle with) those modifications that do not alter the historic character of such vehicle.

(e) A public entity operating a fixed route system as described in paragraph (d) of this section may apply in writing to the General Counsel for a determination of the historic character of the vehicle. The General Counsel shall refer such requests to the National Register of Historic Places and shall rely on its advice in making a determination of the historic character of the vehicle.

§§ 37.85–37.91 [Reserved]

§ 37.93 One car per train rule.

(a) The definition of accessible for purposes of meeting the one car per train rule is spelled out in the applicable subpart for each transportation system type in part 38 of these regulations.

(b) Each public entity providing light or rapid rail service shall ensure that each train, consisting of two or more vehicles, includes at least one car that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no case later than December 31, 2001.

§ 37.95 [Reserved]

§§ 37.97–37.99 [Reserved]

Subpart E—Acquisition of Accessible Vehicles by Covered Entities

§ 37.101 Purchase or lease of vehicles by covered entities not primarily engaged in the business of transporting people.

(a) *Application.* This section applies to all purchases or leases of vehicles by covered entities which are not primarily engaged in the business of transporting people, in which a solicitation for the vehicle is made after January 31, 1997.

(b) *Fixed Route System, Vehicle Capacity Over 16.* If the entity operates a fixed route system and purchases or leases a vehicle with a seating capacity of over 16 passengers (including the driver) for use on the system, it shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) *Fixed Route System, Vehicle Capacity of 16 or Fewer.* If the entity operates a fixed route system and purchases or leases a vehicle with a seating capacity of 16 or fewer passengers (including the driver) for use on the system, it shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the system, when viewed in its entirety, meets the standard for equivalent service of § 37.105 of this part.

(d) *Demand Responsive System, Vehicle Capacity Over 16.* If the entity operates a demand responsive system, and purchases or leases a vehicle with a seating capacity of over 16 passengers (including the driver) for use on the system, it shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the system, when viewed in its entirety, meets the standard for equivalent service of § 37.105 of this part.

(e) *Demand Responsive System, Vehicle Capacity of 16 or Fewer.* Entities providing demand responsive transportation covered under this section are not specifically required to ensure that new vehicles with seating capacity of 16 or fewer are accessible to individuals with wheelchairs. These entities are required to ensure that their systems, when viewed in their entirety, meet the equivalent service requirements of §§ 37.171 and 37.105, regardless of whether or not the entities purchase a new vehicle.

§ 37.103 [Reserved]

§ 37.105 Equivalent service standard.

For purposes of §37.101 of this part, a fixed route system or demand responsive system, when viewed in its entirety, shall be deemed to provide equivalent service if the service available to individuals with disabilities, including individuals who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual and is equivalent to the service provided other individuals with respect to the following service characteristics:

(a)(1) Schedules/headways (if the system is fixed route);

(2) Response time (if the system is demand responsive);

(b) Fares;

(c) Geographic area of service;

(d) Hours and days of service;

(e) Availability of information;

(f) Reservations capability (if the system is demand responsive);

(g) Any constraints on capacity or service availability;

(h) Restrictions priorities based on trip purpose (if the system is demand responsive).

§§ 37.107–37.109 [Reserved]

§§ 37.111–37.119 [Reserved]

Subpart F—Paratransit as a Complement to Fixed Route Service

§ 37.121 Requirement for comparable complementary paratransit service.

(a) Except as provided in paragraph (c) of this section, each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system.

(b) To be deemed comparable to fixed route service, a complementary paratransit system shall meet the requirements of §§ 37.123–37.133 of this subpart. The requirement to comply with § 37.131 may be modified in accordance with the provisions of this subpart relating to undue financial burden.

(c) Requirements for complementary paratransit do not apply to commuter bus systems.

§ 37.123 CAA paratransit eligibility standards.

(a) Public entities required by § 37.121 of this subpart to provide complementary paratransit service shall provide the service to the CAA paratransit eligible individuals described in paragraph (e) of this section.

(b) If an individual meets the eligibility criteria of this section with respect to some trips but not others, the individual shall be CAA paratransit eligible only for those trips for which he or she meets the criteria.

(c) Individuals may be CAA paratransit eligible on the basis of a permanent or temporary disability.

(d) Public entities may provide complementary paratransit service to persons other than CAA paratransit eligible individuals. However, only the cost of service to CAA paratransit eligible individuals may be considered in a public entity's request for an undue financial burden waiver under §§ 37.151–37.155 of this part.

(e) The following individuals are CAA paratransit eligible:

(1) Any individual with a disability who is unable, as the result of a physical or mental impairment (including a vision impairment), and without the assistance of another individual (except the operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable by individuals with disabilities.

(2) Any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device and is able, with such assistance, to board, ride and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route on the system during the hours of operation of the system at a time, or within a reasonable period of such time, when such a vehicle is not being used to provide designated public transportation on the route.

(i) An individual is eligible under this paragraph with respect to travel on an otherwise accessible route on which the boarding or disembarking location which the individual would use is one at which boarding or disembarking from the vehicle is precluded as provided in § 37.167(g) of this part.

(ii) An individual using a common wheelchair is eligible under this paragraph if the individual's wheelchair cannot be accommodated on an existing vehicle (e.g., because the vehicle's lift does not meet the standards of part 38 of these regulations), even if that vehicle is accessible to other individuals with disabilities and their mobility wheelchairs.

(iii) With respect to rail systems, an individual is eligible under this paragraph if the individual could use an accessible rail system, but

(A) there is not yet one accessible car per train on the system; or

(B) key stations have not yet been made accessible.

(3) Any individual with a disability who has a specific impairment-related condition which prevents such individual from traveling to a boarding location or from a disembarking location on such system.

(i) Only a specific impairment-related condition which prevents the individual from traveling to a boarding location or from a disembarking location is a basis for eligibility under this paragraph. A condition which makes traveling to boarding location or from a disembarking location more difficult for a person with a specific impairment-related condition than for an individual who does not have the condition, but

does not prevent the travel, is not a basis for eligibility under this paragraph.

(ii) Architectural barriers not under the control of the public entity providing fixed route service and environmental barriers (e.g., distance, terrain, weather) do not, standing alone, form a basis for eligibility under this paragraph. The interaction of such barriers with an individual's specific impairment-related condition may form a basis for eligibility under this paragraph, if the effect is to prevent the individual from traveling to a boarding location or from a disembarking location.

(f) Individuals accompanying a CAA paratransit eligible individual shall be provided service as follows:

(1) One other individual accompanying the CAA paratransit eligible individual shall be provided service.

(i) If the CAA paratransit eligible individual is traveling with a personal care attendant, the entity shall provide service to one other individual in addition to the attendant who is accompanying the eligible individual.

(ii) A family member or friend is regarded as a person accompanying the eligible individual, and not as a personal care attendant, unless the family member or friend registered is acting in the capacity of a personal care attendant;

(2) Additional individuals accompanying the CAA paratransit eligible individual shall be provided service, provided that space is available for them on the paratransit vehicle carrying the CAA paratransit eligible individual and that transportation of the additional individuals will not result in a denial of service to CAA paratransit eligible individuals.

(3) In order to be considered as ''accompanying'' the eligible individual for purposes of this paragraph, the other individual(s) shall have the same origin and destination as the eligible individual.

§ 37.125 CAA paratransit eligibility: process.

Each public entity required to provide complementary paratransit service by §37.121 of this part shall establish a process for determining CAA paratransit eligibility.

(a) The process shall strictly limit CAA paratransit eligibility to individuals specified in §37.123 of this part.

(b) All information about the process, materials necessary to apply for eligibility, and notices and determinations concerning eligibility shall be made available in accessible formats, upon request.

(c) If, by a date 21 days following the submission of a complete application, the entity has not made a determination of eligibility, the applicant shall be treated as eligible and provide service until and unless the entity denies the application.

(d) The entity's determination concerning eligibility shall be in writing. If the determination is that the individual is ineligible, the determination shall state the reasons for the finding.

(e) The public entity shall provide documentation to each eligible individual stating that he or she is ''CAA Paratransit Eligible.'' The documentation shall include the name of the eligible individual, the name of the transit provider, the telephone number of the entity's paratransit coordinator, an expiration date for eligibility, and any conditions or limitations on the individual's eligibility including the use of a personal care attendant.

(f) The entity may require recertification of the eligibility of CAA paratransit eligible individuals at reasonable intervals.

(g) The entity shall establish an administrative appeal process through which individuals who are denied eligibility can obtain review of the denial.

(1) The entity may require that an appeal be filed within 60 days of the denial of an individual's application.

(2) The process shall include an opportunity to be heard and to present information and arguments, separation of functions (i.e., a decision by a person not involved with the initial decision to deny eligibility), and written notification of the decision, and the reasons for it;

(3) The entity is not required to provide paratransit service to the individual pending the determination on appeal. However, if the entity has not made a decision within 30 days of the completion of the appeal process, the entity shall provide paratransit service from that time until and unless a decision to deny the appeal is issued.

(h) The entity may establish an administrative process to suspend, for a reasonable period of time, the provision of complementary paratransit service to CAA eligible individuals who establish a pattern or practice of missing scheduled trips.

(1) Trips missed by the individual for reasons beyond his or her control (including, but not limited to, trips which are missed due to operator error) shall not be a basis for determining that such a pattern or practice exists.

(2) Before suspending service, the entity shall take the following steps:

(i) Notify the individual in writing that the entity proposes to suspend service, citing with specificity the basis of the proposed suspension and setting forth the proposed sanction;

(ii) Provide the individual an opportunity to be heard and to present information and arguments;

(iii) Provide the individual with written notification of the decision and the reasons for it.

(3) The appeals process of paragraph (g) of this section is available to an individual on whom sanctions have been imposed under this paragraph. The sanction is stayed pending the outcome of the appeal.

(i) In applications for CAA paratransit eligibility, the entity may require the applicant to indicate whether or not he or she travels with a personal care attendant.

§ 37.127 Complementary paratransit service for visitors.

(a) Each public entity required to provide complementary paratransit service under §37.121 of this part shall make the service available to visitors as provided in this section.

(b) For purposes of this section, a visitor is an individual with disabilities who does not reside in the jurisdiction(s) served by the public entity or other entities with which the public entity provides coordinated complementary paratransit service within a region.

(c) Each public entity shall treat as eligible for its complementary paratransit service all visitors who present documentation that they are CAA paratransit eligible, under the criteria of §37.125 of this part, in the jurisdiction in which they reside.

(d) With respect to visitors with disabilities who do not present such documentation, the public entity may require the documentation of the individual's place of residence and, if the individual's disability is not apparent, of his or her disability. The entity shall provide paratransit service to individuals with disabilities who qualify as visitors under paragraph (b) of this section. The entity shall accept a certification by such individuals that they are unable to use fixed route transit.

(e) A public entity shall make the service to a visitor required by this section available for any combination of 21 days during any 365-day period beginning with the visitor's first use of the service during such 365-day period. In no case shall the public entity require a visitor to apply for or receive eligibility certification from the public entity before receiving the service required by this section.

§ 37.129 Types of service.

(a) Except as provided in this section, complementary paratransit service for CAA paratransit eligible persons shall be origin-to-destination service.

(b) Complementary paratransit service for CAA paratransit eligible persons described in §37.123(e)(2) of this part may also be provided by on-call bus service or paratransit feeder service to an accessible fixed route, where such service enables the individual to use the fixed route bus system for his or her trip.

(c) Complementary paratransit service for CAA eligible persons described in §37.123 (e)(3) of this part also may be provided by paratransit feeder service to and/or from an accessible fixed route.

§ 37.131 Service criteria for complementary paratransit.

The following service criteria apply to complementary paratransit required by §37.121 of this part.

(a) *Service Area*—(1) Bus. (i) The entity shall provide complementary paratransit service to origins and destinations within corridors with a width of three-fourths of a mile on each side of each fixed route. The corridor shall include an area with a three-fourths of a mile radius at the ends of each fixed route.

(ii) Within the core service area, the entity also shall provide service to small areas not inside any of the corridors but which are surrounded by corridors.

(iii) Outside the core service area, the entity may designate corridors with widths from three fourths of a mile up to one and one half miles on each side of a fixed route, based on local circumstances.

(iv) For purposes of this paragraph, the core service area is that area in which corridors with a width of three-fourths of a mile on each side of each fixed route merge together such that, with few and small exceptions, all origins and destinations within the area would be served.

(2) *Rail.* (i) For rail systems, the service area shall consist of a circle with a radius of ¾ of a mile around each station.

(ii) At end stations and other stations in outlying areas, the entity may designate circles with radii of up to 1½ miles as part of its service area, based on local circumstances.

(3) *Jurisdictional Boundaries.* Notwithstanding any other provision of this paragraph, an entity is not required to provide paratransit service in an area outside the boundaries of the jurisdiction(s) in which it operates, if the entity does not have legal authority to operate in that area. The entity shall take all practicable steps to provide paratransit service to any part of its service area.

(b) *Response Time.* The entity shall schedule and provide paratransit service to any CAA paratransit eligible person at any requested time on a particular day in response to a request for service made the previous day. Reservations may be taken by reservation agents or by mechanical means.

(1) The entity shall make reservation service available during at least all normal business hours of the entity's administrative offices, as well as during times, comparable to normal business hours, on a day when the entity's offices are not open before a service day.

(2) The entity may negotiate pickup times with the individual, but the entity shall not require a CAA paratransit eligible individual to schedule a trip to begin more than one hour before or after the individual's desired departure time.

(3) The entity may use real-time scheduling in providing complementary paratransit service.

(4) The entity may permit advance reservations to be made up to 14 days in advance of a CAA paratransit eligible individual's desired trips. When an entity proposes to change its reservations system, it shall comply with the public participation requirements equivalent to those of §37.131(b) and (c).

(c) *Fares*. The fare for a trip charged to a CAA paratransit eligible user of the complementary paratransit service shall not exceed twice the fare that would be charged to an individual paying full fare (i.e., without regard to discounts) for a trip of similar length, at a similar time of day, on the entity's fixed route system.

(1) In calculating the full fare that would be paid by an individual using the fixed route system, the entity may include transfer and premium charges applicable to a trip of similar length, at a similar time of day, on the fixed route system.

(2) The fares for individuals accompanying CAA paratransit eligible individuals, who are provided service under §37.123(f) of this part, shall be the same as for the CAA paratransit eligible individuals they are accompanying.

(3) A personal care attendant shall not be charged for complementary paratransit service.

(4) The entity may charge a fare higher than otherwise permitted by this paragraph to a social service agency or other organization for agency trips (i.e., trips guaranteed to the organization).

(d) *Trip Purpose Restrictions*. The entity shall not impose restrictions or priorities based on trip purpose.

(e) *Hours and Days of Service*. The complementary paratransit service shall be available throughout the same hours and days as the entity's fixed route service.

(f) *Capacity Constraints*. The entity shall not limit the availability of complementary paratransit service to CAA paratransit eligible individuals by any of the following:

(1) Restrictions on the number of trips an individual will be provided;

(2) Waiting lists for access to the service; or

(3) Any operational pattern or practice that significantly limits the availability of service to CAA paratransit eligible persons.

(i) Such patterns or practices include, but are not limited to, the following:

(A) Substantial numbers of significantly untimely pickups for initial or return trips;

(B) Substantial numbers of trip denials or missed trips;

(C) Substantial numbers of trips with excessive trip lengths.

(ii) Operational problems attributable to causes beyond the control of the entity (including, but not limited to, weather or traffic conditions affecting all vehicular traffic that were not anticipated at the time a trip was scheduled) shall not be a basis for determining that such a pattern or practice exists.

(g) *Additional Service*. Public entities may provide complementary paratransit service to CAA paratransit eligible individuals exceeding that provided for in this section. However, only the cost of service provided for in this section may be considered in a public entity's request for an undue financial burden waiver under §§37.151–37.155 of this part.

§37.133 Subscription Service.

(a) This part does not prohibit the use of subscription service by public entities as part of a complementary paratransit system, subject to the limitations in this section.

(b) Subscription service may not absorb more than fifty percent of the number of trips available at a given time of day, unless there is excess non-subscription capacity.

(c) Notwithstanding any other provision of this part, the entity may establish waiting lists or other capacity constraints and trip purpose restrictions or priorities for participation in the subscription service only.

§37.135 Submission of paratransit plan.

(a) *General*. Each public entity operating fixed route transportation service, which is required by §37.121 to provide complementary paratransit service, shall develop a paratransit plan.

(b) *Initial Submission*. Except as provided in §37.141 of this part, each entity shall submit its initial plan for compliance with the complementary paratransit service provision by June 1, 1998, to the appropriate location identified in paragraph (f) of this section.

(c) *Annual Updates*. Except as provided in this paragraph, each entity shall submit its annual update to the plan on June 1 of each succeeding year.

(1) If an entity has met and is continuing to meet all requirements for complementary paratransit in §§37.121–37.133 of this part, the entity may submit to the General Counsel an annual certification of continued compliance in lieu of a plan update. Entities that have submitted a joint plan under §37.141 may submit a joint certification under this paragraph. The requirements of §§37.137(a) and (b), 37.138 and 37.139 do not apply when a certification is submitted under this paragraph.

(2) In the event of any change in circumstances that results in an entity which has submitted a certification of continued compliance falling short of compliance with §§37.121–37.133, the entity shall immediately notify the General Counsel in writing of the problem. In this case, the entity shall also file a plan update meeting the requirements of §§37.137–37.139 of this part on the next following June 1 and in each succeeding year until the entity returns to full compliance.

(3) An entity that has demonstrated undue financial burden to the General Counsel shall file a plan update meeting the requirements of §§37.137–37.139 of this part on each June 1 until full compliance with §§37.121–37.133 is attained.

(4) If the General Counsel reasonably believes that an entity may not be fully complying with all service criteria, the General Counsel may require the entity to provide an annual update to its plan.

(d) *Phase-in of Implementation*. Each plan shall provide for full compliance by no later than June 1, 2003, unless the entity has received a waiver based on undue financial burden. If the date for full compliance specified in the plan is after June 1, 1999, the plan shall include milestones, providing for measured, proportional progress toward full compliance.

(e) *Plan Implementation*. Each entity shall begin implementation of its plan on June 1, 1998.

(f) *Submission Locations*. An entity shall submit its plan to the General Counsel's office

§37.137 Paratransit plan development.

(a) *Survey of existing services*. Each submitting entity shall survey the area to be covered by the plan to identify any person or entity (public or covered) which provides a paratransit or other special transportation service for CAA paratransit eligible individuals in the service area to which the plan applies.

(b) *Public participation*.

Each submitting entity shall ensure public participation in the development of its paratransit plan, including at least the following:

(1) *Outreach*. Each submitting entity shall solicit participation in the development of its plan by the widest range of persons anticipated to use its paratransit service. Each entity shall develop contacts, mailing lists and other appropriate means for notification of opportunities to participate in the development of the paratransit plan.

(2) *Consultation with individuals with disabilities*. Each entity shall contact individuals with disabilities and groups representing them in the community. Consultation shall begin at an early stage in the plan development and should involve persons with disabilities in all phases of plan development. All documents and other information concerning the planning procedure and the provision of service shall be available, upon request, to members of the pubic, except where disclosure would be an unwarranted invasion of personal privacy.

(3) *Opportunity for public comment*. The submitting entity shall make its plan available for review before the plan is finalized. In making the plan available for public review, the entity shall ensure that the plan is available upon request in accessible formats.

(4) *Public hearing*. The entity shall sponsor at a minimum one public hearing and shall provide adequate notice of the hearing, including advertisement in appropriate media, such as newspapers of general and special interest circulation and radio announcements; and

(5) *Special requirements*. If the entity intends to phase-in its paratransit service over a multi-year period, or request a waiver based on undue financial burden, the public hearing shall afford the opportunity for interested citizens to express their views concerning the phase-in, the request, and which service criteria may be delayed in implementation.

(c) *Ongoing requirement*. The entity shall create an ongoing mechanism for the participation of individuals with disabilities in the continued development and assessment of services to persons with disabilities. This includes, but is not limited to, the development of the initial plan, any request for an undue financial burden waiver, and each annual submission.

§37.139 Plan contents.

Each plan shall contain the following information:

(a) Identification of the entity or entities submitting the plan, specifying for each—

(1) Name and address; and

(2) Contact person for the plan, with telephone number and facsimile telephone number (FAX), if applicable.

(b) A description of the fixed route system as of January 1, 1997 (or subsequent year for annual updates), including—

(1) A description of the service area, route structure, days and hours of service, fare structure, and population served. This includes maps and tables, if appropriate;

(2) The total number of vehicles (bus, van, or rail) operated in fixed route service (including contracted service), and percentage of accessible vehicles and percentage of routes accessible to and usable by persons with disabilities, including persons who use wheelchairs;

(3) Any other information about the fixed route service that is relevant to establishing the basis for comparability of fixed route and paratransit service.

(c) A description of existing paratransit services, including:

(1) An inventory of service provided by the public entity submitting the plan;

(2) An inventory of service provided by other agencies or organizations, which may in whole or in part be used to meet the requirement for complementary paratransit service; and

(3) A description of the available paratransit services in paragraphs (c)(2) and (c)(3)

of this section as they relate to the service criteria described in §37.131 of this part of service area, response time, fares, restrictions on trip purpose, hours and days of service, and capacity constraints; and to the requirements of CAA paratransit eligibility.

(d) A description of the plan to provide comparable paratransit, including:

(1) An estimate of demand for comparable paratransit service by CAA eligible individuals and a brief description of the demand estimation methodology used;

(2) An analysis of differences between the paratransit service currently provided and what is required under this part by the entity(ies) submitting the plan and other entities, as described in paragraph (c) of this section;

(3) A brief description of planned modifications to existing paratransit and fixed route service and the new paratransit service planned to comply with the CAA paratransit service criteria;

(4) A description of the planned comparable paratransit service as it relates to each of the service criteria described in §37.131 of this part—service area, absence of restrictions or priorities based on trip purpose, response time, fares, hours and days of service, and lack of capacity constraints. If the paratransit plan is to be phased in, this paragraph shall be coordinated with the information being provided in paragraphs (d)(5) and (d)(6) of this paragraph;

(5) A timetable for implementing comparable paratransit service, with a specific date indicating when the planned service will be completely operational. In no case may full implementation be completed later than June 1, 2003. The plan shall include milestones for implementing phases of the plan, with progress that can be objectively measured yearly;

(6) A budget for comparable paratransit service, including capital and operating expenditures over five years.

(e) A description of the process used to certify individuals with disabilities as CAA paratransit eligible. At a minimum, this must include—

(1) A description of the application and certification process, including—

(i) The availability of information about the process and application materials in accessible formats;

(ii) The process for determining eligibility according to the provisions of §§37.123–37.125 of this part and notifying individuals of the determination made;

(iii) The entity's system and timetable for processing applications and allowing presumptive eligibility; and

(iv) The documentation given to eligible individuals.

(2) A description of the administrative appeals process for individuals denied eligibility.

(3) A policy for visitors, consistent with §37.127 of this part.

(f) Description of the public participation process including—

(1) Notice given of opportunity for public comment, the date(s) of completed public hearing(s), availability of the plan in accessible formats, outreach efforts, and consultation with persons with disabilities.

(2) A summary of significant issues raised during the public comment period, along with a response to significant comments and discussion of how the issues were resolved.

(g) Efforts to coordinate service with other entities subject to the complementary paratransit requirements of this part which have overlapping or contiguous service areas or jurisdictions.

(h) The following endorsements or certifications:

(1) a resolution adopted by the entity authorizing the plan, as submitted. If more than one entity is submitting the plan there must be an authorizing resolution from each board. If the entity does not function with a board, a statement shall be submitted by the entity's chief executive;

(2) a certification that the survey of existing paratransit service was conducted as required in §37.137(a) of this part;

(3) To the extent service provided by other entities is included in the entity's plan for comparable paratransit service, the entity must certify that:

(i) CAA paratransit eligible individuals have access to the service;

(ii) The service is provided in the manner represented; and

(iii) Efforts will be made to coordinate the provision of paratransit service by other providers.

(i) a request for a waiver based on undue financial burden, if applicable. The waiver request should include information sufficient for the General Counsel to consider the factors in §37.155 of this part. If a request for an undue financial burden waiver is made, the plan must include a description of additional paratransit services that would be provided to achieve full compliance with the requirement for comparable paratransit in the event the waiver is not granted, and the timetable for the implementation of these additional services.

(j) *Annual plan updates.* (1) The annual plan updates submitted June 1, 1999, and annually thereafter, shall include information necessary to update the information requirements of this section. Information submitted annually must include all significant changes and revisions to the timetable for implementation;

(2) If the paratransit service is being phased in over more than one year, the entity must demonstrate that the milestones identified in the current paratransit plans have been achieved. If the milestones have not been achieved, the plan must explain any slippage and what actions are being taken to compensate for the slippage.

(3) The annual plan must describe specifically the means used to comply with the public participation requirements, as described in §37.137 of this part.

§37.141 Requirements for a joint paratransit plan.

(a) Two or more public entities with overlapping or contiguous service areas or jurisdictions may develop and submit a joint plan providing for coordinated paratransit service. Joint plans shall identify the participating entities and indicate their commitment to participate in the plan.

(b) To the maximum extent feasible, all elements of the coordinated plan shall be submitted on June 1, 1998. If a coordinated plan is not completed by June 1, 1998, those entities intending to coordinate paratransit service must submit a general statement declaring their intention to provide coordinated service and each element of the plan specified in §37.139 to the extent practicable. In addition, the plan must include the following certifications from each entity involved in the coordination effort:

(1) a certification that the entity is committed to providing CAA paratransit service as part of a coordinated plan.

(2) a certification from each public entity participating in the plan that it will maintain current levels of paratransit service until the coordinated plan goes into effect.

(c) Entities submitting the above certifications and plan elements in lieu of a completed plan on June 1, 1998, must submit a complete plan by December 1, 1998.

(d) Filing of an individual plan does not preclude an entity from cooperating with other entities in the development or implementation of a joint plan. An entity wishing to join with other entities after its initial submission may do so by meeting the filing requirements of this section.

§37.143 Paratransit plan implementation.

(a) Each entity shall begin implementation of its complementary paratransit plan, pending notice from the General Counsel. The implementation of the plan shall be consistent with the terms of the plan, including any specified phase-in period.

(b) If the plan contains a request for a waiver based on undue financial burden, the entity shall begin implementation of its plan, pending a determination on its waiver request.

§37.145 [Reserved]

§37.147 Considerations during General Counsel review.

In reviewing each plan, at a minimum the General Counsel will consider the following:

(a) Whether the plan was filed on time;

(b) Comments submitted by the state, if applicable;

(c) Whether the plan contains responsive elements for each component required under §37.139 of this part;

(d) Whether the plan, when viewed in its entirety, provides for paratransit service comparable to the entity's fixed route service;

(e) Whether the entity complied with the public participation efforts required by this part; and

(f) The extent to which efforts were made to coordinate with other public entities with overlapping or contiguous service areas or jurisdictions.

§37.149 Disapproved plans.

(a) If a plan is disapproved in whole or in part, the General Counsel will specify which provisions are disapproved. Each entity shall amend its plan consistent with this information and resubmit the plan to the General Counsel's office within 90 days of receipt of the disapproval letter.

(b) Each entity revising its plan shall continue to comply with the public participation requirements applicable to the initial development of the plan (set out in §37.137 of this part).

§37.151 Waiver for undue financial burden.

If compliance with the service criteria of §37.131 of this part creates an undue financial burden, an entity may request a waiver from all or some of the provisions if the entity has complied with the public participation requirements in §37.137 of this part and if the following conditions apply:

(a) At the time of submission of the initial plan on June 1, 1998—

(1) The entity determines that it cannot meet all of the service criteria by June 1, 2003; or

(2) The entity determines that it cannot make measured progress toward compliance in any year before full compliance is required. For purposes of this part, measured progress means implementing milestones as scheduled, such as incorporating an additional paratransit service criterion or improving an aspect of a specific service criterion.

(b) At the time of its annual plan update submission, if the entity believes that circumstances have changed since its last submission, and it is no longer able to comply by June 1, 2003, or make measured progress in any year before 2003, as described in paragraph (a)(2) of this section.

§37.153 General Counsel waiver determination.

(a) The General Counsel will determine whether to grant a waiver for undue financial burden on a case-by-case basis, after considering the factors identified in §37.155

of this part and the information accompanying the request. If necessary, the General Counsel will return the application with a request for additional information.

(b) Any waiver granted will be for a limited and specified period of time.

(c) If the General Counsel grants the applicant a waiver, the General Counsel will do one of the following:

(1) Require the public entity to provide complementary paratransit to the extent it can do so without incurring an undue financial burden. The entity shall make changes in its plan that the General Counsel determines are appropriate to maximize the complementary paratransit service that is provided to CAA paratransit eligible individuals. When making changes to its plan, the entity shall use the public participation process specified for plan development and shall consider first a reduction in number of trips provided to each CAA paratransit eligible person per month, while attempting to meet all other service criteria.

(2) Require the pubic entity to provide basic complementary paratransit services to all CAA paratransit eligible individuals, even if doing so would cause the public entity to incur an undue financial burden. Basic complementary paratransit service shall include at least complementary paratransit service in corridors defined as provided in §37.131(a) along the public entity's key routes during core service hours.

(i) For purposes of this section, key routes are defined as routes along which there is service at least hourly throughout the day.

(ii) For purposes of this section, core service hours encompass at least peak periods, as these periods are defined locally for fixed route service, consistent with industry practice.

(3) If the General Counsel determines that the public entity will incur an undue financial burden as the result of providing basic complementary paratransit service, such that it is infeasible for the entity to provide basic complementary paratransit service, the Administrator shall require the public entity to coordinate with other available providers of demand responsive service in the area served by the public entity to maximize the service to CAA paratransit eligible individuals to the maximum extent feasible.

§37.155 Factors in decision to grant an undue financial burden waiver.

(a) In making an undue financial burden determination, the General Counsel will consider the following factors:

(1) Effects on current fixed route service, including reallocation of accessible fixed route vehicles and potential reduction in service, measured by service miles;

(2) Average number of trips made by the entity's general population, on a per capita basis, compared with the average number of trips to be made by registered CAA paratransit eligible persons, on a per capita basis;

(3) Reductions in other services, including other special services;

(4) Increases in fares;

(5) Resources available to implement complementary paratransit service over the period covered by the plan;

(6) Percentage of budget needed to implement the plan, both as a percentage of operating budget and a percentage of entire budget;

(7) The current level of accessible service, both fixed route and paratransit;

(8) Cooperation/coordination among area transportation providers;

(9) Evidence of increased efficiencies, that have been or could be effectuated, that would benefit the level and quality of available resources for complementary paratransit service; and

(10) Unique circumstances in the submitting entity's area that affect the ability of the entity to provide paratransit, that militate against the need to provide paratransit, or in some other respect create a circumstance considered exceptional by the submitting entity.

(b)(1) Costs attributable to complementary paratransit shall be limited to costs of providing service specifically required by this part to CAA paratransit eligible individuals, by entities responsible under this part for providing such service.

(2) If the entity determines that it is impracticable to distinguish between trips mandated by the CAA and other trips on a trip-by-trip basis, the entity shall attribute to CAA complementary paratransit requirements a percentage of its overall paratransit costs. This percentage shall be determined by a statistically valid methodology that determines the percentage of trips that are required by this part. The entity shall submit information concerning its methodology and the data on which its percentage is based with its request for a waiver. Only costs attributable to CAA-mandated trips may be considered with respect to a request for an undue financial burden waiver.

(3) Funds to which the entity would be legally entitled, but which, as a matter of State or local funding arrangements, are provided to another entity and used by that entity to provide paratransit service which is part of a coordinated system of paratransit meeting the requirements of this part, may be counted in determining the burden associated with the waiver request.

Subpart G—Provision of Service

§37.161 Maintenance of accessible features: general.

(a) Public and covered entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices, elevators, signage and systems to facilitate communications with persons with impaired vision or hearing.

(b) Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature.

(c) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

§37.163 Keeping vehicle lifts in operative condition: public entities.

(a) This section applies only to public entities with respect to lifts in non-rail vehicles.

(b) The entity shall establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative.

(c) The entity shall ensure that vehicle operators report to the entity, by the most immediate means available, any failure of a lift to operate in service.

(d) Except as provided in paragraph (e) of this section, when a lift is discovered to be inoperative, the entity shall take the vehicle out of service before the beginning of the vehicle's next service day and ensure that the lift is repaired before the vehicle returns to service.

(e) If there is no spare vehicle available to take the place of a vehicle with an inoperable lift, such that taking the vehicle out of service will reduce the transportation service the entity is able to provide, the public entity may keep the vehicle in service with an inoperable lift for no more than five days (if the entity serves an area of 50,000 or less population) or three days (if the entity serves an area of over 50,000 population) from the day on which the lift is discovered to be inoperative.

(f) In any case in which a vehicle is operating on a fixed route with an inoperative lift, and the headway to the next accessible vehicle on the route exceeds 30 minutes, the entity shall promptly provide alternative transportation to individuals with disabilities who are unable to use the vehicle because its lift does not work.

§37.165 Lift and securement use.

(a) This section applies to public and covered entities.

(b) All common wheelchairs and their users shall be transported in the entity's vehicles or other conveyances. The entity is not required to permit wheelchairs to ride in places other than designated securement locations in the vehicle, where such locations exist.

(c) (1) For vehicles complying with part 38 of these regulations, the entity shall use the securement system to secure wheelchairs as provided in that part.

(2) For other vehicles transporting individuals who use wheelchairs, the entity shall provide and use a securement system to ensure that the wheelchair remains within the securement area.

(3) The entity may require that an individual permit his or her wheelchair to be secured.

(d) The entity may not deny transportation to a wheelchair or its user on the ground that the device cannot be secured or restrained satisfactorily by the vehicle's securement system.

(e) The entity may recommend to a user of a wheelchair that the individual transfer to a vehicle seat. The entity may not require the individual to transfer.

(f) Where necessary or upon request, the entity's personnel shall assist individuals with disabilities with the use of securement systems, ramps and lifts. If it is necessary for the personnel to leave their seats to provide this assistance, they shall do so.

(g) The entity shall permit individuals with disabilities who do not use wheelchairs, including standees, to use a vehicle's lift or ramp to enter the vehicle. Provided that an entity is not required to permit such individuals to use a lift Model 141 manufactured by EEC, Inc. If the entity chooses not to allow such individuals to use such a lift, it shall clearly notify consumers of this fact by signage on the exterior of the vehicle (adjacent to and of equivalent size with the accessibility symbol).

§37.167 Other service requirements.

(a) This section applies to public and covered entities.

(b) On fixed route systems, the entity shall announce stops as follows:

(1) The entity shall announce at least at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location.

(2) The entity shall announce any stop on request of an individual with a disability.

(c) Where vehicles or other conveyances for more than one route serve the same stop, the entity shall provide a means by which an individual with a visual impairment or other disability can identify the proper vehicle to enter or be identified to the vehicle operator as a person seeking a ride on a particular route.

(d) The entity shall permit service animals to accompany individuals with disabilities in vehicles and facilities.

(e) The entity shall ensure that vehicle operators and other personnel make use of accessibility-related equipment or features required by part 38 of these regulations.

(f) The entity shall make available to individuals with disabilities adequate information concerning transportation services. This obligation includes making adequate communications capacity available, through accessible formats and technology, to enable users to obtain information and schedule service.

(g) The entity shall not refuse to permit a passenger who uses a lift to disembark from a vehicle at any designated stop, unless the lift cannot be deployed, the lift will be damaged if it is deployed, or temporary conditions at the stop, not under the control of the entity, preclude the safe use of the stop by all passengers.

(h) The entity shall not prohibit an individual with a disability from traveling with a respirator or portable oxygen supply, consistent with applicable Department of Transportation rules on the transportation of hazardous materials.

(i) The entity shall ensure that adequate time is provided to allow individuals with disabilities to complete boarding or disembarking from the vehicle.

(j)(1) When an individual with a disability enters a vehicle, and because of a disability, the individual needs to sit in a seat or occupy a wheelchair securement location, the entity shall ask the following person to move in order to allow the individual with a disability to occupy the seat or securement location:

(i) Individuals, except other individuals with a disability or elderly persons, sitting in a location designated as priority seating for elderly and handicapped persons (or other seat as necessary);

(ii) Individuals sitting in or a fold-down or other movable seat in a wheelchair securement location.

(2) This requirement applies to light rail and rapid rail systems only to the extent practicable.

(3) The entity is not required to enforce the request that other passengers move from priority seating areas or wheelchair securement locations.

(4) In all signage designating priority seating areas for elderly persons or persons with disabilities, or designating wheelchair securement areas, the entity shall include language informing persons siting in these locations that they should comply with requests by transit provider personnel to vacate their seats to make room for an individual with a disability. This requirement applies to all fixed route vehicles when they are acquired by the entity or to new or replacement signage in the entity's existing fixed route vehicles.

§ 37.169 Interim requirements for over-the-road bus service operated by covered entities.

(a) Covered entities operating over-the-road buses, in addition to compliance with other applicable provisions of this part, shall provide accessible service as provided in this section.

(b) The covered entity shall provide assistance, as needed, to individuals with disabilities in boarding and disembarking, including moving to and from the bus seat for the purpose of boarding and disembarking. The covered entity shall ensure that personnel are trained to provide this assistance safely and appropriately.

(c) To the extent that they can be accommodated in the areas of the passenger compartment provided for passengers' personal effects, wheelchairs or other mobility aids and assistive devices used by individuals with disabilities, or components of such devices, shall be permitted in the passenger compartment. When the bus is at rest at a stop, the driver or other personnel shall assist individuals with disabilities with the stowage and retrieval of mobility aids, assistive devices, or other items that can be accommodated in the passenger compartment of the bus.

(d) Wheelchairs and other mobility aids or assistive devices that cannot be accommodated in the passenger compartment (including electric wheelchairs) shall be accommodated in the baggage compartment of the bus, unless the size of the baggage compartment prevents such accommodation.

(e) At any given stop, individuals with disabilities shall have the opportunity to have their wheelchairs or other mobility aids or assistive devices stowed in the baggage compartment before other baggage or cargo is loaded, but baggage or cargo already on the bus does not have to be off-loaded in order to make room for such devices.

(f) The entity may require up to 48 hours' advance notice only for providing boarding assistance. If the individual does not provide such notice, the entity shall nonetheless provide the service if it can do so by making a reasonable effort, without delaying the bus service.

§ 37.171 Equivalency requirement for demand responsive service operated by covered entities not primarily engaged in the business of transporting people.

A covered entity not primarily engaged in the business of transporting people which operates a demand responsive system shall ensure that its system, when viewed in its entirety, provides equivalent service to individuals with disabilities, including individuals who use wheelchairs, as it does to individuals without disabilities. The standards of § 37.105 shall be used to determine if the entity is providing equivalent service.

§ 37.173 Training

Each public or covered entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the differences among individuals with disabilities.

APPENDIX A TO PART 37—STANDARDS FOR ACCESSIBLE TRANSPORTATION FACILITIES

[Copies of this appendix may be obtained from the Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, SE., Washington, DC 20540–1999.]

APPENDIX B TO PART 37—CERTIFICATIONS

Certification of Equivalent Service

The (name of agency) certifies that its demand responsive service offered to individuals with disabilities, including individuals who use wheelchairs, is equivalent to the level and quality of service offered to individuals without disabilities. Such service, when viewed in its entirety, is provided in the most integrated setting feasible and is equivalent with respect to:

(1) Response time;
(2) Fares;
(3) Geographic service area;
(4) Hours and days of service;
(5) Restrictions on trip purpose;
(6) Availability of information and reservation capability; and
(7) Constraints on capacity or service availability.

This certification is valid for no longer than one year from its date of filing.

signature

name of authorized official

title

date

Existing Paratransit Service Survey

This is to certify that (name of public entity(ies)) has conducted a survey of existing paratransit services as required by section 37.137(a) of the CAA regulations.

signature

name of authorized official

title

date

Included Service Certification

This is to certify that service provided by other entities but included in the CAA paratransit plan submitted by (name of submitting entity(ies)) meets the requirements of part 37, subpart F of the CAA regulations providing that CAA eligible individuals have access to the service; the service is provided in the manner represented; and, that efforts will be made to coordinate the provision of paratransit service offered by other providers.

signature

name of authorized official

title

date

Joint Plan Certification I

This is to certify that (name of entity covered by joint plan) is committed to providing CAA paratransit service as part of this coordinated plan and in conformance with the requirements of part 37, subpart F, of the CAA regulations.

signature

name of authorized official

title

date

Joint Plan Certification II

This is to certify that (name of entity covered by joint plan) will, in accordance with section 37.141 of the CAA regulations, maintain current levels of paratransit service until the coordinated plan goes into effect.

signature

name of authorized official

title

date

PART 38—CONGRESSIONAL ACCOUNTABILITY ACT (CAA) ACCESSIBILITY GUIDELINES FOR TRANSPORTATION VEHICLES

Subpart A—General

Subpart B—Buses, Vans and Systems

Subpart A—General

§ 38.1 Purpose.

This part provides minimum guidelines and requirements for accessibility standards in part 37 of these regulations for transportation vehicles required to be accessible by section 210 of the Congressional Accountability Act (2 U.S.C. 1331, *et seq.*) which, *inter alia*, applies the rights and protections of the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101 *et seq.*) to covered entities within the Legislative Branch.

§ 38.2 Equivalent facilitation.

Departures from particular technical and scoping requirements of these guidelines by use of other designs and technologies are permitted where the alternative designs and technologies used will provide substantially equivalent or greater access to and usability of the vehicle. Departures are to be considered on a case-by-case basis by the Office of Compliance under the procedure set forth in §37.7 of these regulations.

§ 38.3 Definitions.

See § 37.3 of these regulations.

§ 38.4 Miscellaneous instructions.

(a) *Dimensional conventions.* Dimensions that are not noted as minimum or maximum are absolute.

(b) *Dimensional tolerances.* All dimensions are subject to conventional engineering tolerances for material properties and field conditions, including normal anticipated wear not exceeding accepted industry-wide standards and practices.

(c) *Notes.* The text of these guidelines does not contain notes or footnotes. Additional information, explanations, and advisory materials are located in the Appendix.

(d) *General terminology.* (1) *Comply with* means meet one or more specifications of these guidelines.

(2) *If*, or *if * * * then* denotes a specification that applies only when the conditions described are present.

(3) *May* denotes an option or alternative.

(4) *Shall* denotes a mandatory specification or requirement.

(5) *Should* denotes an advisory specification or recommendation and is used only in the appendix to this part.

Subpart B—Buses, Vans and Systems

§38.21 General.

(a) New, used or remanufactured buses and vans (except over-the-road buses covered by subpart G of this part), to be considered accessible by regulations issued by the Board of Directors of the Office of Compliance in part 37 of these regulations, shall comply with the applicable provisions of this subpart.

(b) If portions of the vehicle are modified in a way that affects or could affect accessibility, each such portion shall comply, to the extent practicable, with the applicable provisions of this subpart. This provision does not require that inaccessible buses be retrofitted with lifts, ramps or other boarding devices.

§38.23 Mobility aid accessibility.

(a) *General.* All vehicles covered by this subpart shall provide a level-change mechanism or boarding device (e.g., lift or ramp) complying with paragraph (b) or (c) of this section and sufficient clearances to permit a wheelchair or other mobility aid user to reach a securement location. At least two securement locations and devices, complying with paragraph (d) of this section, shall be provided on vehicles in excess of 22 feet in length; at least one securement location and device, complying with paragraph (d) of this section, shall be provided on vehicles 22 feet in length or less.

(b) *Vehicle lift*—(1) *Design load.* The design load of the lift shall be at least 600 pounds. Working parts, such as cables, pulleys, and shafts, which can be expected to wear, and upon which the lift depends for support of the load, shall have a safety factor of at least six, based on the ultimate strength of the material. Nonworking parts, such as platform, frame, and attachment hardware which would not be expected to wear, shall have a safety factor of at least three, based on the ultimate strength of the material.

(2) *Controls*—(i) *Requirements.* The controls shall be interlocked with the vehicle brakes, transmission, or door, or shall provide other appropriate mechanisms or systems, to ensure that the vehicle cannot be moved when the lift is not stowed and so the lift cannot be deployed unless the interlocks or systems are engaged. The lift shall deploy to all levels (i.e., ground, curb, and intermediate positions) normally encountered in the operating environment. Where provided, each control for deploying, lowering, raising, and stowing the lift and lowering the roll-off barrier shall be of a momentary contact type requiring continuous manual pressure by the operator and shall not allow improper lift sequencing when the lift platform is occupied. The controls shall allow reversal of the lift operation sequence, such as raising or lowering a platform that is part way down, without allowing an occupied platform to fold or retract into the stowed position.

(ii) *Exception.* Where the lift is designed to deploy with its long dimension parallel to the vehicle axis and which pivots into or out of the vehicle while occupied (i.e., ''rotary lift''), the requirements of this paragraph prohibiting the lift from being stowed while occupied shall not apply if the stowed position is within the passenger compartment and the lift is intended to be stowed while occupied.

(3) *Emergency operation.* The lift shall incorporate an emergency method of deploying, lowering to ground level with a lift occupant, and raising and stowing the empty lift if the power to the lift fails. No emergency method, manual or otherwise, shall be capable of being operated in a manner that could be hazardous to the lift occupant or to the operator when operated according to manufacturer's instructions, and shall not permit the platform to be stowed or folded when occupied, unless the lift is a rotary lift and is intended to be stowed while occupied.

(4) *Power or equipment failure.* Platforms stowed in a vertical position, and deployed platforms when occupied, shall have provisions to prevent their deploying, falling, or folding any faster than 12 inches/second or their dropping of an occupant in the event of a single failure of any load carrying component.

(5) *Platform barriers.* The lift platform shall be equipped with barriers to prevent any of the wheels of a wheelchair or mobility aid from rolling off the platform during its operation. A movable barrier or inherent design feature shall prevent a wheelchair or mobility aid from rolling off the edge closest to the vehicle until the platform is in its fully raised position. Each side of the lift platform which extends beyond the vehicle in its raised position shall have a barrier a minimum 1½ inches high. Such barriers shall not interfere with maneuvering into or out of the aisle. The loading-edge barrier (outer barrier) which functions as a loading ramp when the lift is at ground level, shall be sufficient when raised or closed, or a supplementary system shall be provided, to prevent a power wheelchair or mobility aid from riding over or defeating it. The outer barrier of the lift shall automatically raise or close, or a supplementary system shall automatically engage, and remain raised, closed, or engaged at all times that the platform is more than 3 inches above the roadway or sidewalk and the platform is occupied. Alternatively, a barrier or system may be raised, lowered, opened, closed, engaged, or disengaged by the lift operator, provided an interlock or inherent design feature prevents the lift from rising unless the barrier is raised or closed or the supplementary system is engaged.

(6) *Platform surface.* The platform surface shall be free of any protrusions over ¼ inch high and shall be slip resistant. The platform shall have a minimum clear width of 28½ inches at the platform, a minimum clear width of 30 inches measured from 2 inches above the platform surface to 30 inches above the platform, and a minimum clear length of 48 inches measured from 2 inches above the surface of the platform to 30 inches above the surface of the platform. (See Fig. 1)

(7) *Platform gaps.* Any openings between the platform surface and the raised barriers shall not exceed ⅝ inch in width. When the platform is at vehicle floor height with the inner barrier (if applicable) down or retracted, gaps between the forward lift platform edge and the vehicle floor shall not exceed ½ inch horizontally and ⅝ inch vertically. Platforms on semi-automatic lifts may have a hand hold not exceeding 1½ inches by 4½ inches located between the edge barriers.

(8) *Platform entrance ramp.* The entrance ramp, or loading-edge barrier used as a ramp, shall not exceed a slope of 1:8, measured on level ground, for a maximum rise of 3 inches, and the transition from roadway or sidewalk to ramp may be vertical without edge treatment up to ¼ inch. Thresholds between ¼ inch and ½ inch high shall be beveled with a slope no greater than 1:2.

(9) *Platform deflection.* The lift platform (not including the entrance ramp) shall not deflect more than 3 degrees (exclusive of vehicle roll or pitch) in any direction between

its unloaded position and its position when loaded with 600 pounds applied through a 26 inch by 26 inch test pallet at the centroid of the platform.

(10) *Platform movement*. No part of the platform shall move at a rate exceeding 6 inches/second during lowering and lifting an occupant, and shall not exceed 12 inches/second during deploying or stowing. This requirement does not apply to the deployment or stowage cycles of lifts that are manually deployed or stowed. The maximum platform horizontal and vertical acceleration when occupied shall be 0.3g.

(11) *Boarding direction*. The lift shall permit both inboard and outboard facing of wheelchair and mobility aid users.

(12) *Use by standees*. Lifts shall accommodate persons using walkers, crutches, canes or braces or who otherwise have difficulty using steps. The platform may be marked to indicate a preferred standing position.

(13) *Handrails*. Platforms on lifts shall be equipped with handrails on two sides, which move in tandem with the lift, and which shall be graspable and provide support to standees throughout the entire lift operation. Handrails shall have a usable component at least 8 inches long with the lowest portion a minimum 30 inches above the platform and the highest portion a maximum 38 inches above the platform. The handrails shall be capable of withstanding a force of 100 pounds concentrated at any point on the handrail without permanent deformation of the rail or its supporting structure. The handrail shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than ⅛ inch. Handrails shall be placed to provide a minimum 1½ inches knuckle clearance from the nearest adjacent surface. Handrails shall not interfere with wheelchair or mobility aid maneuverability when entering or leaving the vehicle.

(c) *Vehicle ramp*—(1) *Design load*. Ramps 30 inches or longer shall support a load of 600 pounds, placed at the centroid of the ramp distributed over an area of 26 inches by 26 inches, with a safety factor of at least 3 based on the ultimate strength of the material. Ramps shorter than 30 inches shall support a load of 300 pounds.

(2) *Ramp surface*. The ramp surface shall be continuous and slip resistant; shall not have protrusions from the surface greater than ¼ inch high; shall have a clear width of 30 inches; and shall accommodate both four-wheel and three-wheel mobility aids.

(3) *Ramp threshold*. The transition from roadway or sidewalk and the transition from vehicle floor to the ramp may be vertical without edge treatment up to ¼ inch. Changes in level between ¼ inch and ½ inch shall be beveled with a slope no greater than 1:2.

(4) *Ramp barriers*. Each side of the ramp shall have barriers at least 2 inches high to prevent mobility aid wheels from slipping off.

(5) *Slope*. Ramps shall have the least slope practicable and shall not exceed 1:4 when deployed to ground level. If the height of the vehicle floor from which the ramp is deployed is 3 inches or less above a 6-inch curb, a maximum slope of 1:4 is permitted; if the height of the vehicle floor from which the ramp is deployed is 6 inches or less, but greater than 3 inches, above a 6-inch curb, a maximum slope of 1:6 is permitted; if the height of the vehicle floor from which the ramp is deployed is 9 inches or less, but greater than 6 inches, above a 6-inch curb, a maximum slope of 1:8 is permitted; if the height of the vehicle floor from which the ramp is deployed is greater than 9 inches above a 6-inch curb, a slope of 1:12 shall be achieved. Folding or telescoping ramps are permitted provided they meet all structural requirements of this section.

(6) *Attachment*. When in use for boarding or alighting, the ramp shall be firmly attached to the vehicle so that it is not subject to displacement when loading or unloading a heavy power mobility aid and that no gap between vehicle and ramp exceeds ⅝ inch.

(7) *Stowage*. A compartment, securement system, or other appropriate method shall be provided to ensure that stowed ramps, including portable ramps stowed in the passenger area, do not impinge on a passenger's wheelchair or mobility aid or pose any hazard to passengers in the event of a sudden stop or maneuver.

(8) *Handrails*. If provided, handrails shall allow persons with disabilities to grasp them from outside the vehicle while starting to board, and to continue to use them throughout the boarding process, and shall have the top between 30 inches and 38 inches above the ramp surface. The handrails shall be capable of withstanding a force of 100 pounds concentrated at any point on the handrail without permanent deformation of the rail or its supporting structure. The handrail shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than ⅛ inch. Handrails shall not interfere with wheelchair or mobility aid maneuverability when entering or leaving the vehicle.

(d) *Securement devices*—(1) *Design load*. Securement systems on vehicles with GVWRs of 30,000 pounds or above, and their attachments to such vehicles, shall restrain a force in the forward longitudinal direction of up to 2,000 pounds per securement leg or clamping mechanism and a minimum of 4,000 pounds for each mobility aid. Securement systems on vehicles with GVWRs of up to 30,000 pounds, and their attachments to such vehicles, shall restrain a force in the forward longitudinal direction of up to 2,500 pounds per securement leg or clamping mechanism and a minimum of 5,000 pounds for each mobility aid.

(2) *Location and size*. The securement system shall be placed as near to the accessible entrance as practicable and shall have a clear floor area of 30 inches by 48 inches. Such space shall adjoin, and may overlap, an access path. Not more than 6 inches of the required clear floor space may be accommodated for footrests under another seat provided there is a minimum of 9 inches from the floor to the lowest part of the seat overhanging the space. Securement areas may have fold-down seats to accommodate other passengers when a wheelchair or mobility aid is not occupying the area, provided the seats, when folded up, do not obstruct the clear floor space required. (See Fig. 2)

(3) *Mobility aids accommodated*. The securement system shall secure common wheelchairs and mobility aids and shall either be automatic or easily attached by a person familiar with the system and mobility aid and having average dexterity.

(4) *Orientation*. In vehicles in excess of 22 feet in length, at least one securement device or system required by paragraph (a) of this section shall secure the wheelchair or mobility aid facing toward the front of the vehicle. In vehicles 22 feet in length or less, the required securement device may secure the wheelchair or mobility aid either facing toward the front of the vehicle or rearward. Additional securement devices or systems shall secure the wheelchair or mobility aid facing forward or rearward. Where the wheelchair or mobility aid is secured facing the rear of the vehicle, a padded barrier shall be provided. The padded barrier shall extend from a height of 38 inches from the vehicle floor to a height of 56 inches from the vehicle floor with a width of 18 inches, laterally centered immediately in back of the seated individual. Such barriers need not be solid provided equivalent protection is afforded.

(5) *Movement*. When the wheelchair or mobility aid is secured in accordance with manufacturer's instructions, the securement system shall limit the movement of an occupied wheelchair or mobility aid to no more than 2 inches in any direction under normal vehicle operating conditions.

(6) *Stowage*. When not being used for securement, or when the securement area can be used by standees, the securement system shall not interfere with passenger movement, shall not present any hazardous condition, shall be reasonably protected from vandalism, and shall be readily accessed when needed for use.

(7) *Seat belt and shoulder harness*. For each wheelchair or mobility aid securement device provided, a passenger seat belt and shoulder harness, complying with all applicable provisions of part 571 of title 49 CFR, shall also be provided for use by wheelchair or mobility aid users. Such seat belts and shoulder harnesses shall not be used in lieu of a device which secures the wheelchair or mobility aid itself.

§ 38.25 Doors, steps and thresholds.

(a) *Slip resistance*. All aisles, steps, floor areas where people walk and floors in securement locations shall have slip-resistant surfaces.

(b) *Contrast*. All step edges, thresholds, and the boarding edge of ramps or lift platforms shall have a band of color(s) running the full width of the step or edge which contrasts from the step tread and riser, or lift or ramp surface, either light-on-dark or dark-on-light.

(c) *Door height*. For vehicles in excess of 22 feet in length, the overhead clearance between the top of the door opening and the raised lift platform, or highest point of a ramp, shall be a minimum of 68 inches. For vehicles of 22 feet in length or less, the overhead clearance between the top of the door opening and the raised lift platform, or highest point of a ramp, shall be a minimum of 56 inches.

§ 38.27 Priority seating signs.

(a) Each vehicle shall contain sign(s) which indicate that seats in the front of the vehicle are priority seats for persons with disabilities, and that other passengers should make such seats available to those who wish to use them. At least one set of forward-facing seats shall be so designated.

(b) Each securement location shall have a sign designating it as such.

(c) Characters on signs required by paragraphs (a) and (b) of this section shall have a width-to-height ratio between 3:5 and 1:1 and a stroke width-to-height ratio between 1:5 and 1:10, with a minimum character height (using an upper case ''X'') of ⅝ inch, with ''wide'' spacing (generally, the space between letters shall be 1/16 the height of upper case letters), and shall contrast with the background either light-on-dark or dark-on-light.

§ 38.29 Interior circulation, handrails and stanchions.

(a) Interior handrails and stanchions shall permit sufficient turning and maneuvering space for wheelchairs and other mobility aids to reach a securement location from the lift or ramp.

(b) Handrails and stanchions shall be provided in the entrance to the vehicle in a configuration which allows persons with disabilities to grasp such assists from outside the vehicle while starting to board, and to continue using such assists throughout the

boarding and fare collection process. Handrails shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than ⅛ inch. Handrails shall be placed to provide a minimum 1½ inches knuckle clearance from the nearest adjacent surface. Where on-board fare collection devices are used on vehicles in excess of 22 feet in length, a horizontal passenger assist shall be located across the front of the vehicle and shall prevent passengers from sustaining injuries on the fare collection device or windshield in the event of a sudden deceleration. Without restricting the vestibule space, the assist shall provide support for a boarding passenger from the front door through the boarding procedure. Passengers shall be able to lean against the assist for security while paying fares.

(c) For vehicles in excess of 22 feet in length, overhead handrail(s) shall be provided which shall be continuous except for a gap at the rear doorway.

(d) Handrails and stanchions shall be sufficient to permit safe boarding, on-board circulation, seating and standing assistance, and alighting by persons with disabilities.

(e) For vehicles in excess of 22 feet in length with front-door lifts or ramps, vertical stanchions immediately behind the driver shall either terminate at the lower edge of the aisle-facing seats, if applicable, or be ''dog-legged'' so that the floor attachment does not impede or interfere with wheelchair footrests. If the driver seat platform must be passed by a wheelchair or mobility aid user entering the vehicle, the platform, to the maximum extent practicable, shall not extend into the aisle or vestibule beyond the wheel housing.

(f) For vehicles in excess of 22 feet in length, the minimum interior height along the path from the lift to the securement location shall be 68 inches. For vehicles of 22 feet in length or less, the minimum interior height from lift to securement location shall be 56 inches.

§ 38.31 Lighting.

(a) Any stepwell or doorway immediately adjacent to the driver shall have, when the door is open, at least 2 foot-candles of illumination measured on the step tread or lift platform.

(b) Other stepwells and doorways, including doorways in which lifts or ramps are installed, shall have, at all times, at least 2 foot-candles of illumination measured on the step tread, or lift or ramp, when deployed at the vehicle floor level.

(c) The vehicle doorways, including doorways in which lifts or ramps are installed, shall have outside light(s) which, when the door is open, provide at least 1 foot-candle of illumination on the street surface for a distance of 3 feet perpendicular to all points on the bottom step tread outer edge. Such light(s) shall be located below window level and shielded to protect the eyes of entering and exiting passengers.

§ 38.33 Fare box.

Where provided, the farebox shall be located as far forward as practicable and shall not obstruct traffic in the vestibule, especially wheelchairs or mobility aids.

§ 38.35 Public information system.

(a) Vehicles in excess of 22 feet in length, used in multiple-stop, fixed-route service, shall be equipped with a public address system permitting the driver, or recorded or digitized human speech messages, to announce stops and provide other passenger information within the vehicle.

(b) [Reserved]

§ 38.37 Stop request.

(a) Where passengers may board or alight at multiple stops at their option, vehicles in excess of 22 feet in length shall provide controls adjacent to the securement location for requesting stops and which alerts the driver that a mobility aid user wishes to disembark. Such a system shall provide auditory and visual indications that the request has been made.

(b) Controls required by paragraph (a) of this section shall be mounted no higher than 48 inches and no lower than 15 inches above the floor, shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate controls shall be no greater than 5 lbf (22.2 N).

§ 38.39 Destination and route signs

(a) Where destination or route information is displayed on the exterior of a vehicle, each vehicle shall have illuminated signs on the front and boarding side of the vehicle.

(b) Characters on signs required by paragraph (a) of this section shall have a width-to-height ratio between 3:5 and 1:1 and a stroke width-to-height ratio between 1:5 and 1:10, with a minimum character height (using an upper case ''X'') of 1 inch for signs on the boarding side and a minimum character height of 2 inches for front ''headsigns'', with ''wide'' spacing (generally, the space between letters shall be ⅛ the height of upper case letters), and shall contrast with the background, either dark-on-light or light-on-dark.

Subpart C—Rapid Rail Vehicles and Systems

§ 38.51 General

(a) New, used and remanufactured rapid rail vehicles, to be considered accessible by regulations in part 37 of these regulations, shall comply with this subpart.

(b) If portions of the vehicle are modified in a way that affects or could affect accessibility, each such portion shall comply, to the extent practicable, with the applicable provisions of this subpart. This provision does not require that inaccessible vehicles be retrofitted with lifts, ramps or other boarding devices.

(c) Existing vehicles which are retrofitted to comply with the ''one-car-per-train rule'' of §37.93 of these regulations shall comply with §§38.55, 38.57(b), 38.59 of this part and shall have, in new and key stations, at least one door complying with §§38.53(a)(1), (b) and (d) of this part. Removal of seats is not required. Vehicles previously designed and manufactured in accordance with the accessibility requirements of part 609 of title 49 CFR or the Secretary of Transportation regulations implementing section 504 of the Rehabilitation Act of 1973 that were in effect before October 7, 1991 and which can be entered and used from stations in which they are to be operated, may be used to satisfy the requirements of §37.93 of these regulations.

§ 38.53 Doorways

(a) *Clear width.* (1) Passenger doorways on vehicle sides shall have clear openings at least 32 inches wide when open.

(2) If doorways connecting adjoining cars in a multi-car train are provided, and if such doorway is connected by an aisle with a minimum clear width of 30 inches to one or more spaces where wheelchair or mobility aid users can be accommodated, then such doorway shall have a minimum clear opening of 30 inches to permit wheelchair and mobility aid users to be evacuated to an adjoining vehicle in an emergency.

(b) *Signage.* The International Symbol of Accessibility shall be displayed on the exterior of accessible vehicles operating on an accessible rapid rail system unless all vehicles are accessible and are not marked by the access symbol. (See Fig. 6)

(c) *Signals.* Auditory and visual warning signals shall be provided to alert passengers of closing doors.

(d) *Coordination with boarding platform*—(1) *Requirements.* Where new vehicles will operate in new stations, the design of vehicles shall be coordinated with the boarding platform design such that the horizontal gap between each vehicle door at rest and the platform shall be no greater than 3 inches and the height of the vehicle floor shall be within plus or minus ⅝ inch of the platform height under all normal passenger load conditions. Vertical alignment may be accomplished by vehicle air suspension or other suitable means of meeting the requirement.

(2) *Exception.* New vehicles operating in existing stations may have a floor height within plus or minus 1½ inches of the platform height. At key stations, the horizontal gap between at least one door of each such vehicle and the platform shall be no greater than 3 inches.

(3) *Exception.* Retrofitted vehicles shall be coordinated with the platform in new and key stations such that the horizontal gap shall be no greater than 4 inches and the height of the vehicle floor, under 50% passenger load, shall be within plus or minus 2 inches of the platform height.

§ 38.55 Priority seating signs

(a) Each vehicle shall contain sign(s) which indicate that certain seats are priority seats for persons with disabilities, and that other passengers should make such seats available to those who wish to use them.

(b) Characters on signs required by paragraph (a) of this section shall have a width-to-height ratio between 3:5 and 1:1 and a stroke width-to-height ratio between 1:5 and 1:10, with a minimum character height (using an upper case ''X'') of ⅝ inch, with ''wide'' spacing (generally, the space between letters shall be ⅛ the height of upper case letters), and shall contrast with the background, either light-on-dark or dark-on-light.

§ 38.57 Interior circulation, handrails and stanchions.

(a) Handrails and stanchions shall be provided to assist safe boarding, on-board circulation, seating and standing assistance, and alighting by persons with disabilities.

(b) Handrails, stanchions, and seats shall allow a route at least 32 inches wide so that at least two wheelchair or mobility aid users can enter the vehicle and position the wheelchairs or mobility aids in areas, each having a minimum clear space of 48 inches by 30 inches, which do not unduly restrict movement of other passengers. Space to accommodate wheelchairs and mobility aids may be provided within the normal area used by standees and designation of specific spaces is not required. Particular attention shall be given to ensuring maximum maneuverability immediately inside doors. Ample vertical stanchions from ceiling to seat-back rails shall be provided. Vertical stanchions from ceiling to floor shall not interfere with wheelchair or mobility aid user circulation and shall be kept to a minimum in the vicinity of doors.

(c) The diameter or width of the gripping surface of handrails and stanchions shall be 1¼ inches to 1½ inches or provide an equivalent gripping surface and shall provide a minimum 1½ inches knuckle clearance from the nearest adjacent surface.

§ 38.59 Floor surfaces.

Floor surfaces on aisles, places for standees, and areas where wheelchair and mobility aid users are to be accommodated shall be slip-resistant.

§ 38.61 Public information system.

(a)(1) *Requirements.* Each vehicle shall be equipped with a public address system permitting transportation system personnel, or recorded or digitized human speech messages, to announce stations and provide

other passenger information. Alternative systems or devices which provide equivalent access are also permitted. Each vehicle operating in stations having more than one line or route shall have an external public address system to permit transportation system personnel, or recorded or digitized human speech messages, to announce train, route, or line identification information.

(2) *Exception*. Where station announcement systems provide information on arriving trains, an external train speaker is not required.

(b) [Reserved]

§ 38.63 Between-car barriers.

(a) *Requirement*. Suitable devices or systems shall be provided to prevent, deter or warn individuals from inadvertently stepping off the platform between cars. Acceptable solutions include, but are not limited to, pantograph gates, chains, motion detectors or similar devices.

(b) *Exception*. Between-car barriers are not required where platform screens are provided which close off the platform edge and open only when trains are correctly aligned with the doors.

Subpart D—Light Rail Vehicles and Systems

§ 38.71 General.

(a) New, used and remanufactured light rail vehicles, to be considered accessible by regulations in part 37 of these regulations, shall comply with this subpart.

(b)(1) Vehicles intended to be operated solely in light rail systems confined entirely to a dedicated right-of-way, and for which all stations or stops are designed and constructed for revenue service after the effective date of standards for design and construction §37.21 and §37.23 of these regulations, shall provide level boarding and shall comply with §38.73(d)(1) and §38.85 of this part.

(2) Vehicles designed for, and operated on, pedestrian malls, city streets, or other areas where level boarding is not practicable shall provide wayside or car-borne lifts, mini-high platforms, or other means of access in compliance with §38.83(b) or (c) of this part.

(c) If portions of the vehicle are modified in a way that affects or could affect accessibility, each such portion shall comply, to the extent practicable, with the applicable provisions of this subpart. This provision does not require that inaccessible vehicles be retrofitted with lifts, ramps or other boarding devices.

(d) Existing vehicles retrofitted to comply with the ''one-car-per-train rule'' at §37.93 of these regulations shall comply with §38.75, §38.77(c), §38.79(a) and §38.83(a) of this part and shall have, in new and key stations, at least one door which complies with §§38.73(a)(1), (b) and (d). Vehicles previously designed and manufactured in accordance with the accessibility requirements of 49 CFR part 609 or the Secretary of Transportation regulations implementing section 504 of the Rehabilitation Act of 1973 that were in effect before October 7, 1991 and which can be entered and used from stations in which they are to be operated, may be used to satisfy the requirements of §37.93 of these regulations.

§ 38.73 Doorways.

(a) *Clear width*. (1) All passenger doorways on vehicle sides shall have minimum clear openings of 32 inches when open.

(2) If doorways connecting adjoining cars in a multi-car train are provided, and if such doorway is connected by an aisle with a minimum clear width of 30 inches to one or more spaces where wheelchair or mobility aid users can be accommodated, then such doorway shall have a minimum clear opening of 30 inches to permit wheelchair and mobility aid users to be evacuated to an adjoining vehicle in an emergency.

(b) *Signage*. The International Symbol of Accessibility shall be displayed on the exterior of each vehicle operating on an accessible light rail system unless all vehicles are accessible and are not marked by the access symbol. (See Fig. 6)

(c) *Signals*. Auditory and visual warning signals shall be provided to alert passengers of closing doors.

(d) *Coordination with boarding platform*—(1) *Requirements*. The design of level-entry vehicles shall be coordinated with the boarding platform or mini-high platform design so that the horizontal gap between a vehicle at rest and the platform shall be no greater than 3 inches and the height of the vehicle floor shall be within plus or minus ⅝ inch of the platform height. Vertical alignment may be accomplished by vehicle air suspension, automatic ramps or lifts, or any combination.

(2) *Exception*. New vehicles operating in existing stations may have a floor height within plus or minus 1½ inches of the platform height. At key stations, the horizontal gap between at least one door of each such vehicle and the platform shall be no greater than 3 inches.

(3) *Exception*. Retrofitted vehicles shall be coordinated with the platform in new and key stations such that the horizontal gap shall be no greater than 4 inches and the height of the vehicle floor, under 50% passenger load, shall be within plus or minus 2 inches of the platform height.

(4) *Exception*. Where it is not operationally or structurally practicable to meet the horizontal or vertical requirements of paragraphs (d)(1), (2) or (3) of this section, platform or vehicle devices complying with §38.83(b) or platform or vehicle mounted ramps or bridge plates complying with §38.83(c) shall be provided.

§ 38.75 Priority seating signs.

(a) Each vehicle shall contain sign(s) which indicate that certain seats are priority seats for persons with disabilities, and that other passengers should make such seats available to those who wish to use them.

(b) Where designated wheelchair or mobility aid seating locations are provided, signs shall indicate the location and advise other passengers of the need to permit wheelchair and mobility aid users to occupy them.

(c) Characters on signs required by paragraphs (a) or (b) of this section shall have a width-to-height ratio between 3:5 and 1:1 and a stroke width-to-height ratio between 1:5 and 1:10, with a minimum character height (using an upper case ''X'') of ⅝ inch, with ''wide'' spacing (generally, the space between letters shall be 1/16 the height of upper case letters), and shall contrast with the background, either light-on-dark or dark-on-light.

§ 38.77 Interior circulation, handrails and stanchions.

(a) Handrails and stanchions shall be sufficient to permit safe boarding, on-board circulation, seating and standing assistance, and alighting by persons with disabilities.

(b) At entrances equipped with steps, handrails and stanchions shall be provided in the entrance to the vehicle in a configuration which allows passengers to grasp such assists from outside the vehicle while starting to board, and to continue using such handrails or stanchions throughout the boarding process. Handrails shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than ⅛ inch. Handrails shall be placed to provide a minimum 1½ inches knuckle clearance from the nearest adjacent surface. Where on-board fare collection devices are used, a horizontal passenger assist shall be located between boarding passengers and the fare collection device and shall prevent passengers from sustaining injuries on the fare collection device or windshield in the event of a sudden deceleration. Without restricting the vestibule space, the assist shall provide support for a boarding passenger from the door through the boarding procedure. Passengers shall be able to lean against the assist for security while paying fares.

(c) At all doors on level-entry vehicles, and at each entrance accessible by lift, ramp, bridge plate or other suitable means, handrails, stanchions, passenger seats, vehicle driver seat platforms, and fare boxes, if applicable, shall be located so as to allow a route at least 32 inches wide so that at least two wheelchair or mobility aid users can enter the vehicle and position the wheelchairs or mobility aids in areas, each having a minimum clear space of 48 inches by 30 inches, which do not unduly restrict movement of other passengers. Space to accommodate wheelchairs and mobility aids may be provided within the normal area used by standees and designation of specific spaces is not required. Particular attention shall be given to ensuring maximum maneuverability immediately inside doors. Ample vertical stanchions from ceiling to seat-back rails shall be provided. Vertical stanchions from ceiling to floor shall not interfere with wheelchair or mobility aid circulation and shall be kept to a minimum in the vicinity of accessible doors.

§ 38.79 Floors, steps and thresholds.

(a) Floor surfaces on aisles, step treads, places for standees, and areas where wheelchair and mobility aid users are to be accommodated shall be slip-resistant.

(b) All thresholds and step edges shall have a band of color(s) running the full width of the step or threshold which contrasts from the step tread and riser or adjacent floor, either light-on-dark or dark-on-light.

§ 38.81 Lighting.

(a) Any stepwell or doorway with a lift, ramp or bridge plate immediately adjacent to the driver shall have, when the door is open, at least 2 footcandles of illumination measured on the step tread or lift platform.

(b) Other stepwells, and doorways with lifts, ramps or bridge plates, shall have, at all times, at least 2 footcandles of illumination measured on the step tread or lift or ramp, when deployed at the vehicle floor level.

(c) The doorways of vehicles not operating at lighted station platforms shall have outside lights which provide at least 1 foot candle of illumination on the station platform or street surface for a distance of 3 feet perpendicular to all points on the bottom step tread. Such lights shall be located below window level and shielded to protect the eyes of entering and exiting passengers.

§ 38.83 Mobility aid accessibility.

(a)(1) *General*. All new light rail vehicles, other than level entry vehicles, covered by this subpart shall provide a level-change mechanism or boarding device (e.g., lift, ramp or bridge plate) complying with either paragraph (b) or (c) of this section and sufficient clearances to permit at least two wheelchair or mobility aid users to reach areas, each with a minimum clear floor space of 48 inches by 30 inches, which do not unduly restrict passenger flow. Space to accommodate wheelchairs and mobility aids may be provided within the normal area used by standees and designation of specific spaces is not required.

(2) *Exception*. If lifts, ramps or bridge plates meeting the requirements of this section are

provided on station platforms or other stops required to be accessible, or mini-high platforms complying with §38.73(d) of this part are provided, the vehicle is not required to be equipped with a car-borne device. Where each new vehicle is compatible with a single platform-mounted access system or device, additional systems or devices are not required for each vehicle provided that the single device could be used to provide access to each new vehicle if passengers using wheelchairs or mobility aids could not be accommodated on a single vehicle.

(b) *Vehicle lift*—(1) *Design load.* The design load of the lift shall be at least 600 pounds. Working parts, such as cables, pulleys, and shafts, which can be expected to wear, and upon which the lift depends for support of the load, shall have a safety factor of at least six, based on the ultimate strength of the material. Nonworking parts, such as platform, frame, and attachment hardware which would not be expected to wear, shall have a safety factor of at least three, based on the ultimate strength of the material.

(2) *Controls*—(i) *Requirements.* The controls shall be interlocked with the vehicle brakes, propulsion system, or door, or shall provide other appropriate mechanisms or systems, to ensure that the vehicle cannot be moved when the lift is not stowed and so the lift cannot be deployed unless the interlocks or systems are engaged. The lift shall deploy to all levels (i.e., ground, curb, and intermediate positions) normally encountered in the operating environment. Where provided, each control for deploying, lowering, raising, and stowing the lift and lowering the roll-off barrier shall be of a momentary contact type requiring continuous manual pressure by the operator and shall not allow improper lift sequencing when the lift platform is occupied. The controls shall allow reversal of the lift operation sequence, such as raising or lowering a platform that is part way down, without allowing an occupied platform to fold or retract into the stowed position.

(ii) *Exception.* Where physical or safety constraints prevent the deployment at some stops of a lift having its long dimension perpendicular to the vehicle axis, the transportation entity may specify a lift which is designed to deploy with its long dimension parallel to the vehicle axis and which pivots into or out of the vehicle while occupied (i.e., ''rotary lift''). The requirements of paragraph (b)(2)(i) of this section prohibiting the lift from being stowed while occupied shall not apply to a lift design of this type if the stowed position is within the passenger compartment and the lift is intended to be stowed while occupied.

(iii) *Exception.* The brake or propulsion system interlocks requirement does not apply to a station platform mounted lift provided that a mechanical, electrical or other system operates to ensure that vehicles do not move when the lift is in use.

(3) *Emergency operation.* The lift shall incorporate an emergency method of deploying, lowering to ground level with a lift occupant, and raising and stowing the empty lift if the power to the lift fails. No emergency method, manual or otherwise, shall be capable of being operated in a manner that could be hazardous to the lift occupant or to the operator when operated according to manufacturer's instructions, and shall not permit the platform to be stowed or folded when occupied, unless the lift is a rotary lift intended to be stowed while occupied.

(4) *Power or equipment failure.* Lift platforms stowed in a vertical position, and deployed platforms when occupied, shall have provisions to prevent their deploying, falling, or folding any faster than 12 inches/second or their dropping of an occupant in the event of a single failure of any load carrying component.

(5) *Platform barriers.* The lift platform shall be equipped with barriers to prevent any of the wheels of a wheelchair or mobility aid from rolling off the lift during its operation. A movable barrier or inherent design feature shall prevent a wheelchair or mobility aid from rolling off the edge closest to the vehicle until the lift is in its fully raised position. Each side of the lift platform which extends beyond the vehicle in its raised position shall have a barrier a minimum 1½ inches high. Such barriers shall not interfere with maneuvering into or out of the aisle. The loading-edge barrier (outer barrier) which functions as a loading ramp when the lift is at ground level, shall be sufficient when raised or closed, or a supplementary system shall be provided, to prevent a power wheelchair or mobility aid from riding over or defeating it. The outer barrier of the lift shall automatically rise or close, or a supplementary system shall automatically engage, and remain raised, closed, or engaged at all times that the lift is more than 3 inches above the station platform or roadway and the lift is occupied. Alternatively, a barrier or system may be raised, lowered, opened, closed, engaged or disengaged by the lift operator provided an interlock or inherent design feature prevents the lift from rising unless the barrier is raised or closed or the supplementary system is engaged.

(6) *Platform surface.* The lift platform surface shall be free of any protrusions over ¼ inch high and shall be slip resistant. The lift platform shall have a minimum clear width of 28½ inches at the platform, a minimum clear width of 30 inches measured from 2 inches above the lift platform surface to 30 inches above the surface, and a minimum clear length of 48 inches measured from 2 inches above the surface of the platform to 30 inches above the surface. (See Fig. 1)

(7) *Platform gaps.* Any openings between the lift platform surface and the raised barriers shall not exceed ⅝ inch wide. When the lift is at vehicle floor height with the inner barrier (if applicable) down or retracted, gaps between the forward lift platform edge and vehicle floor shall not exceed ½ inch horizontally and ⅝ inch vertically. Platforms on semi-automatic lifts may have a hand hold not exceeding 1½ inches by 4½ inches located between the edge barriers.

(8) *Platform entrance ramp.* The entrance ramp, or loading-edge barrier used as a ramp, shall not exceed a slope of 1:8 measured on level ground, for a maximum rise of 3 inches, and the transition from the station platform or roadway to ramp may be vertical without edge treatment up to ¼ inch. Thresholds between ¼ inch and ½ inch high shall be beveled with a slope no greater than 1:2.

(9) *Platform deflection.* The lift platform (not including the entrance ramp) shall not deflect more than 3 degrees (exclusive of vehicle roll) in any direction between its unloaded position and its position when loaded with 600 pounds applied through a 26 inch by 26 inch test pallet at the centroid of the lift platform.

(10) *Platform movement.* No part of the platform shall move at a rate exceeding 6 inches/second during lowering and lifting an occupant, and shall not exceed 12 inches/second during deploying or stowing. This requirement does not apply to the deployment or stowage cycles of lifts that are manually deployed or stowed. The maximum platform horizontal and vertical acceleration when occupied shall be 0.3g.

(11) *Boarding direction.* The lift shall permit both inboard and outboard facing of wheelchairs and mobility aids.

(12) *Use by standees.* Lifts shall accommodate persons using walkers, crutches, canes or braces or who otherwise have difficulty using steps. The lift may be marked to indicate a preferred standing position.

(13) *Handrails.* Platforms on lifts shall be equipped with handrails, on two sides, which move in tandem with the lift which shall be graspable and provide support to standees throughout the entire lift operation. Handrails shall have a usable component at least 8 inches long with the lowest portion a minimum 30 inches above the platform and the highest portion a maximum 38 inches above the platform. The handrails shall be capable of withstanding a force of 100 pounds concentrated at any point on the handrail without permanent deformation of the rail or its supporting structure. Handrails shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than ⅛ inch. Handrails shall be placed to provide a minimum 1½ inches knuckle clearance from the nearest adjacent surface. Handrails shall not interfere with wheelchair or mobility aid maneuverability when entering or leaving the vehicle.

(c) *Vehicle ramp or bridge plate* (1) *Design load.* Ramps or bridge plates 30 inches or longer shall support a load of 600 pounds, placed at the centroid of the ramp or bridge plate distributed over an area of 26 inches by 26 inches, with a safety factor of at least 3 based on the ultimate strength of the material. Ramps or bridge plates shorter than 30 inches shall support a load of 300 pounds.

(2) *Ramp surface.* The ramp or bridge plate surface shall be continuous and slip resistant, shall not have protrusions from the surface greater than ¼ inch, shall have a clear width of 30 inches, and shall accommodate both four-wheel and three-wheel mobility aids.

(3) *Ramp threshold.* The transition from roadway or station platform and the transition from vehicle floor to the ramp or bridge plate may be vertical without edge treatment up to ¼ inch. Changes in level between ¼ inch and ½ inch shall be beveled with a slope no greater than 1:2.

(4) *Ramp barriers.* Each side of the ramp or bridge plate shall have barriers at least 2 inches high to prevent mobility aid wheels from slipping off.

(5) *Slope.* Ramps or bridge plates shall have the least slope practicable. If the height of the vehicle floor, under 50% passenger load, from which the ramp is deployed is 3 inches or less above the station platform a maximum slope of 1:4 is permitted; if the height of the vehicle floor, under 50% passenger load, from which the ramp is deployed is 6 inches or less, but more than 3 inches, above the station platform a maximum slope of 1:6 is permitted; if the height of the vehicle floor, under 50% passenger load, from which the ramp is deployed is 9 inches or less, but more than 6 inches, above the station platform a maximum slope of 1:8 is permitted; if the height of the vehicle floor, under 50% passenger load, from which the ramp is deployed is greater than 9 inches above the station platform a slope of 1:12 shall be achieved. Folding or telescoping ramps are permitted provided they meet all structural requirements of this section.

(6) *Attachment.* (i) *Requirement.* When in use for boarding or alighting, the ramp or bridge plate shall be attached to the vehicle, or otherwise prevented from moving such that it is not subject to displacement when loading or unloading a heavy power mobility aid and that any gaps between vehicle and ramp or bridge plate, and station platform and ramp or bridge plate, shall not exceed ⅝ inch.

(ii) *Exception.* Ramps or bridge plates which are attached to, and deployed from, station platforms are permitted in lieu of vehicle devices provided they meet the displacement requirements of paragraph (c)(6)(i) of this section.

(7) *Stowage.* A compartment, securement system, or other appropriate method shall be provided to ensure that stowed ramps or bridge plates, including portable ramps or bridge plates stowed in the passenger area, do not impinge on a passenger's wheelchair or mobility aid or pose any hazard to passengers in the event of a sudden stop.

(8) *Handrails.* If provided, handrails shall allow persons with disabilities to grasp them from outside the vehicle while starting to board, and to continue to use them throughout the boarding process, and shall have the top between 30 inches and 38 inches above the ramp surface. The handrails shall be capable of withstanding a force of 100 pounds concentrated at any point on the handrail without permanent deformation of the rail or its supporting structure. The handrail shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than ⅛ inch. Handrails shall not interfere with wheelchair or mobility aid maneuverability when entering or leaving the vehicle.

§ 38.85 Between-car barriers

Where vehicles operate in a high-platform, level-boarding mode, devices or systems shall be provided to prevent, deter or warn individuals from inadvertently stepping off the platform between cars. Appropriate devices include, but are not limited to, pantograph gates, chains, motion detectors or other suitable devices.

§ 38.87 Public information system.

(a) Each vehicle shall be equipped with an interior public address system permitting transportation system personnel, or recorded or digitized human speech messages, to announce stations and provide other passenger information. Alternative systems or devices which provide equivalent access are also permitted.

(b) [Reserved].

38.91–38.127 [Reserved]

Subpart F—Over-the-Road Buses and Systems

§ 38.151 General.

(a) New, used and remanufactured over-the-road buses, to be considered accessible by regulations in part 37 of these regulations, shall comply with this subpart.

(b) Over-the-road buses covered by §37.7(c) of these regulations shall comply with §38.23 and this subpart.

§ 38.153 Doors, steps and thresholds.

(a) Floor surfaces on aisles, step treads and areas where wheelchair and mobility aid users are to be accommodated shall be slip-resistant.

(b) All step edges shall have a band of color(s) running the full width of the step which contrasts from the step tread and riser, either dark-on-light or light-on-dark.

(c) To the maximum extent practicable, doors shall have a minimum clear width when open of 30 inches, but in no case less than 27 inches.

§ 38.155 Interior circulation, handrails and stanchions.

(a) Handrails and stanchions shall be provided in the entrance to the vehicle in a configuration which allows passengers to grasp such assists from outside the vehicle while starting to board, and to continue using such handrails or stanchions throughout the boarding process. Handrails shall have a cross-sectional diameter between 1¼ inches and 1½ inches or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than ⅛ inch. Handrails shall be placed to provide a minimum 1½ inches knuckle clearance from the nearest adjacent surface. Where on-board fare collection devices are used, a horizontal passenger assist shall be located between boarding passengers and the fare collection device and shall prevent passengers from sustaining injuries on the fare collection device or windshield in the event of a sudden deceleration. Without restricting the vestibule space, the assist shall provide support for a boarding passenger from the door through the boarding procedure. Passengers shall be able to lean against the assist for security while paying fares.

(b) Where provided within passenger compartments, handrails or stanchions shall be sufficient to permit safe on-board circulation, seating and standing assistance, and alighting by persons with disabilities.

§ 38.157 Lighting.

(a) Any stepwell or doorway immediately adjacent to the driver shall have, when the door is open, at least 2 foot-candles of illumination measured on the step tread.

(b) The vehicle doorway shall have outside light(s) which, when the door is open, provide at least 1 foot-candle of illumination on the street surface for a distance of 3 feet perpendicular to all points on the bottom step tread outer edge. Such light(s) shall be located below window level and shielded to protect the eyes of entering and exiting passengers.

§ 38.159 Mobility aid accessibility. [Reserved]

Subpart G—Other Vehicles and Systems

§ 38.171 General.

(a) New, used and remanufactured vehicles and conveyances for systems not covered by other subparts of this part, to be considered accessible by regulations in part 37 of these regulations, shall comply with this subpart.

(b) If portions of the vehicle or conveyance are modified in a way that affects or could affect accessibility, each such portion shall comply, to the extent practicable, with the applicable provisions of this subpart. This provision does not require that inaccessible vehicles be retrofitted with lifts, ramps or other boarding devices.

§ 38.173 Automated guideway transit vehicles and systems.

(a) Automated Guideway Transit (AGT) vehicles and systems, sometimes called ''people movers,'' operated in airports and other areas where AGT vehicles travel at slow speed (i.e., at a speed of no more than 20 miles per hour at any location on their route during normal operation), shall comply with the provisions of §38.53(a) through (c), and §§38.55 through 38.61 of this part for rapid rail vehicles and systems.

(b) Where the vehicle covered by paragraph (a) of this section will operate in an accessible station, the design of vehicles shall be coordinated with the boarding platform design such that the horizontal gap between a vehicle door at rest and the platform shall be no greater than 1 inch and the height of the vehicle floor shall be within plus or minus ½ inch of the platform height under all normal passenger load conditions. Vertical alignment may be accomplished by vehicle air suspension or other suitable means of meeting the requirement.

(c) In stations where open platforms are not protected by platform screens, a suitable device or system shall be provided to prevent, deter or warn individuals from stepping off the platform between cars. Acceptable devices include, but are not limited to, pantograph gates, chains, motion detectors or other appropriate devices.

(d) Light rail and rapid rail AGT vehicles and systems shall comply with subparts D and C of this part, respectively. AGT systems whose vehicles travel at a speed of more than 20 miles per hour at any location on their route during normal operation are covered under this paragraph rather than under paragraph (a) of this subsection.

§ 38.175 [Reserved]

§ 38.177 [Reserved]

§ 38.179 Trams, similar vehicles and systems.

(a) New and used trams consisting of a tractor unit, with or without passenger accommodations, and one or more passenger trailer units, including but not limited to vehicles providing shuttle service to remote parking areas, between hotels and other public accommodations, and between and within amusement parks and other recreation areas, shall comply with this section. For purposes of determining applicability of §§37.101 or 37.105 of these regulations, the capacity of such a vehicle or ''train'' shall consist of the total combined seating capacity of all units, plus the driver, prior to any modification for accessibility.

(b) Each tractor unit which accommodates passengers and each trailer unit shall comply with §38.25 and §38.29 of this part. In addition, each such unit shall comply with §§38.23(b) or (c) and shall provide at least one space for wheelchair or mobility aid users complying with § 38.23(d) of this part unless the complete operating unit consisting of tractor and one or more trailers can already accommodate at least two wheelchair or mobility aid users.

Figures in Part 38—[Copies of these figures may be obtained from the Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540-1999.]

APPENDIX TO PART 38 —GUIDANCE MATERIAL

This appendix contains materials of an advisory nature and provides additional information that should help the reader to understand the minimum requirements of the guidelines or to design vehicles for greater accessibility. Each entry is applicable to all subparts of this part except where noted. Nothing in this appendix shall in any way obviate any obligation to comply with the requirements of the guidelines themselves.

I. Slip Resistant Surfaces Aisles, Steps, Floor Area Where People Walk, Floor Areas in Securement Locations, Lift Platforms, Ramps

Slip resistance is based on the frictional force necessary to keep a shoe heel or crutch tip from slipping on a walking surface under conditions likely to be found on the surface. While the dynamic coefficient of friction during walking varies in a complex and non-uniform way, the static coefficient of friction, which can be measured in several ways, provides a close approximation of the slip resistance of a surface. Contrary to popular belief, some slippage is necessary to walking, especially for persons with restricted gaits; a truly ''non-slip'' surface could not be negotiated.

The Occupational Safety and Health Administration recommends that walking surfaces have a static coefficient of friction of 0.5. A research project sponsored by the Architectural and Transportation Barriers Compliance Board (Access Board) conducted tests with persons with disabilities and concluded that a higher coefficient of friction was needed by such persons. A static coefficient of friction of 0.6 is recommended for steps, floors, and lift platforms and 0.8 for ramps.

The coefficient of friction varies considerably due to the presence of contaminants, water, floor finishes, and other factors not under the control of transit providers and may be difficult to measure. Nevertheless, many common materials suitable for flooring are now labeled with information on the static coefficient of friction. While it may not be possible to compare one product directly with another, or to guarantee a constant measure, transit operators or vehicle

designers and manufacturers are encouraged to specify materials with appropriate values. As more products include information on slip resistance, improved uniformity in measurement and specification is likely. The Access Board's advisory guidelines on Slip Resistant Surfaces provides additional information on this subject.

II. Color Contrast—Step Edges, Lift Platform Edges

The material used to provide contrast should contrast by at least 70%. Contrast in percent is determined by:

Contrast = $[(B_1—B_2)/B_1]$ x 100

Where B_1 = light reflectance value (LRV) of the lighter area and B_2 = light reflectance value (LRV) of the darker area.

Note that in any application both white and black are never absolute; thus, B_1 never equals 100 and B_2 is always greater than 0.

III. Handrails and Stanchions

In addition to the requirements for handrails and stanchions for rapid, light, and commuter rail vehicles, consideration should be given to the proximity of handrails or stanchions to the area in which wheelchair or mobility aid users may position themselves. When identifying the clear floor space where a wheelchair or mobility aid user can be accommodated, it is suggested that at least one such area be adjacent or in close proximity to a handrail or stanchion. Of course, such a handrail or stanchion cannot encroach upon the required 32 inch width required for the doorway or the route leading to the clear floor space which must be at least 30 by 48 inches in size.

IV. Priority Seating Signs and Other Signage

A. *Finish and Contrast.* The characters and background of signs should be eggshell, matte, or other non-glare finish. An eggshell finish (11 to 19 degree gloss on 60 degree glossimeter) is recommended. Characters and symbols should contrast with their background either light characters on a dark background or dark characters on a light background. Research indicates that signs are more legible for persons with low vision when characters contrast with their background by at least 70 percent. Contrast in percent is determined by:

Contrast = $[(B_1—B_2)/B1]$ x 100

Where B_1 = light reflectance value (LRV) of the lighter area and B_2 = light reflectance value (LRV) of the darker area.

Note that in any application both white and black are never absolute; thus, B_1 never equals 100 and B_2 is always greater than 0.

The greatest readability is usually achieved through the use of light-colored characters or symbols on a dark background.

B. *Destination and Route Signs.* The following specifications, which are required for buses (§ 38.39), are recommended for other types of vehicles, particularly light rail vehicles, where appropriate.

1. Where destination or route information is displayed on the exterior of a vehicle, each vehicle should have illuminated signs on the front and boarding side of the vehicle.

2. Characters on signs covered by paragraph IV.B.1 of this appendix should have a width-to-height ratio between 3:5 and 1:1 and a stroke width-to-height ratio between 1:5 and 1:10, with a minimum character height (using an upper case ''X'') of 1 inch for signs on the boarding side and a minimum character height of 2 inches for front ''headsigns,'' with ''wide'' spacing (generally, the space between letters shall be 1/16 the height of upper case letters), and should contrast with the background, either dark-on-light or light-on-dark, or as recommended above.

C. *Designation of Accessible Vehicles.* The International Symbol of Accessibility should be displayed as shown in Figure 6.

V. Public Information Systems.

There is currently no requirement that vehicles be equipped with an information system which is capable of providing the same or equivalent information to persons with hearing loss. While the Department of Transportation assesses available and soon-to-be available technology during a study conducted during Fiscal Year 1992, entities are encouraged to employ whatever services, signage or alternative systems or devices that provide equivalent access and are available. Two possible types of devices are visual display systems and listening systems. However, it should be noted that while visual display systems accommodate persons who are deaf or are hearing impaired, assistive listening systems aid only those with a partial loss of hearing.

A. *Visual Display Systems.* Announcements may be provided in a visual format by the use of electronic message boards or video monitors.

Electronic message boards using a light emitting diode (LED) or ''flip-dot'' display are currently provided in some transit stations and terminals and may be usable in vehicles. These devices may be used to provide real time or pre-programmed messages; however, real time message displays require the availability of an employee for keyboard entry of the information to be announced.

Video monitor systems, such as visual paging systems provided in some airports (e.g., Baltimore-Washington International Airport), are another alternative. The Architectural and Transportation Barriers Compliance Board (Access Board) can provide technical assistance and information on these systems (''Airport TDD Access: Two Case Studies,'' (1990)).

B. *Assistive Listening Systems.* Assistive listening systems (ALS) are intended to augment standard public address and audio systems by providing signals which can be received directly by persons with special receivers or their own hearing aids and which eliminate or filter background noise. Magnetic induction loops, infra-red and radio frequency systems are types of listening systems which are appropriate for various applications.

An assistive listening system appropriate for transit vehicles, where a group of persons or where the specific individuals are not known in advance, may be different from the system appropriate for a particular individual provided as an auxiliary aid or as part of a reasonable accommodation. The appropriate device for an individual is the type that individual can use, whereas the appropriate system for a station or vehicle will necessarily be geared toward the ''average'' or aggregate needs of various individuals. Earphone jacks with variable volume controls can benefit only people who have slight hearing loss and do not help people who use hearing aids. At the present time, magnetic induction loops are the most feasible type of listening system for people who use hearing aids equipped with ''T-coils'', but people without hearing aids or those with hearing aids not equipped with inductive pick-ups cannot use them without special receivers. Radio frequency systems can be extremely effective and inexpensive. People without hearing aids can use them, but people with hearing aids need a special receiver to use them as they are presently designed. If hearing aids had a jack to allow a by-pass of microphones, then radio frequency systems would be suitable for people with and without hearing aids. Some listening systems may be subject to interference from other equipment and feedback from hearing aids of people who are using the systems. Such interference can be controlled by careful engineering design that anticipates feedback sources in the surrounding area.

The Architectural and Transportation Barriers Compliance Board (Access Board) has published a pamphlet on Assistive Listening Systems which lists demonstration centers across the country where technical assistance can be obtained in selecting and installing appropriate systems. The state of New York has also adopted a detailed technical specification which may be useful.

NOTICE OF ADOPTION OF REGULATION AND SUBMISSION FOR APPROVAL

Mr. THURMOND. Mr. President, pursuant to section 304(b) of the Congressional Accountability Act of 1995 (2 U.S.C. sec. 1384(b)), a notice of adoption of regulation and submission for approval was submitted by the Office of Compliance, U.S. Congress. The notice contains final regulations related to provisions of the Occupational Safety and Health Act of 1970 (Regulations under section 215 of the Congressional Accountability Act of 1995.)

The Congressional Accountability Act requires this notice be printed in the CONGRESSIONAL RECORD, therefore I ask unanimous consent that the notice be printed in the RECORD.

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

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

NOTICE OF ADOPTION OF REGULATION AND SUBMISSION FOR APPROVAL

Summary: The Board of Directors, Office of Compliance, after considering comments to its Notice of Proposed Rulemaking published September 19, 1996, in the Congressional Record, has adopted, and is submitting for approval by the Congress, final regulations implementing section 215 of the Congressional Accountability Act of 1995 (''CAA'').

For Further Information Contact: Executive Director, Office of Compliance, Room LA 200, Library of Congress, Washington, D.C. 20540–1999. Telephone: (202) 724–9250. TDD: (202) 426–1912.

SUPPLEMENTARY INFORMATION

Background and Summary

The Congressional Accountability Act of 1995 (''CAA''), P.L. 104–1, was enacted into law on January 23, 1995. 2 U.S.C. §§1301 *et seq.* In general, the CAA applies the rights and protections of eleven federal labor and employment statutes to covered employees and employing offices within the legislative branch. Section 215(a) provides that each employing office and each covered employee shall comply with the provisions of section 5 of the Occupational Safety and Health Act of 1970, 29 U.S.C. §654 (''OSHAct''). 2 U.S.C. §1341(a).

Section 215(d) of the CAA requires the Board of Directors of the Office of Compliance established under the CAA to issue regulations implementing the section. 2 U.S.C. §1341(d). Section 215(d) further states that such regulations ''shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and

protections under this section.'' *Id.* Section 215(d) further provides that the regulations ''shall include a method of identifying, for purposes of this section and for different categories of violations of subsection (a), the employing office responsible for correction of a particular violation.'' *Id.*

On September 19, 1996, the Board published in the Congressional Record a Notice of Proposed Rulemaking (''NPR'') (142 Cong. Rec. S11019 (daily ed., Sept. 19, 1996)). In response to the NPR, the Board received four written comments, two of which were from offices within the Legislative Branch and two of which were from labor organizations. After full consideration of the comments received in response to the proposed regulations, the Board has adopted and is submitting these regulations for approval by the Congress pursuant to section 304(c) of the CAA.

I. Summary of Comments and Board's Final Rules

A. Request for additional rulemaking proceedings

One commenter requested that the Board withdraw its proposed regulations and engage in what it terms ''investigative rulemaking,'' a process that apparently is to include discussions with involved parties regarding the nature and scope of the regulations. This commenter expressed the concern that affected parties had not been sufficiently involved in the rulemaking process and have been discouraged from providing meaningful comments. Specifically, the commenter objected to the following actions of the Board: (1) providing a comment period of no more than 30 days; (2) issuing a notice of proposed rulemaking without first issuing an advance notice of proposed rulemaking; (3) issuing proposed regulations under section 215 concurrently with proposed regulations under section 210 and shortly before the Congress had adjourned *sine die;* (4) stating in the NPR that nomenclature and other technical changes were made to the adopted regulations, but not specifically cataloguing each of those changes in the summary of the proposed rules; and (5) not providing a record of consultations between the Office and representatives of the Department of Labor in the NPR.

The Board has considered each of the above concerns and, after careful evaluation of them, has determined that further rulemaking proceedings, with their concomitant costs and delay, are not warranted in this context.

1. The request for an extended comment period and for ''investigatory'' rulemaking.—The rulemaking procedure employed by the Board in this context is substantially similar to that employed by the Board with respect to every other regulation promulgated thus far under the CAA; and it complies with the required procedures under section 304 of the CAA. Specifically, section 304(b) generally requires the Board to issue a notice of proposed rulemaking and to provide a comment period of at least 30 days. The Board has done so. Nor is there any reason to believe that a significant extension of the comment period beyond 30 days or a resort to alternative forms of rulemaking would result in a different rulemaking comment record, either qualitatively or quantitatively: The Board's rulemaking record includes an extensive report from its General Counsel—a report which itself was prepared on the basis of an extensive investigation by the General Counsel and with the invited participation of all employing offices. In addition, the General Counsel met with representatives of a number of employing offices prior to the inspections, including the Architect of the Capitol, concerning the appropriate standards to be applied to Legislative Branch facilities. Moreover, no commenter claimed an inability in this rulemaking proceeding to adequately present its views through written submissions. Indeed, the only specific request for an extension of the comment period came from this particular commenter, who requested an extension of only one day, which was granted. No request for further time was sought by the commenter or by any other person or organization. Finally, a review of the comments received tends to reinforce the Board's view that an extended comment period, hearings, and/or other additional forms of rulemaking proceedings would only result in the addition to the record of information which would at most duplicate or corroborate the written comments without providing further insight into or elucidation of the issues involved.

2. Failure to issue an Advance Notice of Proposed Rulemaking.—Although not expressly provided for in the Administrative Procedure Act (''APA''), an advance notice of proposed rulemaking (''ANPR'') is sometimes used by administrative agencies to seek information from the public to assist in framing a notice of proposed rulemaking and to narrow the issues during the public comment period on the proposed rules ultimately developed. *See, e.g.*, 52 Fed. Reg. 38,794 (1987) (preliminary notice for Medicare anti-kickback regulations). Thus, in prior rulemakings, the Board has sometimes used ANPRs to obtain views regarding interpretation of statutory provisions in the CAA that had not previously been interpreted by the Board and to obtain general information regarding conditions within the Legislative Branch that may bear on rulemaking questions. *See, e.g.*, 141 Cong. Rec. S14542 (daily ed. Sept. 28, 1995) (ANPR seeking information regarding, *inter alia,* the standard for determining whether and to what extent regulations under the CAA should be modified for ''good cause;'' whether regulations imposing notice posting and recordkeeping requirements are included within the CAA; whether certain regulations constituted ''substantive regulations;'' and whether the concept of ''joint employer status'' is applicable under the CAA). From these prior rulemaking proceedings, the Board has developed a body of interpretations of the CAA upon which it has drawn in developing the proposed rules in this rulemaking.

In contrast to those earlier rulemaking proceedings, here no ANPR was necessary or appropriate. Both the Board and its statutory appointees have now had over a year's experience in addressing regulatory issues governing the Legislative Branch and have collected a body of institutional knowledge and experience that makes the open-ended information gathering techniques such as an ANPR less needed. Indeed, the rulemaking experience under the CAA over the last year has shown that ANPRs have become less useful over time. For example, although the Board received twelve separate responses to the first ANPR that it issued in September of 1995, the most recent ANPR issued by the Board, regarding rulemaking under section 220(e), elicited only 2 comments directed to section 220(e), neither of which addressed the precise questions posed by the Board in that ANPR. *See* 142 Cong. Rec. S5552 (daily ed. May 23, 1996) (NPR regarding section 220(e)). And, in this context, there is no reason to believe that further comments beyond those received in response to the NPR would have been received had an ANPR been issued.

More to the point, there is no reason to believe that procedures other than the traditional notice-and-comment procedures outlined in section 304 of the CAA would develop any further useful information in the context of rulemaking under section 215 especially given the information already gathered by the Office regarding these issues. Among other things, the General Counsel has conducted an inspection of all facilities within the Legislative Branch for compliance with health and safety standards under sections 215 and disability access standards under section 210, utilizing as guidelines standards that were in a form virtually identical to the regulations which the Board has proposed. The General Counsel also sent detailed inspection questionnaires to each Member of the House of Representatives and to each Member of the Senate regarding compliance with health and safety and disability access standards in District and Home State offices. The General Counsel's reports regarding compliance issues under sections 210 and 215 of the CAA were submitted June 28, 1996 and detailed the application of safety and health and disability regulations to conditions within the legislative branch. Copies of those reports were delivered in July 1996 to each Senator and Representative, to each committee of Congress, and to representatives of every other employing office in the Legislative Branch, including the commenter. No comments were received from anyone concerning the appropriateness of applying any such regulations to Legislative Branch offices, and the commenter has not provided any here.

Where, as here, an ANPR would not likely result in receipt of additional useful information to develop a proposed rule, there is also the concern that its use might be viewed as evidence of procrastination in the face of an obligation to proceed quickly with important rulemaking activity. *Cf. United Steelworkers of America* v. *Pendergrass,* 819 F.2d 1263, 1268 (3d Cir. 1987) (challenge to OSHA's failure to issue revised rule on hazard communication in response to court remand; court was extremely critical of OSHA having published an ANPR to supplement original record); Administrative Conference of the United States Recommendation No. 87-10, ''Regulation by the Occupational Safety and Health Administration,'' *published at* 1 C.F.R. §305.87-10, ¶3(e) (1989) (recommending that agency should not routinely use ANPR's as an information-gathering technique and that they should be used only when information not otherwise available to the agency ''is likely to be forthcoming'' in response to the ANPR). This is particularly true where, as here, the Office of Compliance, through the General Counsel, has already gathered a considerable body of experience and information regarding the conditions of operations and facilities within the Legislative Branch and how the regulations proposed by the Board would likely affect those operations and facilities. Nothing has been offered by any commenter to suggest a new area of inquiry or information which was not considered by the Board in the NPR that might affect the Board's decision regarding any of the regulatory matters contained in the NPR. In the absence of any such showing, additional rulemaking proceedings are neither required nor desirable.

3. The timing of the notice of proposed rulemaking.—The commenter's argument regarding the timing of the issuance of the regulations also does not require additional rulemaking proceedings.

Despite the commenter's suggestion to the contrary, there is nothing unusual or unprecedented about the Board issuing simultaneously two notices of proposed rulemaking implementing two separate sections of the CAA. For example, on November 28, 1995, the Board issued concurrent notices of proposed rulemaking to implement the rights and protections of *five* major sections of the CAA: sections 202 (Family and Medical Leave Act), 203 (Fair Labor Standards Act), 204 (Employee Polygraph Protection Act),

and 205 (Worker Adjustment Retraining and Notification Act). *See, e.g.*, 141 Cong. Rec. S17627-S17652, S17603-27, S17656-64, S17652-56 (daily ed., Nov. 28, 1995). The volume of regulations covered by those five notices (and the collective complexity and diversity of the legal and interpretative rulemaking issues involved in promulgating those five sets of proposed regulations) was significantly greater than the proposed regulations at issue here and those proposed under section 210. The commenter has not shown that there is anything about the nature and extent of the regulations in the current rulemaking proceedings that has impeded the ability of any commenter to provide useful and comprehensive comments.

Similarly, the timing of the issuance of proposed regulations here was not only appropriate, but it also was necessary. Sections 210 and 215 of the CAA become effective on January 1, 1997, a date which was set by the CAA , not by the Board. The proposed regulations were developed and issued as soon as practicable given, *inter alia*, the need of the Board and all interested persons to first have the benefit of the General Counsel's investigation and reports and the need to first complete rulemaking on sections of the CAA that contained earlier effective dates, such as sections 203-207 (effective January 23, 1996) and section 220 (effective October 1, 1996). The proposed regulations were issued when they were in order to afford commenters the earliest practical opportunity to comment on the proposed regulations so that final regulations could be adopted by the Board before the effective date of section 215 of the CAA.

The schedule of Congress cannot be a determinative factor for the Board in deciding when to issue proposed regulations. The CAA applies whether the Congress is in session or not; and the CAA imposes deadlines that must be met whether the Congress is in session or not. The session of Congress is relevant to the date of publication of regulations, which is why the Board submitted the NPR to the Congress prior to adjournment *sine die*, so that the NPR could be published (in accordance with section 304(1) of the CAA) for comment prior to January 1, 1997. The rights and protections of the CAA continue while Congress is in recess, and the CAA requires that employing offices and Members meet their obligations whether Congress is in session or not.

4. Technical and nomenclature changes.—As with prior rulemakings, the Board has proposed to make technical and nomenclature changes to make the language of the adopted regulations fit more naturally to situations arising within the Legislative Branch. *See, e.g.*, 142 Cong. Rec. at S225 (daily ed. Jan. 22, 1996) (final regulations regarding section 203 of the CAA). However, the Board has made clear that such changes are not intended to affect a substantive change in the regulations. *Id*. Examples of such changes include the following substitutions: ''employing office'' for ''employer,'' ''covered employee'' for ''employee,'' definitions of ''employing office'' (including the list of offices set forth in the CAA) for the definition of ''employer,'' and deleting provisions regarding interstate commerce as a basis for jurisdiction (which is not a requirement of the CAA).

The Board disagrees with the commenter's argument that failing to catalogue each of these changes in the preamble somehow hinders commenters' ability to provide effective comments regarding the proposed regulations. Where significant changes in the substance of the regulations have been proposed, such changes have been summarized and discussed in the preamble to the proposed regulations. However, as in past notices of proposed rulemaking, the Board has generally described the nature of proposed technical and nomenclature changes and has made clear that such changes are not intended to effect a significant or substantive change in the nature of the regulations adopted. Moreover, the complete text of the proposed regulations, including technical and nomenclature changes, has been made available for review as part of the NPR. It is the responsibility of commenters to review and comment on these matters; while the Board desires reasonably to assist this process, it cannot do the commenters' work; and there is absolutely no reason to delay rulemaking on this basis.

5. Record of comments and public meetings.—Finally, the Board rejects the suggestion that it publish a summary of the discussions that have occurred between the Office and representatives of the Secretary of Labor and other agencies. Those discussions have not been with members of the Board; and the public record is solely for matters presented to the Board by outside persons. General discussions with outside persons by staff of the Office of Compliance are not properly part of that record; nor are discussions between staff and the Board properly part of that record. There is no legal basis or precedent for making such discussions part of the record; and to do so would improperly chill inter-agency and intra-agency deliberations and communications.

B. Regulations that the Board proposed to adopt

1. Substantive health and safety standards at Parts 1910 and 1926, 29 CFR.—In the NPR, the Board proposed that otherwise applicable health and safety standards of the Secretary's regulations published at Parts 1910 and 1926 of Title 29 of the Code of Federal Regulations (''29 CFR'') be adopted with only limited modifications. All commenters agreed in general with the Board's proposal.

2. Recordkeeping requirements contained in substantive health and safety standards of Parts 1910 and 1926.—The Board further proposed to include within its regulations recordkeeping requirements contained in the substantive health and safety standards of Parts 1910 and 1926, 29 CFR. One commenter took issue with this decision, arguing that adoption of such requirements is contrary to the intent of the CAA. The Board disagrees.

Section 215(d)(2) provides that the Board regulations shall be ''the same as'' the regulations of the Secretary implementing the health and safety standards of section 5 of the OSHAct. Where, as here, a recordkeeping or posting requirement is expressly contained in and inextricably intertwined with a substantive health and safety standard, the Board is required to adopt the standard as written under section 215(d)(2), unless there is good cause to believe that not including the recordkeeping or posting requirement would be ''more effective for the implementation of the rights and protections'' under section 215. In contrast to the general recordkeeping regulations that implement section 8(c) of the OSHAct (discussed at section I.C.2., *infra*), adoption of the health and safety standards, including those specific recordkeeping requirements that are part and parcel of such standards, is authorized (if not compelled) by section 215(d)(2).

The commenter does not offer any basis for concluding that excluding such recordkeeping or posting requirements would be ''more effective'' for implementing the rights and protections of the health and safety standard at issue. On the contrary, there is every reason to believe that the substantive health and safety protections contained in subpart Z of Part 1910, such as the rules relating to employee exposure, would be less effective without a requirement that employing offices document such exposure.

C. Regulations that the Board proposes not to adopt

1. Rules of procedure for variances, procedure regarding inspections, citations, and notices.—The Board proposed not to adopt as regulations under section 215(d) provisions of the Secretary's regulations that did not constitute health and safety standards and/or were not promulgated to implement the provisions of section 5 of the OSHAct. 142 Cong. Rec. at S11020. In doing so, the Board noted that, with respect to those regulations that dealt with procedures of the Office, the Executive Director might, where appropriate, decide to propose comparable provisions pursuant to a rulemaking undertaken in accordance with section 303 of the CAA.

All four commenters took issue with the Board's decision. Two commenters argued that, because sections 8, 9 and 10 of the OSHAct (which include provisions governing variances and the procedure for inspections, citations, and penalties) are referenced in section 215(c) of the CAA, the Secretary's regulations implementing those sections (Parts 1903 and 1905, 29 CFR) are within the Board's mandatory rulemaking authority under section 215(d)(2). These commenters characterized the Board's decision as a refusal to adopt the variance, citations, and inspections regulations because they are ''procedural'' as opposed to ''substantive'' regulations, which the commenters believe is inconsistent with the Board's resolution of a similar issue in the context of the Board's section 220 regulations. *See* 142 Cong. Rec. at S5072 (daily ed. May 15, 1996) (NPR regarding section 220) (procedural rules ''can in fact be substantive regulations'' and the fact that the ''regulations may arguably be procedural in content is, in the Board's view, not a legally sufficient reason for not viewing them as 'substantive' regulations.''). Two other commenters argued that regulations covering the subject of variances, citations, and similar other matters cannot be issued as rules governing the procedures of the Office under section 303 of the CAA, because to do so would improperly circumvent Congress' ability to review and pass on substantive regulations prior to their implementation (since section 303 regulations require no congressional approval). A third commenter argued that rules regarding variances, inspections, and citations should be issued by the Board as substantive regulations, rather than by the Executive Director under section 303 of the CAA; however, this commenter did not offer a legal basis for this argument. Finally, a fourth commenter argued that the Part 1903 regulations should be issued as part of the current rulemaking, regardless whether they are issued as substantive regulations under section 215(d)(2) of the CAA or as procedures of the Office under section 303 of the CAA.

After carefully considering these various comments, the Board has again determined that it would not be legally appropriate to adopt the Secretary's regulations at Parts 1903 and 1905, 29 CFR, as regulations under section 215(d)(2). Contrary to the commenters' characterization, the Board excluded Parts 1903 and 1905 from the proposed regulations, not because they were ''procedural'' as opposed to ''substantive,'' but because they were not within the scope of the Board's rulemaking authority under section 215(d)(2) of the CAA. Section 215(d)(2) provides that the regulations issued by the Board to implement section 215 ''shall be the same as substantive regulations promulgated by the Secretary of Labor to implement *the statutory provisions referred to in subsection (a)* [of section 215],'' except for modification of those regulations for ''good cause.'' The only ''statutory provision[] referred to in subsection (a)'' of section 215 is section 5 of the

OSHAct, which sets forth the substantive health and safety standards applicable to employers. Thus, only the regulations of the Secretary that implement the substantive health and safety standards of section 5 of the OSHAct are within the scope of the Board's rulemaking authority under section 215(d)(2). Because the Secretary's health and safety standards contained in Parts 1910 and 1926 implement section 5 of the OSHAct, such regulations may be included within the proposed regulations; but the Secretary's regulations regarding variance procedures, inspections, citations and notices, set forth at Parts 1903 and 1904, were promulgated to implement sections 8, 9, and 10 of the OSHAct, statutory provisions which are not ''referred to in subsection (a)'' of section 215. Thus, the plain language of section 215(d)(2) excludes such regulations from the scope of the Board's rulemaking mandate under section 215(d)(2).

The commenters apparently read section 215(d)(2)'s requirement that the Board's regulations be ''the same as substantive regulations promulgated by the Secretary of Labor'' as including any regulation promulgated by the Secretary to implement *any* provision of the OSHAct referred to in *any* subsection of section 215, including subsection (c). But the Board may not properly ignore the requirement of section 215(d)(2) that the regulations be promulgated ''to implement the statutory provisions referred to in subsection (a).'' To do so would violate the cardinal rule of statutory construction that a statute should not be read as rendering any word or phrase therein mere surplusage. *See Babbitt* v. *Sweet Home Ch. of Commun. for Greater Or.*, 115 S.Ct. 2407, 2413 (1995).

The only way in which regulations implementing provisions of the OSHAct referred to in subsection (c) could be considered within the scope of regulations under section 215(d)(2) would be by speculating that Congress' specific reference to subsection (a) was inadvertent. However, such ''[s]peculation loses, for the more natural reading of the statute's text, which would give effect to all of its provisions, always prevails over a mere suggestion to disregard or ignore duly created law as legislative oversight.'' *United Food and Commercial Workers* v. *Brown Group, Inc.*, 116 S.Ct. 1529, 1533 (1996).

Furthermore, because section 215(c) sets forth a detailed enforcement procedure which is significantly different from the procedures of the OSHAct, it is doubtful that the drafters intended to include regulations implementing OSHAct enforcement procedures as part of the Board's rulemaking under section 215(c)(2). Instead, given the significant differences between the two statutory enforcement provisions, it is reasonable to conclude that Congress did not intend the Board to presume that the regulations regarding such procedures should be ''the same'' as the Secretary's procedures, as they generally must be if they fell within the Board's substantive rulemaking authority under section 215(d)(2). Thus, the commenters' interpretation is not supported by either the text or the legislative history of section 215.[1]

For this reason, the Board must also reject the commenter's suggestion that it ''modify'' the proposed regulations to include the Secretary's Part 1903 and 1904 regulations. The Board cannot adopt as a ''modification'' regulations that are not within the scope of section 215(d)(2). *See* 141 Cong. Rec. S17603, 17604 (daily ed. Nov. 28, 1995) (''Because the Board's authority to modify the Secretary's regulations for 'good cause' does not authorize it to adopt regulatory requirements that are the equivalent of statutory requirements that Congress has omitted from the CAA * * * ''); *see also MCI Telecommunications* v. *American Tel. & Tel.*, 114 S.Ct. 2223, 2230 (1994) (FCC's statutory authority to ''modify any requirement'' under section of tariff statute did not authorize FCC to make basic and fundamental changes in regulatory scheme; term ''modify'' connotes moderate or incremental change in existing requirements).

2. General recordkeeping requirements.—In the NPR, the Board proposed not to adopt regulations implementing the general recordkeeping requirements of section 8(c) of the OSHAct. The Board determined that section 8(c) of the OSHAct is neither a part of the rights and protections of section 5 of the OSHAct nor a substantive health and safety standard referred to therein. Thus, regulations promulgated by the Secretary to implement the recordkeeping requirements are not within the scope of the Board's rulemaking under section 215(d)(2).

Two commenters asked the Board to reconsider this decision and to issue regulations implementing section 8(c) of the OSHAct. The Board has considered these comments and finds no new arguments or statutory evidence therein to support a change in the Board's original conclusion. The arguments offered by the commenters were substantially the same as those that were considered and rejected by the Board in an earlier rulemaking on an essentially identical issue. *See* 141 Cong. Rec. S17603, 17604 (daily ed. Nov. 28, 1995) (resolving identical issue in the context of rulemaking under section 203 of the CAA).

D. Method for identifying responsible employing office

In section 1.106 of the proposed regulations, the Board set forth a method for identifying the employing office responsible for correction of a particular violation. Under proposed section 1.106, correction of a violation of section 215(a) ''is the responsibility of any employing office that is a creating employing office, a controlling employing office, and/or a correcting employing office, as defined by this section, to the extent that the employing office is in a position to correct or abate the hazard or to ensure its correction or abatement.''

1. General comments regarding section 1.106.—One commenter argued that section 1.106 should be significantly revised or a different method developed by the Board because: (1) the definitions of ''creating,'' ''exposing,'' ''controlling,'' and ''correcting'' employer are allegedly vague and confusing and give insufficient guidance to employing offices regarding their responsibilities; and (2) section 1.106 contemplates the possibility that more than one employing office may be held responsible for correcting a violation, which is said to be contrary to section 215 (which the commenter argues prohibits the imposition of joint responsibility) and, assuming that more than one employing office may properly be held responsible under section 1.106, the Board should provide a mechanism for allocating joint responsibility among multiple offices. The Board has considered each of these arguments and, as explained below, finds no reason to depart substantially from the proposed regulations as issued.

a. Definition of ''creating,'' ''exposing,'' ''controlling,'' and ''correcting'' employing office.—The commenter argued that the definitions of ''creating,'' ''exposing,'' ''controlling,'' and ''correcting'' employing office are vague and confusing because allegedly ''they do little more than imply that an employing office can be responsible in almost all situations'' and allegedly do not give any more guidance on this issue than before the proposed regulations were submitted. However, the commenter has not explained how the provisions of proposed section 1.106 can fairly be seen as vague or confusing. To be sure, proposed section 1.106 states general principles that will need to be applied in the context of actual factual situations by the General Counsel and, ultimately, by the Board. But this is the case with almost every rule of law, whether stated in a statute, a regulation, or a judicial decision. The fact that the text of a regulation on its face does not purport to provide a clear answer to every hypothetical question that may be posed by a party is not a reason to deem a regulation to be unclear. In the course of individual cases before the General Counsel and ultimately the Board, application of these rules will be made to specific situations. Without further elaboration by the commenter as to the nature of the purported ambiguity, there is no reason to believe that further clarification or elaboration in section 1.106 is needed.

b. Joint responsibility.—The commenter argued that section 1.106 authorizes assigning correction responsibility to more than one employing office, which it said to be is contrary to the CAA. In support of its argument, the commenter seized upon the provisions of section 215(d)(3), which direct the Board to develop a method for identifying ''the employing office, not employing offices,'' and section 415, which states that funds to correct violations may be paid only from funds appropriated ''to the employing office or entity responsible for correcting such violations.'' (emphasis in original of comment). According to the commenter, these provisions establish a statutory prohibition on the imposition of ''joint'' responsibility for section 215 violations. Again, the Board disagrees.

First, it is an elementary rule of statutory construction that reference to persons or parties in statutory language stated in the singular is presumed to include the plural. *See, e.g.*, 1 U.S.C. §1 (''In determining the meaning of any Act of Congress, unless the context indicates otherwise—words importing the singular include and apply to several persons, parties, or things'').

Second, nothing in the language of section 215 suggests that the General Counsel and the Board must determine *the* (e.g., ''sole'') employing office responsible for correction. On the contrary, the language of section 215, including other subsections not cited by the commenter, suggests that more than one office may have responsibilities for the safety and health of a covered employee. For example, by applying section 5 of the OSHAct, section 215(a) of the CAA imposes a duty on each employing office to provide to its employees employment and a place of employment free of recognized hazards. Section 215(a) makes clear that other entities (in addition to the employing office) may also have a duty to those employees regarding such hazards ''irrespective of whether the entity has an employment relationship'' with that employee. Section 215(a)(2)(C). *See also* subsection (c)(2) (A) and (B) (authorizing the General Counsel to issue a citation or notice to ''*any* employing office responsible for correcting a violation'') (emphasis added).

Third, adoption of a rule that requires the General Counsel in an investigatory proceeding or the hearing officer and/or the Board in an adjudicatory proceeding to determine a single employing office responsible for correction of a violation would be unworkable (and in some cases impossible to apply) and

[1] Even under the commenters' narrow reading of section 215(d)(2), Part 1905 (rules of practice and procedure relating to variances) is not a ''substantive regulation.'' Part 1905 was issued by the Secretary as a ''rule of agency procedures and practice'' and thus was not promulgated after notice and comment. *See* 36 Fed. Reg. 12,290 (June 30, 1971) (''The rules of practice [Part 1905] shall be effective upon publication in the Federal Register (6–30–71).'').

would be inconsistent with similar principles applied under the OSHAct. In the private sector, where a single employer controls the working conditions and working environment of the employees, that employer is solely accountable under the OSHAct for providing safe working conditions for its employees. Similarly, in situations under section 215 of the CAA where the alleged violation involves a one-employing office workplace that is under the sole authority and jurisdiction of that office, section 1.106 would not be needed to resolve the issue of responsibility for correction. However, as the Board noted in NPR, the vast majority of workplaces in the Legislative Branch are not conventional, one-employing office workplaces. Instead, there are a number of employing offices and entities (including, but not limited to, the Architect of the Capitol, the Sergeants-At-Arms, the Chief Administrative Officer of the House, Senate and House committees, and individual Members) that have varying degrees of actual or apparent jurisdiction, authority, and responsibility for the physical location in which the violation occurred and, therefore, for correction of violations. Section 1.106 is needed to address such situations; and it can workably do so only by imposing responsibility on several covered entities.

In private sector worksites where the working environment is controlled by more than one employer, such as in construction or other activities involving subcontractors, OSHA's longstanding policy has been to hold multiple employers responsible for the correction of workplace hazards in appropriate cases. Thus, when safety or health hazards occur on multi-employer worksites in the private sector, OSHA will issue citations not only to the employer whose employees were exposed to the violation, but also to other employers, such as general contractors or host employers, who can reasonably be expected to have identified or corrected the hazard by virtue of their supervisory role over the worksite. See OSHA Field Inspection Reference manual (''FIRM''), OSHA Instruction CPL 2.103 at III–28,29 (1994). This multi-employer policy does not confer special burdens on these superintending employers, but merely recognizes that employers with overall administrative responsibility for an ongoing project or worksite are responsible under the OSHAct for taking reasonable steps to correct the violation, or to require correction of hazards to the extent of their authority and/or responsibility. There is no legal basis for excusing employing offices under the CAA from similar responsibilities.

As noted in the NPR, the employing office's responsibility for correction is only to the extent that it is ''in a position to correct or abate the hazard or to ensure its correction or abatement.'' In addition, the duties of the employing office under section 1.106 are no more than to exercise the power or authority that it may possess, singularly or together with other employing offices, to ensure the correction of the hazard. The Board finds no compelling reason to reconsider this rule.

The Board also declines the commenter's suggestion that it adopt rules allocating responsibility in what it characterizes as ''joint'' liability situations. Contrary to the commenter's assumption, the responsibility under section 1.106 is not ''joint'' but ''several.'' That is, the employing office is only responsible to the extent that it is a ''creating,'' ''exposing,'' ''controlling,'' and/or ''correcting'' employing office and to the extent that it is ''in a position to correct or abate the hazard or to ensure its correction or abatement.'' Thus, if the facts establish that a particular employing office only ''exposed'' its employees to a hazard (but did not create the hazard or have control over the workspace involved), that employing office discharges its responsibility (and abates its ''share'' of a citation) by ceasing the activity that exposes its employees to the hazard (by not sending its employees to the area, providing personal protective equipment, etc.). Even though the ''exposing'' employing office has discharged its responsibility (and is, therefore, no longer a ''responsible employing office'' with respect to that violation), the ''violation'' at that worksite is not abated until the condition creating the hazard is eliminated. In most cases, that responsibility will be assigned to the ''correcting'' employing office. However, in some cases, the ''controlling'' employing office (the one with legal authority to control the area) may be a different office than the ''correcting'' employing office and, therefore, may need to be a party to any proceeding so that complete relief can be granted by the hearing officer to ensure correction of the violation.

For all of the above reasons, the Board will adopt section 1.106, as modified below, as part of its final regulations.

2. Recommended modifications to section 1.106(c).—One commenter took issue with the following portion of section 1.106(c):

''In addition, if equipment or facilities to be used by an employing office, but not under the control of the employing office, do not meet applicable health and safety standards or otherwise constitute a violation of section 215(a), it is the responsibility of the employing office not to permit its employees to utilize such equipment or facilities. In such circumstances, the employing office is in violation if, and only if, it permits its employees to utilize such equipment or facilities.''

According to the commenter, this statement fails to recognize the affirmative defense to a violation in situations involving multi-employer worksites where the cited employer does not have the ability to recognize or abate the offending condition or has taken reasonable alternative measures to protect its employees from the hazard. *See Anning Johnson Co.* v. *OSHRC*, 516 F.2d 1081 (7th Cir. 1975). The Board agrees with the commenter that employing offices should have the benefit of this affirmative defense in such a situation. Accordingly, the Board will incorporate the commenter's suggested language (which has been modified to conform to the elements of the multi-employer affirmative defense). As amended, the passage in section 1.106(c) will be revised to read as follows:

''In addition, if equipment or facilities to be used by an employing office, but not under the control of the employing office, do not meet applicable health and safety standards or otherwise constitute a violation of section 215(a), it is the responsibility of the employing office not to permit its employees to utilize such equipment or facilities. In such circumstances, an employing office that did not create or control a violation may avoid liability if, and only if, it proves either that it took reasonable alternative measures to protect its employees against the hazard or that it lacked sufficient expertise to recognize that the equipment or facilities did not meet applicable health and safety standards or otherwise constituted a violation of section 215(a).''

E. Future changes in text of health and safety standards

The commenters generally agreed with the Board's proposed approach regarding changes in the substantive health and safety standards. However, two commenters suggested that the Board expressly state the manner and frequency with and by which it plans to submit changes in substantive rules, and the manner and frequency with and by which the Office will advise employees and employing offices of changes to external documents.

As stated in the NPR, the Board will make any changes in the substantive health and safety standards under the rulemaking procedures of section 304 of the CAA. Those changes will be made as frequently as needed. It is impossible for the Board to establish a pre-set schedule under which as yet unanticipated and unknown changes will be made. Similarly, the frequency by which the Office may issue information to employing offices and employing offices regarding the requirements of the CAA will be based on the appropriate professional judgment of the Office and its statutory appointees in the particular circumstances that issues arise; it cannot be specified in advance.

F. Comments on specific provisions

1. Specific standards of Part 1910 incorporated by reference.—One commenter recommended that the Board not adopt the following provisions that were included within the proposed regulations, which the commenter contended are inapplicable to operations of the Legislative Branch: 1910.104 (relating to installation of bulk oxygen systems), 1910.216 (relating to mills and calenders in the rubber and plastics industries), and 1910.266 (relating to logging operations). Upon further consideration, the Board will delete these provisions from its final regulations, as recommended by the commenter.

This commenter also recommended that the Board exclude from the final regulations sections 1910.263 (safety and health standards relating ''to the design, installation, operation and maintenance of machinery and equipment used in a bakery''), and section 1910.264 (standards relating to ''laundry machinery and operations''). Because the terms ''bakery'' and ''laundry'' are not defined in the regulations, it is not clear that these sections are inapplicable to conditions or facilities within the Legislative Branch. Accordingly, out of an abundance of caution, the Board will retain sections 1910.263 and 1910.264 in the final regulations.

Finally, for the reasons set forth in section I.B.2, *supra*, the Board declines the commenter's suggestion that sections 1910.1020 (access to employee exposure and medical records) and 1910.1200 (hazard communication) not be included within the Board's final regulations because they may require employing offices to make or maintain records to meet these substantive health and safety standards.

2. Section 1.104 (Notice of protection).—Two commenters argued that proposed section 1.104 should be deleted since they fear that the section may be interpreted as a notice posting or recordkeeping ''requirement.'' On the contrary, section 1.104 merely provides that, consistent with section 301(h) of the CAA, the Office will make information regarding the CAA available to employing offices in a manner suitable for posting. This identical provision has been included in prior regulations promulgated by the Board and approved by Congress. *See, e.g.*, Final Rules Under Section 204 of the CAA, section 1.6, 141 Cong. Rec. at S265 (daily ed. Jan. 22, 1996).

3. Sections 1.102 (Definition of ''covered employee'') and 1.105 (Authority of the Board).—Two commenters took issue with the Board's inclusion of proposed sections 1.102 (defining ''covered employee'') and 1.105 (stating the Board's authority to promulgate regulations under the CAA) because they contend that such provisions are inconsistent with the CAA and/or not needed. The Board is satisfied that these sections are consistent with the CAA and will be retained. As with proposed section 1.104, proposed sections 1.102

and 1.105 have been included in several prior regulations promulgated by the Board and approved by Congress. *See, e.g.*, Final Rules regarding section 203 of the CAA, sections 501.102, 501.104, 141 Cong. Rec. at S226; Final Rules regarding section 204 of the CAA, sections 1.2 and 1.7, 141 Cong. Rec. at S264-65.

4. Section 1900.1 (Purpose and Scope).—Proposed section 1900.1 sets forth the purpose and scope of the Board's adoption of the occupational safety and health standards of Parts 1910 and 1926, 29 CFR. Subsection (b) makes clear that only the substantive health and safety standards of Parts 1910 and 1926 are adopted by reference and that other materials not relating to health and safety standards are not adopted. One commenter requested further clarification because, in the commenter's view, ''there is no indication of what is 'excluded' '' by the reference. On the contrary, section 1900.1(b) gives an illustration of the types of material not adopted by reference: rules that relate to laws such as the Construction Safety Act, but have no relation to the OSHAct; and statements or references to the duties and/or authorities of the Assistant Secretary of Labor (since such authorities are assigned by the CAA to the General Counsel). In the Board's view, section 1900.1 adequately describes the scope of its incorporation of standards under Parts 1910 and 1926.

G. Technical and nomenclature changes

Two commenters have requested that the Board list the technical and nomenclature changes that it has made to the adopted regulations. Since the Board does not intend by the changes to effect a substantive change in the meaning of the adopted regulations, it is unclear what purpose, if any, would be served by such a list. The regulations adequately set forth the extent of such technical and nomenclature changes. Proposed section 1900.2 states that, except where inconsistent with the definitions, provisions regarding scope, application and coverage, and exemptions provided in the CAA or other sections of these regulations, the definitions, provisions regarding scope, application and coverage, and exemptions provided in Parts 1910 and 1926, 29 CFR, as incorporated into these regulations, shall apply under these regulations. For example, any reference to ''employer'' in Parts 1910 and 1926 shall be deemed to refer to ''employing office.'' The commenter identified a number of other miscellaneous statements in the NPR and the proposed rules therein that it contends are vague and ambiguous or misleading, and/or inconsistent with its reading of the CAA, for which the commenter suggests technical corrections and clarifications. The Board has considered all of these suggestions and, as appropriate, has adopted them.

II. Method of Approval

The Board received no comments on the method of approval for these regulations. Therefore, the Board continues to recommend that (1) the version of the proposed regulations that shall apply to the Senate and employees of the Senate should be approved by the Senate by resolution; (2) the version of the proposed regulations that shall apply to the House of Representatives and employees of the House of Representatives should be approved by the House of Representatives by resolution; and (3) the version of the proposed regulations that shall apply to other covered employees and employing offices should be approved by the Congress by concurrent resolution.

Signed at Washington, D.C. on this 20th day of December, 1996.

GLEN D. NAGER,
Chair of the Board,
Office of Compliance.

Accordingly, the Board of Directors of the Office of Compliance hereby adopts and submits for approval by the Congress the following regulations:

ADOPTED REGULATIONS

APPLICATION OF RIGHTS AND PROTECTIONS OF THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (SECTION 215 OF THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995)

PART 1—MATTERS OF GENERAL APPLICABILITY TO ALL REGULATIONS PROMULGATED UNDER SECTION 215 OF THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995

Sec.
1.101 Purpose and scope
1.102 Definitions
1.103 Coverage
1.104 Notice of protection
1.105 Authority of the Board
1.106 Method for identifying the entity responsible for correction of violations of section 215

§ 1.101 Purpose and scope.

(a) *Section 215 of the CAA.* Enacted into law on January 23, 1995, the Congressional Accountability Act (''CAA'') directly applies the rights and protections of eleven federal labor and employment law and public access statutes to covered employees and employing offices within the Legislative Branch. Section 215(a) of the CAA provides that each employing office and each covered employee shall comply with the provisions of section 5 of the Occupational Safety and Health Act of 1970 (''OSHAct''), 29 U.S.C. §654. Section 5(a) of the OSHAct provides that every covered employer has a general duty to furnish each employee with employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious physical harm to those employees, and a specific duty to comply with occupational safety and health standards promulgated under the law. Section 5(b) requires covered employees to comply with occupational safety and health standards and with all rules, regulations and orders which are applicable to their actions and conduct. Set forth herein are the substantive regulations that the Board of Directors of the Office of Compliance has promulgated pursuant to section 215(d) of the CAA.

(b) *Purpose and scope of regulations.* The regulations set forth herein (Parts 1 and 1900) are the substantive regulations that the Board of Directors of the Office of Compliance has promulgated pursuant to section 215(d) of the CAA. Part 1 contains the general provisions applicable to all regulations under section 215, including the method of identifying entities responsible for correcting a violation of section 215. Part 1900 contains the substantive safety and health standards which the Board has adopted as substantive regulations under section 215(e).

§ 1.102 Definitions.

Except as otherwise specifically provided in these regulations, as used in these regulations:

(a) *Act or CAA* means the Congressional Accountability Act of 1995 (Pub.L. 104–1, 109 Stat. 3, 2 U.S.C. §§1301–1438).

(b) *OSHAct* means the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. §§651, et seq.), as applied to covered employees and employing offices by Section 215 of the CAA.

(c) The term *covered employee* means any employee of (1) the House of Representatives; (2) the Senate; (3) the Capitol Guide Service; (4) the Capitol Police; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; and (8) the Office of Compliance.

(d) The term *employee* includes an applicant for employment and a former employee.

(e) The term *employee of the Office of the Architect of the Capitol* includes any employee of the Office of the Architect of the Capitol, the Botanic Gardens, or the Senate Restaurants.

(f) The term *employee of the Capitol Police* includes any member or officer of the Capitol Police.

(g) The term *employee of the House of Representatives* includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(h) The term *employee of the Senate* includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(i) The term *employing office* means: (1) the personal office of a Member of the House of Representatives or the Senate or a joint committee; (2) a committee of the House of Representatives or the Senate or a joint committee; (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or (4) the Capitol Guide Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Compliance.

(j) The term *employing office* includes any of the following entities that is responsible for correction of a violation of this section, irrespective of whether the entity has an employment relationship with any covered employee in any employing office in which such violation occurs: (1) each office of the Senate, including each office of a Senator and each committee; (2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee; (3) each joint committee of the Congress; (4) the Capitol Guide Service; (5) the Capitol Police; (6) the Congressional Budget Office; (7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden); (8) the Office of the Attending Physician; and (9) the Office of Compliance.

(k) *Board* means the Board of Directors of the Office of Compliance.

(l) *Office* means the Office of Compliance.

(m) *General Counsel* means the General Counsel of the Office of Compliance.

§ 1.103 Coverage.

The coverage of Section 215 of the CAA extends to any ''covered employee.'' It also extends to any ''covered employing office,'' which includes any of the following entities that is responsible for correcting a violation of section 215 (as determined under section 1.106), irrespective of whether the entity has an employment relationship with any covered employee in any employing office in which such a violation occurs:

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Capitol Guide Service;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(8) the Office of the Attending Physician; and

(9) the Office of Compliance.

§ 1.104 Notice of protection.

Pursuant to section 301(h) of the CAA, the Office shall prepare, in a manner suitable for posting, a notice explaining the provisions of section 215 of the CAA. Copies of such notice may be obtained from the Office of Compliance.

§ 1.105 Authority of the Board.

Pursuant to section 215 and 304 of the CAA, the Board is authorized to issue regulations to implement the rights and protections of section 215(a). Section 215(d) of the CAA directs the Board to promulgate regulations implementing section 215 that are ''the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.'' 2 U.S.C. § 1341(d). The regulations issued by the Board herein are on all matters for which section 215 of the CAA requires a regulation to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of promulgation of these regulations, that, with the exception of the regulations adopted and set forth herein, there are no other ''substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 215 of the CAA]'' that need be adopted.

In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the Legislative Branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

§ 1.106 Method for identifying the entity responsible for correction of violations of section 215.

(a) *Purpose and scope.* Section 215(d)(3) of the CAA provides that regulations under section 215(d) include a method of identifying, for purposes of this section and for categories of violations of section 215(a), the employing office responsible for correcting a particular violation. This section sets forth the method for identifying responsible employing offices for the purpose of allocating responsibility for correcting violations of section 215(a) of the CAA. These rules apply to the General Counsel in the exercise of his authority to issue citations or notices to employing offices under sections 215(c)(2)(A) and (B), and to the Office and the Board in the adjudication of complaints under section 215(c)(3).

(b) *Employing Office(s) Responsible for Correcting a Violation of Section 215(a) of the CAA.* With respect to the safety and health standards and other obligations imposed upon employing offices under section 215(a) of the CAA, correction of a violation of section 215(a) is the responsibility of any employing office that is an exposing employing office, a creating employing office, a controlling employing office, and/or a correcting employing office, as defined in this subsection, to the extent that the employing office is in a position to correct or abate the hazard or to ensure its correction or abatement.

(i) *Creating employing office* means the employing office that actually created the hazard forming the basis of the violation or violations of section 215(a).

(ii) *Exposing employing office* means the employing office whose employees are exposed to the hazard forming the basis of the violation or violations of section 215(a).

(iii) *Controlling employing office* means the employing office that is responsible, by agreement or legal authority or through actual practice, for safety and health conditions in the location where the hazard forming the basis for the violation or violations of section 215(a) occurred.

(iv) *Correcting employing office* means the employing office that has the responsibility for actually performing (or the authority or power to order or arrange for) the work necessary to correct or abate the hazard forming the basis of the violation or violations of section 215(a).

(c) *Exposing Employing Office Duties.* Employing offices have direct responsibility for the safety and health of their own employees and are required to instruct them about the hazards that might be encountered, including what protective measures to use. An employing office may not contract away these legal duties to its employees or its ultimate responsibilities under section 215(a) of the CAA by requiring another party or entity to perform them. In addition, if equipment or facilities to be used by an employing office, but not under the control of the employing office, do not meet applicable health and safety standards or otherwise constitutes a violation of section 215(a), it is the responsibility of the employing office not to permit its employees to utilize such equipment or facilities. In such circumstances, an employing office that did not create or control a violation may avoid liability if, and only if, it proves either that it took reasonable alternative measures to protect its employees against the hazard or that it lacked sufficient expertise to recognize that the equipment or facilities did not meet applicable health and safety standards or otherwise constituted a violation of section 215(a). It is not the responsibility of an employing office to effect the correction of any such deficiencies itself, but this does not relieve it of its duty to use only equipment or facilities that meet the requirements of section 215(a).

PART 1900—ADOPTION OF OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Sec.

§ 1900.1 Purpose and scope.

(a) The provisions of this subpart B adopt and extend the applicability of occupational safety and health standards established and promulgated by the Occupational Safety and Health Administration (''OSHA'') and set forth at Parts 1910 and 1926 of title 29 of the Code of Federal Regulations, with respect to every employing office, employee, and employment covered by section 215 of the Congressional Accountability Act.

(b) It bears emphasis that only standards (i.e., substantive rules) relating to safety or health are adopted by any incorporations by reference of standards prescribed in this Part. Other materials contained in the referenced parts are not adopted. Illustrations of the types of materials which are not adopted are these. The incorporation by reference of part 1926, 29 CFR, is not intended to include references to interpretative rules having relevance to the application of the Construction Safety Act, but having no relevance to the Occupational Safety and Health Act. Similarly, the incorporation by reference of part 1910, 29 CFR, is not intended to include any reference to the Assistant Secretary of Labor and the authorities of the Assistant Secretary. The authority to adopt, promulgate, and amend or revoke standards applicable to covered employment under the CAA rests with the Board of Directors of the Office of Compliance pursuant to sections 215(d) and 304 of the CAA. Notwithstanding anything to the contrary contained in the incorporated standards, the exclusive means for enforcement of these standards with respect to covered employment are the procedures and remedies provided for in section 215 of the CAA.

(c) This part incorporates the referenced safety and health standards in effect as of the effective date of these regulations.

§ 1900.2 Definitions, provisions regarding scope, applicability and coverage, and exemptions.

(a) Except where inconsistent with the definitions, provisions regarding scope, application and coverage, and exemptions provided in the CAA or other sections of these regulations, the definitions, provisions regarding scope, application and coverage, and exemptions provided in Parts 1910 and 1926, 29 CFR, as incorporated into these regulations, shall apply under these regulations. For example, any reference to ''employer'' in Parts 1910 and 1926 shall be deemed to refer to ''employing office.'' Similarly, any limitation on coverage in Parts 1910 and 1926 to employers engaged ''in a business that affects commerce'' shall not apply in these regulations.

(b) The provisions of section 1910.6, 29 CFR, regarding the force and effect of standards of agencies of the U.S. Government and organizations that are not agencies of the U.S. Government, which are incorporated by reference in Part 1910, shall apply to the standards incorporated into these regulations.

(c) It is the Board's intent that the standards adopted in these regulations shall have the same force and effect as applied to covered employing offices and employees under section 215 of the CAA as those standards have when applied by OSHA to employers, employees, and places of employment under the jurisdiction of OSHA and the OSHAct.

§ 1900.3 Adoption of occupational safety and health standards.

(a) *Part 1910 Standards.* The standards prescribed in 29 CFR part 1910, Subparts B through S, and Subpart Z, as specifically referenced and set forth herein at Appendix A, are adopted as occupational safety and health standards under Section 215(d) of the CAA and shall apply, according to the provisions thereof, to every employment and place of employment of every covered employee engaged in work in an employing office. Each employing office shall protect the employment and places of employment of each of its covered employees by complying with the appropriate standards described in this paragraph.

(b) *Part 1926 Standards.* The standards prescribed in 29 CFR part 1926, Subparts C through X and Subpart Z, as specifically referenced and forth herein at Appendix B, are adopted as occupational safety and health standards under Section 215(d) of the CAA and shall apply, according to the provisions thereof, to every employment and place of employment of every covered employee engaged in work in an employing office. Each employing office shall protect the employment and places of employment of each of its covered employees by complying with the

appropriate standards described in this paragraph.

(c) *Standards not adopted.* This section adopts as occupational safety and health standards under section 215(d) of the CAA the standards which are prescribed in Parts 1910 and 1926 of 29 CFR. Thus, the standards (substantive rules) published in subparts B through S and Z of part 1910 and subparts C through X and Z of part 1926 are applied. As set forth in Appendix A and Appendix B to this Part, this section does not incorporate all sections contained in these subparts. For example, this section does not incorporate sections 1910.15, 1910.16, and 1910.142, relating to shipyard employment, longshoring and marine terminals, and temporary labor camps, because such provisions have no application to employment within entities covered by the CAA.

(d) Copies of the standards which are incorporated by reference may be examined at the Office of Compliance, Room LA 200, 110 Second Street, S.E., Washington, D.C. 20540-1999. The OSHA standards may also be found at 29 CFR Parts 1910 and 1926. Copies of the standards may also be examined at the national office of the Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210, and their regional offices. Copies of private standards may be obtained from the issuing organizations. Their names and addresses are listed in the pertinent subparts of Parts 1910 and 1926, 29 CFR.

(e) Any changes in the standards incorporated by reference in the portions of Parts 1910 and 1926, 29 CFR, adopted herein and an official historic file of such changes are available for inspection at the national office of the Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210.

APPENDIX A TO PART 1900 REFERENCES TO SECTIONS OF PART 1910, 29 CFR, ADOPTED AS OCCUPATIONAL SAFETY AND HEALTH STANDARDS UNDER SECTION 215(D) OF THE CAA

The following is a reference listing of the sections and subparts of Part 1910, 29 CFR, which are adopted as occupational safety and health standards under section 215(d) of the Congressional Accountability Act. Unless otherwise specifically noted, any reference to a section number includes any appendices to that section.

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Subpart B—Adoption and Extension of Established Federal Standards

Sec.
1910.12 Construction work.
1910.18 Changes in established Federal standards.
1910.19 Special provisions for air contaminants.

Subpart C—General Safety and Health Provisions [Reserved]

Subpart D—Walking—Working Surfaces

1910.21 Definitions.
1910.22 General requirements.
1910.23 Guarding floor and wall openings and holes.
1910.24 Fixed industrial stairs.
1910.25 Portable wood ladders.
1910.26 Portable metal ladders.
1910.27 Fixed ladders.
1910.28 Safety requirements for scaffolding.
1910.29 Manually propelled mobile ladder stands and scaffolds (towers).
1910.30 Other working surfaces.

Subpart E—Means of Egress

1910.35 Definitions.
1910.36 General requirements.
1910.37 Means of egress, general.
1910.38 Employee emergency plans and fire prevention plans.
Appendix to Subpart E—Means of Egress

Subpart F—Powered Platforms, Manlifts, and Vehicle-Mounted Work Platforms

1910.66 Powered platforms for building maintenance.
1910.67 Vehicle-mounted elevating and rotating work platforms.
1910.68 Manlifts.

Subpart G—Occupational Health and Environmental Control

1910.94 Ventilation.
1910.95 Occupational noise exposure.
1910.96 [Reserved]
1910.97 Nonionizing radiation.

Subpart H—Hazardous Materials

1910.101 Compressed gases (general requirements).
1910.102 Acetylene.
1910.103 Hydrogen.
1910.104 [Reserved]
1910.105 Nitrous oxide.
1910.106 Flammable and combustible liquids.
1910.107 Spray finishing using flammable and combustible materials.
1910.108 Dip tanks containing flammable or combustible liquids.
1910.109 Explosives and blasting agents.
1910.110 Storage and handling of liquefied petroleum gases.
1910.111 Storage and handling of anhydrous ammonia.
1910.112 [Reserved]
1910.113 [Reserved]
1910.119 Process safety management of highly hazardous chemicals.
1910.120 Hazardous waste operations and emergency response.

Subpart I—Personal Protective Equipment

1910.132 General requirements.
1910.133 Eye and face protection.
1910.134 Respiratory protection.
1910.135 Head protection.
1910.136 Foot protection.
1910.137 Electrical protective devices.
1910.138 Hand Protection.

Subpart J—General Environmental Controls

1910.141 Sanitation.
1910.143 Nonwater carriage disposal systems. [Reserved]
1910.144 Safety color code for marking physical hazards.
1910.145 Specifications for accident prevention signs and tags.
1910.146 Permit-required confined spaces.
1910.147 The control of hazardous energy (lockout/tagout).

Subpart K—Medical and First Aid

1910.151 Medical services and first aid.
1910.152 [Reserved]

Subpart L—Fire Protection

1910.155 Scope, application and definitions applicable to this subpart.
1910.156 Fire brigades.
Portable Fire Suppression Equipment
1910.157 Portable fire extinguishers.
1910.158 Standpipe and hose systems.
Fixed Fire Suppression Equipment
1910.159 Automatic sprinkler systems.
1910.160 Fixed extinguishing systems, general.
1910.161 Fixed extinguishing systems, dry chemical.
1910.162 Fixed extinguishing systems, gaseous agent.
1910.163 Fixed extinguishing systems, water spray and foam.
Other Fire Protective Systems
1910.164 Fire detection systems.
1910.165 Employee alarm systems.
Appendices to Subpart L
Appendix A to Subpart L—Fire Protection
Appendix B to Subpart L—National Consensus Standards
Appendix C to Subpart L—Fire Protection References for Further Information
Appendix D to Subpart L—Availability of Publications Incorporated by Reference In Section 1910.156 Fire Brigades
Appendix E to Subpart L—Test Methods for Protective Clothing

Subpart M—Compressed Gas and Compressed Air Equipment

1910.166 [Reserved]
1910.167 [Reserved]
1910.168 [Reserved]
1910.169 Air receivers.

Subpart N—Materials Handling and Storage

1910.176 Handling material—general.
1910.177 Servicing multi-piece and single piece rim wheels.
1910.178 Powered industrial trucks.
1910.179 Overhead and gantry cranes.
1910.180 Crawler locomotive and truck cranes.
1910.181 Derricks.
1910.183 Helicopters.
1910.184 Slings.

Subpart O—Machinery and Machine Guarding

1910.211 Definitions.
1910.212 General requirements for all machines.
1910.213 Woodworking machinery requirements.
1910.215 Abrasive wheel machinery.
1910.216 [Reserved]
1910.217 Mechanical power presses.
1910.218 Forging machines.
1910.219 Mechanical power-transmission apparatus.

Subpart P—Hand and Portable Powered Tools and Other Hand-Held Equipment

1910.241 Definitions.
1910.242 Hand and portable powered tools and equipment, general.
1910.243 Guarding of portable powered tools.
1910.244 Other portable tools and equipment.

Subpart Q—Welding, Cutting, and Brazing.

1910.251 Definitions.
1910.252 General requirements.
1910.253 Oxygen-fuel gas welding and cutting.
1910.254 Arc welding and cutting.
1910.255 Resistance welding.

Subpart R—Special Industries

1910.263 Bakery equipment.
1910.264 Laundry machinery and operations.
1910.265–1910.267 [Reserved]
1910.268 Telecommunications.
1910.269 Electric power generation, transmission, and distribution.

Subpart S—Electrical

General
1910.301 Introduction.
Design Safety Standards for Electrical Systems
1910.302 Electric utilization systems.
1910.303 General requirements.
1910.304 Wiring design and protection.
1910.305 Wiring methods, components, and equipment for general use.
1910.306 Specific purpose equipment and installations.
1910.307 Hazardous (classified) locations.
1910.308 Special systems.
1910.309–1910.330 [Reserved]
Safety-Related Work Practices
1910.331 Scope.
1910.332 Training.
1910.333 Selection and use of work practices.
1910.334 Use of equipment.
1910.335 Safeguards for personnel protection.
1910.336—1910.360 [Reserved]
Safety-Related Maintenance Requirements
1910.361—1910.380 [Reserved]
Safety Requirements for Special Equipment
1910.381—1910.398 [Reserved]
Definitions
1910.399 Definitions applicable to this subpart.

OFFICE OF COMPLIANCE REPORT TO CONGRESS

Mr. THURMOND. Mr. President, pursuant to section 102(b) of the Congressional Accountability Act of 1995 (2 U.S.C. sec. 1302(b)), the Board of Directors of the Office of Compliance has submitted a report to Congress. This document is titled a ''Review and Report of the Applicability to the Legislative Branch of Federal Law Relating to Terms and Conditions of Employment and Access to Public Services and Accommodations.''

Section 102(b) requires this report to be printed in the CONGRESSIONAL RECORD, and referred to committees with jurisdiction. Therefore I ask unanimous consent that the report be printed in the RECORD.

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

REVIEW AND REPORT OF THE APPLICABILITY TO THE LEGISLATIVE BRANCH OF FEDERAL LAW RELATING TO TERMS AND CONDITIONS OF EMPLOYMENT AND ACCESS TO PUBLIC SERVICES AND ACCOMMODATIONS

[Prepared by the Board of Directors of the Office of Compliance Pursuant to Section 102(b) of the Congressional Accountability Act of 1995 (PL 104–1), Dec. 31, 1996]

SECTION 102 (b) REPORT

Section 102(a) of the Congressional Accountability Act (CAA) lists the eleven laws that ''shall apply, as prescribed by this Act, to the legislative branch of the Federal Government.'' Section 102(b) directs the Board of Directors (Board) of the Office of Compliance to: ''review provisions of Federal law (including regulations) relating to (A) the terms and conditions of employment (including hiring, promotion, demotion, termination, salary, wages, overtime compensation, benefits, work assignments or reassignments, grievance and disciplinary procedures, protection from discrimination in personnel actions, occupational health and safety, and family and medical and other leave) of employees, and (B) access to public services and accommodations.''

And, on the basis of this review, ''[b]eginning on December 31, 1996, and every 2 years thereafter, the Board shall report on (A) whether or to what degree the provisions described in paragraph (1) are applicable or inapplicable to the legislative branch, and (B) with respect to provisions inapplicable to the legislative branch, whether such provisions should be made applicable to the legislative branch.''

In preparing this report, the Board has reviewed the entire United States Code to identify those laws and associated regulations of general application that relate to terms and conditions of employment or access to public accommodations and services. In other words, the Board has reviewed those provisions of law that confer employment rights or benefits on or affect workplace conditions of employees, and that create a corresponding mandate for employers, or that relate to access to public services or accommodations. The Board excluded from consideration those laws that, although employment-related, *(1)* are specific to narrow or specialized industries or types of employment not found in the legislative branch (*e.g.*, employment in maritime or mining industries, or the armed forces, or employment in a project funded by federal grants or contracts); *or (2)* establish government programs of research, data-collection, advocacy, or training, but do not establish correlative rights and responsibilities for employees and employers (*e.g.*, statutes authorizing the Women's Bureau of Labor Statistics); *or (3)* authorize, but do not require, that employers provide benefits to employees, (*e.g.*, so-called ''cafeteria plans'' authorized by 26 U.S.C. 125).

For ease of reference, the results of this research are presented in four tables, each of which contains a matrix of analysis consisting of four parts. The first column of each table lists the name or a short description of the law; the second gives the United States Code citation and any relevant Code of Federal Regulations citation; the third summarizes the provision of law to illustrate the extent to which it relates to terms and conditions of employment or access to public services or accommodations; and, the fourth analyzes the extent of the provision's application in the legislative branch. Because many statutes are either silent or ambiguous in their definition of coverage, and because the issue is only infrequently litigated, it is often difficult to determine definitively

whether a statute is applicable to the legislative branch. The Board has generally followed the principle that coverage must be clearly and unambiguously stated.

Table A lists and reviews those provisions of law relating to terms and conditions of employment or access to public accommodations and services that are generally applicable in the private sector and/or in state and local government, and that are already applicable to entities in the legislative branch of the federal government. This table includes nine of the statutes made applicable to the legislative branch by the CAA.[1]

Table B lists and reviews those provisions of law that apply only in the federal public sector, and have no application in the private sector or in state or local governments. Table B includes the two exclusively federal factor laws applied to the legislative branch by the CAA.[2] Also listed in this table are the civil service laws in title 5 of the United States Code, the employment-related laws applicable to Congress and the President, and a variety of other employment-related laws applicable only in the federal public sector.

Table C lists and reviews five private sector and/or state and local government provisions of law that do not apply in the legislative branch. The five provisions of law listed in this table are: the Government Employees Rights Act of 1991, a provision of the Immigration Reform Control Act, the National Labor Relations Act, the Employee Retirement Income Security Act, and provisions of the Consolidated Omnibus Budget Reconciliation Act of 1998 (COBRA). In the fourth column of this table, the Board identifies other provisions of law, currently applicable in the legislative branch, that confer similar or related rights and protections to those provided by the five private sector provisions of law. Those provisions that, in the Board's view, create corresponding rights and protections for the legislative branch are: the antidiscrimination provisions of the Congressional Accountability Act, Legislative Branch Appropriations Acts, the Federal Service Labor-Management Relations Statute provisions, as applied by the Congressional Accountability Act, the Federal Employees Retirement System provisions, and the Federal Employees Health Benefits Program, respectively.

Table D contains the Board's review of thirteen other private sector and/or state and local government provisions of law that do not apply or have very limited application to entities in the legislative branch. The first entry in the table discusses a provision in the Immigration Reform and Control Act, which forbids discrimination by employers on the basis of national origin or citizenship status. Entry two prohibits employment discrimination based on the fact that an employee has declared personal bankruptcy. Entry three prohibits an employer from firing an employee because that employee's wages have been subject to garnishment. The fourth provision in Table D prohibits an employer from discharging an employee because that employee was called to serve on a jury. The next two entries, title II and III of the Civil Rights Act of 1964, prohibit discrimination on the basis of race, color, religion, or national origin in the provision of public accommodations and services. The final two entries review the employee protection provisions contained in seven environmental protection statutes.

Having completed the review and analysis summarized in the tables, the Board next considered the basis on which to decide whether those statutes that were currently inapplicable to the legislative branch ''should'' be applied to the legislative branch. The statutory mandate of Section 102(b) could be interpreted to require the Board to report on whether all the provisions analyzed in the tables should or should not now be made fully applicable to all entities within the legislative branch. The Board did not do so because, as even a cursory review of those tables demonstrates, that task is the work of many hands and many years. Moreover, section 102(b)(2), in mandating that the Board report biennially, argues for accomplishing such statutory change on an incremental basis through an ongoing reporting process. Accordingly, the Board has decided to focus this, its first report, on the statutes in Table D, for which there is currently no coverage in the legislative branch, and to defer consideration of those provisions of private and public sector laws in tables A, B, and C, not currently fully applicable to the legislative branch, for discussion in future reports.

The Board's rationale for setting these priorities in its first biennial report derives from its reading of the CAA and from prudential institutional concerns. Because the statute does not give direct guidance, the Board set its priorities from the priorities found in the CAA. The CAA focuses almost entirely on private sector law, applying to the legislative branch only two exclusively federal public sector provisions of law. This reading of the legislative priorities established in the CAA is supported by the statement of Senator Grassley, one of the bill's sponsors, who called for an end to the situation in which ''[t]here is one set of protections for people in the private sector whose employees are protected by the employment, safety and civil rights laws, but no protection, or very little protection for employees on Capitol Hill.''[3] The Board has determined likewise to focus attention in its first biennial report on private sector law. Further, the Board made its first priority the cases where, as Senator Grassley put it, there is currently ''no protection, or very little protection'' in the legislative branch. Accordingly, the Board focused on reporting on private sector laws found in Table D that currently have no or very limited application to entities in the legislative branch.

The Board next considered how to treat the statutes in the other tables. Because the CAA itself was concerned almost exclusively with the application of private sector law to the legislative branch, the Board gave the federal sector statutes found in Table B a low priority. Further, determining which currently inapplicable provisions of federal civil service law could and ''should'' be applied to the legislative branch and, if so, to which entities, is difficult. Table B indicates how disparate the application of federal sector laws currently is in the legislative branch and the difficulty in finding a rational organizing principle. Some of the statutes or provisions of statutes already apply to some entities within the legislative branch, but not to others; while a number do not have any application to any entity within the legislative branch. Moreover, the executive branch and the Congress are presently in the process of reexamining the application of federal civil service law in some parts of the executive branch. While such review is underway, the Board has determined that it would be premature to consider applying to the Congress the very provisions at issue. Additionally, such determinations involve, in part, weighing the merits of the protections afforded by CAA against those provided under other statutory schemes. But in this, its first year of administering the CAA, it would be premature for the Board to make such comparative judgments. Therefore, in light of the priorities established by the CAA and the prematurity of review at this time, the Board decided to defer reporting on the statutes listed in Table B for future reports.

Likewise, prudential concerns led the Board to defer consideration of the statutes found in Table C. Although Table C comprises a universe of statutes that are currently inapplicable to entities in the legislative branch, the Congress has already applied comparable provisions to legislative branch entities. As the Board gains rulemaking and adjudicatory experience in the application of the CAA to the legislative branch, the Board will be better situated to formulate recommendations about appropriate changes in those different statutory schemes. Thus, the Board has determined to defer consideration of the laws in table C in this first report.

Table A, as noted above, comprises the universe of private sector law and/or state and local government law that Congress has, with only limited exception, already applied to the legislative branch, including nine of the laws made applicable by the CAA. Because of the obvious importance of these laws to the CAA, the Board intends to undertake a more in depth study of the specific exceptions created by Congress, with the goal of issuing an interim report prior to December 31, 1998 with regard to whether and to what degree the provisions excepted from the laws set forth in Table A should be made applicable to the legislative branch.

Turning now to those statutes in Table D that currently do not apply to the legislative branch, the Board reports below on whether those provisions should or should not be applied to the legislative branch. Because a major goal of the CAA was to achieve parity with the private sector, the Board has determined that, if our review reveals no impediment to applying the provision in question to the legislative branch, it should be made applicable.

Prohibition against discrimination based on national origin or citizenship status (8 U.S.C. 1324b)

Section 1324b of the Immigration Reform and Control Act (IRCA) prohibits employment discrimination by employers of three or more employees against a person because of national origin or citizenship status. This section of IRCA, on its face, does not appear to apply to entities in the legislative branch. The national origin discrimination provisions of IRCA, by their terms, do not apply to any employer that is covered by Title VII. 8 U.S.C. 1324b(a)(2)(B). The CAA already applies the rights and protections of Title VII to legislative branch employment and therefore, IRCA's national origin discrimination provisions would not apply, even if IRCA was generally extended to the legislative branch.

While IRCA prohibits citizenship status discrimination generally, it permits such discrimination to the extent such discrimination is required by federal, state, or local

[1] The nine CAA statutes treated in Table A are: the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.), the Family and Medical Leave Act of 1993 (29 U.S.C. 2611 et seq.), the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Employment Polygraph Protection Act of 1988 (29 U.S.C. 2001 et seq.), the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.), and Chapter 43 (relating to uniformed services employment and reemployment) of title 38, United States Code. (See Table B for the two CAA statutes applicable only in the federal public sector.)

[2] The two statutes made applicable to the legislative branch by the CAA are: Chapter 71 (relating to federal service labor-management relations) of title 5, United States Code, and the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

[3] 141 Cong. Rec. S622 (daily ed. Jan. 9, 1995).

law, regulation, or executive order. 8 U.S.C. 1324b(a)(2)(C). Thus, IRCA gives governments an ''override'' power with respect to their own hiring practices, and in establishing employment in a government contract with private employers, to require American citizenship as a condition of employment. IRCA, if applied to the legislative branch, would likewise allow legislative branch entities, by law or regulation, to require American citizenship as a condition of employment in any covered facility. The legislative branch has, in the context of appropriations bills, imposed citizenship restrictions on federal government hiring. *See, e.g.*, Pub. L. No. 104–52, title VI, §606, 109 Stat. 497 (Nov. 19, 1995) (except as otherwise provided, no part of any appropriation contained in this or any other act shall be used to pay the compensation of any officer or employee of the Government of the U.S. whose post of duty is the continental U.S. unless such person is a U.S. citizen or intended citizen or meets other specified requirements). Therefore, application of this section of IRCA would be without significant effect.

Prohibition against discrimination on the basis of bankruptcy (11 U.S.C. 525)

Section 525(a) provides that ''a government unit'' may not deny employment to, terminate the employment of, or discriminate with respect to employment against, a person that is or has been a debtor under the bankruptcy statutes. This provision currently does not apply to the legislative branch. For the reason stated above, the Board reports that the rights and protections against discrimination on this basis should be applied to employing offices within the legislative branch.

Prohibition against discharge from employment by reason of garnishment (15 U.S.C. 1674(a))

Section 1674(a) prohibits discharge of any employee because his or her earnings ''have been subject to garnishment for any one indebtedness.'' This section is limited to private employers, so it currently has no application to the legislative branch. For the reason set forth above, the Board has determined that the rights and protections against discrimination on this basis should be applied to employing offices within the legislative branch.

Prohibition against discrimination on the basis of jury duty (28 U.S.C. 1875)

Section 1875 provides that no employer shall discharge, threaten to discharge, intimidate, or coerce any permanent employee by reason of such employee's jury service, or the attendance or scheduled attendance in connection with such service, in any court of the United States. This section currently does not cover legislative branch employment. For the reason set forth above, the Board has determined that the rights and protections against discrimination on this basis should be applied to employing offices within the legislative branch.

Titles II and III of the Civil Rights Act of 1964 (42 U.S.C. 2000a to 2000a–6, 2000b to 2000b–3)

These titles prohibit discrimination or segregation on the basis of race, color, religion, or national origin regarding the goods, services, facilities, privileges, advantages, and accommodations of ''any place of public accommodation'' as defined in the Act. Although the CAA incorporated the protections of titles II and III of the ADA, which prohibit discrimination on the basis of disability with respect to access to public services and accommodations, it does not extend protection based upon race, color, religion, or national origin. Since those protections of titles II and III of the Civil Rights Act do not currently apply to entities in the legislative branch, the Board has determined that the rights and protections afforded by titles II and III of the Civil Rights Act of 1964 against discrimination with respect to places of public accommodation should be applied to employing offices within the legislative branch.

Employee protection provisions in the environmental protection statutes (15 U.S.C. 2622; 33 U.S.C. 1367; 42 U.S.C. 300j–9(i), 5851, 6971, 7622, 9610)

These provisions generally protect an employee from discrimination in employment because the employee has commenced, or caused to be commenced, proceedings under the applicable statutes, has testified or is about to testify in any such proceedings, or has participated or is about to participate in any way in such proceedings. It is unclear to what extent, if any, these provisions apply to entities in the legislative branch. Furthermore, even if applicable or partially applicable, it is unclear whether and to what extent the legislative branch has the type of employees and employing offices that would be subject to these provisions. Consequently, the Board reserves judgment on whether or not these provisions should be made applicable to the legislative branch at this time.

Thus, pursuant to section 102(b), the Board submits this review and report, concluding that the following provisions of law, summarized in Table D, should be applied to the legislative branch: 11 U.S.C. 525 (bankruptcy); 15 U.S.C. 1675(a) (garnishment); 28 U.S.C. 1875 (jury duty); and titles II and III of the Civil Rights Act of 1964 (42 U.S.C. 2000a to 2000a–6, 2000b to 2000b–3) (public accommodations and services).

(The analysis and conclusions in this review and report are being made solely for the purposes set forth in section 102(b) of the Congressional Accountability Act. Nothing in this review and report is intended or should be construed as a definitive interpretation of any factual or legal question by the Office of Compliance or its Board of Directors.)

(The Board of Directors of the Office of Compliance gratefully acknowledges the contributions of Lawrence B. Novey and Nicola O. Goren for their work on this review and report.)

TABLE A—PRIVATE SECTOR AND STATE AND LOCAL GOVERNMENT PROVISIONS OF LAW AND RIGHTS AND PROTECTIONS ALREADY APPLICABLE IN THE LEGISLATIVE BRANCH

Name or topic	U.S. Code provisions and corresponding Federal regulations, if any	Provisions that relate to the terms and conditions of employment, or to access to public services or accommodations	Whether or to what degree the provisions are applicable or inapplicable to the legislative branch
Restrictions on garnishment	15 U.S.C. 1673 5 C.F.R. parts 581 and 582 generally (Regulations of the Office of Personnel Management)	Provision restricts the amount by which an employee's earnings may be subject to garnishment to satisfy employee debts to creditors.	Provisions of law apply in the legislative branch by virtue of 5 U.S.C. 5520a.
Provision relating to promise of employment for political activity.	18 U.S.C. 600	Provision prohibits the promise of employment, position, or compensation etc. made possible by an Act of Congress, to any person as consideration, favor or reward, for political activity, support, opposition, or in connection with any primary election or political convention.	Provisions apply in the legislative branch.
Provision relating to deprivation of employment for political contribution.	18 U.S.C. 601	Provision prohibits the causing or attempting to cause any person to make a political contribution through the denial or deprivation, or threat thereof, of any employment, position, or work in or for any agency or other entity of Government of the United States where such employment, position, or work is made possible by an Act of Congress.	Provisions apply in the legislative branch.
Provisions relating to peonage and involuntary servitude ..	18 U.S.C. 1581 and 1584	Provisions establish criminal penalties for holding anyone in a condition of peonage or involuntary servitude.	Provisions apply in the legislative branch.
Fair Labor Standards Act and the Portal to Portal Act (FLSA).	29 U.S.C. 201 to 219 29 U.S.C. 251 to 262. 29 C.F.R. parts 510 to 580 generally, and part 775 (Regulations of the Secretary of Labor). 142 Cong. Rec. S3924 to S3949 (April 23, 1996) (Regulations of the Office of Compliance).	Provisions govern overtime pay, minimum wage, and child labor protections. Also require that women receive equal pay for equal work. The provisions of the Portal to Portal Act generally allow an employer to use as a defense a good faith reliance upon applicable interpretative bulletins of the Secretary of Labor.	Certain provisions of the FLSA were made applicable to the legislative branch by section 203 of the CAA. Among those not made applicable are those relating to record-keeping, notice posting, and the power of the Department of Labor to audit employers and enforce the law. The CAA generally requires that the Board of Directors of the Office of Compliance issue implementing regulations that are the same as substantive regulations of the Secretary of Labor, except where good cause exists to modify them.
Discrimination on the basis of age	29 U.S.C. 621 to 633a 29 C.F.R. parts 1625 to 1627 (Interpretations, procedures, etc. of the Equal Employment Opportunity Commission).	The Age Discrimination in Employment Act of 1967 prohibits employment discrimination against persons 40 years of age and over.	Section 201(a) of the CAA requires that ''[a]ll personnel actions affecting covered employees shall be made free from any discrimination based on—. . . (2) age, within the meaning of section 15 of the Age Discrimination in Employment Act of 1967.'' Section 201(b)(2) also provides that the remedy for a violation would be ''(A) such remedy as would be appropriate if awarded under section 15(c) of the Age Discrimination in Employment Act of 1967 . . .; and (B) such liquidated damages as would be appropriate if awarded under section 7(b) of such Act.'' The Board has not adopted substantive regulations on age discrimination.

TABLE A—PRIVATE SECTOR AND STATE AND LOCAL GOVERNMENT PROVISIONS OF LAW AND RIGHTS AND PROTECTIONS ALREADY APPLICABLE IN THE LEGISLATIVE BRANCH—Continued

Name or topic	U.S. Code provisions and corresponding Federal regulations, if any	Provisions that relate to the terms and conditions of employment, or to access to public services or accommodations	Whether or to what degree the provisions are applicable or inapplicable to the legislative branch
Occupational Safety and Health Act of 1970	29 U.S.C. 651 to 677 29 C.F.R. parts 1900 to 1926 (Regulations of the Occupational Safety and Health Administration, Dept. of Labor). 142 Cong. Rec. H10711 to H10719, S11019 to S11027 (Sept. 19, 1996) (proposed Regulations of the Office of Compliance).	Protects the safety and health of employees from physical, chemical, and other hazards in their places of employment.	Certain provisions were made applicable to the legislative branch by the CAA, effective January 1, 1997. Among those not made applicable are those relating to record keeping. The CAA generally requires that the Board of Directors of the Office of Compliance issue implementing regulations that are the same as substantive regulations of the Secretary of Labor, except where cause exists to modify them.
Provisions relating to lie detector tests	29 U.S.C. 2001 to 2009 29 C.F.R. part 801 (Regulations of the Secretary of Labor). 142 Cong. Rec. S3917 to S3924 (Apr. 23, 1996) (Regulations of the Office of Compliance).	The Employee Polygraph Protection Act of 1988 restricts the use of lie detector tests by employers.	Section 204 of the CAA states that no employing office may require a covered employee to take a lie detector test ''where such a test would be prohibited if required by an employer under paragraph (1), (2), or (3) of section 3 of the Employee Polygraph Protection Act of 1988 . . .''. Section 204 also applies the waiver provisions of section 6(d) and a remedy ''as would be appropriate if awarded under section 6(c)(1) of that Act.'' The CAA generally requires that the Board of Directors of the Office of Compliance issue implementing regulations that are the same as substantive regulations of the Secretary of Labor, except where good cause exists to modify them.
Provisions relating to notification in the event of mass layoffs or closings.	29 U.S.C. 2101 to 2109 20 C.F.R. part 639 (Regulations of the Employment and Training Administration, Dept. of Labor). 142 Cong. Rec. S3949 to S3952 (Apr. 23, 1996) (Regulations of the Office of Compliance).	The Worker Adjustment and Retraining Notification Act assures employees of notice in advance of office or plant closings or mass layoffs in certain situations.	Section 205 of the CAA states that no employing office may close or order a mass layoff ''within the meaning of section 3 of the Worker Adjustment and Retraining Notification Act . . .'' if the employing office has not given employees 60 days written notice. Section 205 further states that a remedy for a violation would be ''such remedy as would be appropriate if awarded under paragraphs (1), (2), and (4) of section 5(a)'' of that Act. The CAA generally requires that the Board of Directors of the Office of Compliance issue implementing regulations that are the same as substantive regulations of the Secretary of Labor, except where good cause existed to modify them.
Family and Medical Leave Act	29 U.S.C. 2601 to 2654 29 C.F.R. part 825 (Regulations of the Secretary of Labor). 142 Cong. Rec. S3896 to S3917 (Apr. 23, 1996) (Regulations of the Office of Compliance).	Entitles eligible employees to up to twelve weeks of unpaid leave for certain family and medical reasons.	Certain provisions of the law were made applicable to the legislative branch by section 202 of the CAA. Among those not made applicable are those relating to record keeping. The CAA generally required that the Board of Directors of the Office of Compliance issue implementing regulations that are the same as substantive regulations of the Secretary of Labor, except where good cause exists to modify them.
Uniformed Services Employment and Reemployment Rights	38 U.S.C. 4301 to 4333 5 C.F.R. part 353 for executive branch (Regulations of the Office of Personnel Management).	Provisions protect employment rights for individuals who serve in the military and other uniformed services.	Section 206 of the CAA makes it unlawful to discriminate against an eligible employee ''within the meaning of subsections (a) and (b) of section 4311 of title 38, United States Code,'' or ''deny to an eligible employee reemployment rights within the meaning of sections 4312 and 4313 of title 38, United States Code,'' or ''deny to an eligible employees benefits within the meaning of section 4316, 4317, and 4318 of title 38, United States Code.'' The CAA also applies such remedy ''as would be appropriate if awarded under paragraphs (1), (2)(A), and (3) of section 4323(c) of title 38, United States Code.''
Provisions relating to Social Security Insurance	42 U.S.C. 401 to 433 20 C.F.R. parts 404, 410, 416 (Regulations of the Social Security Administration). 42 C.F.R. parts 405, 406, 424 (Regulations of the Health Care Financing Administration, HHS).	Provisions entitle former employees to disability and old-age insurance payments in certain situations.	Provisions apply in the legislative branch. However, employment in the legislative branch prior to 1984 and employment of individuals after 1984 who chose to remain in the civil service retirement system are not covered employment for purposes of social security.
Title VII of the Civil Rights Act of 1964—Equal Employment Opportunities.	42 U.S.C. 2000e to 2000e–17; damages in 42 U.S.C. 1981a(a)(1) and (b). 29 C.F.R. part 1601 generally (Procedural regulations of the Equal Employment Opportunity Commission).	Provisions prohibit discrimination in employment based on race, color, religion, sex, or national origin.	Certain provisions of the law were made applicable to the legislative branch by section 201 of the CAA. Those not made applicable include the provision allowing for punitive damages, and those vesting enforcement authority in the Equal Employment Opportunity Commission and the Attorney General. The Board has not promulgated substantive regulations concerning these anti-discrimination provisions.
Discrimination in employment on the basis of disability	42 U.S.C. 12101 to 12213 29 C.F.R. parts 1602, 1614, 1640, 1641 (Record keeping and reporting requirements of the Equal Employment Opportunity Commission).	Title I of the Americans with Disabilities Act of 1990 generally prohibits discrimination in employment of the basis of disability.	Section 201 of the CAA requires that ''[a]ll personnel actions affecting covered employees shall be made free from any discrimination based on—. . . (3) disability, within the meaning of . . . sections 102 through 104 of the Americans with Disabilities Act of 1990 . . .''. The CAA also provides that the remedy for a violation would be ''(A) such remedy as would be appropriate if awarded under section . . . 107(a) of the Americans with Disabilities Act of 1990 . . .; and (B) such compensatory damages as would be appropriate if awarded under sections 1977A(a)(2), 1977A(a)(3), 1977A(b)(2), and, irrespective of the size of the employing office, 1977A(b)(3)(D) of the Revised Statutes . . .''. The Board has not adopted substantive regulations on disability discrimination.
Discrimination in the provision of public services and accommodations on the basis of disability.	42 U.S.C. 12101 to 12213 28 C.F.R. part 35 (Regulations of the Attorney General). 49 C.F.R. parts 27, 37, 38 (Regulations of the Secretary of Transportation). 142 Cong. Rec. H10676 to H10711, S10984 to S11019 (Sept. 19, 1996) (proposed Regulations of the Office of Compliance).	Titles II and III of the Americans with Disabilities Act of 1990 generally prohibit discrimination in the provision of public services and accommodations on the basis of disability.	Section 210 of the CAA states that ''the rights and protections against discrimination in the provision of public services and accommodations established by sections 201 through 230, 302, 303, and 309 of the Americans with Disabilities Act of 1990'' shall apply to covered entities, effective January 1, 1997. Section 210 further states that the remedy for a violation would be ''such remedy as would be appropriate if awarded under section 203 or 308(a) of the Americans with Disabilities Act of 1990.'' The CAA generally requires that the Board of Directors of the Office of Compliance issue implementing regulations that are the same as substantive regulations of the Attorney General and the Secretary of Transportation, except where good cause exists to modify them.

TABLE B—PROVISIONS OF LAW THAT APPLY ONLY IN THE FEDERAL PUBLIC SECTOR

Name or topic	U.S. Code provisions and corresponding Federal regulations, if any	Provisions that relate to the terms and conditions of employment, or to access to public services or accommodations	Whether or to what degree the provisions are applicable or inapplicable to the legislative branch
Provisions relating to the Congress	2 U.S.C. 31 to end (except sections 1201–1202, 1301–1438, discussed below).	Provisions include sections relating to compensation levels, rules for travel reimbursement, and other compensation and employment benefit-related allowances for Members of Congress, their staffs, and the staffs of many legislative branch agencies.	Provisions apply to various entities within the legislative branch.
Congressional Accountability Act of 1995 (CAA)	2 U.S.C. 1301 to 1438 142 Cong. Rec. S3896 to S3952 generally (Apr. 23, 1996) (Regulations of the Board of Directors and the Executive Director of the Office of Compliance).	The CAA applies eleven federal employment and labor laws to the legislative branch.	Provisions of law and regulations apply to covered offices within the legislative branch.
Provisions relating to the President	3 U.S.C. 101–209	Provisions establish compensation levels and other monetary allowances for the President, Vice President, the White House staff, and the United States Secret Service Uniformed Division.	Provisions do not apply in the legislative branch.
Presidential and Executive Office Accountability Act	PL 104–331	Provisions apply eleven federal employment and labor laws to the executive branch.	Provisions do not apply in the legislative branch. However, this law is comparable to the Congressional Accountability Act of 1995, which does apply in the legislative branch.
Privacy Act	5 U.S.C. 552a Regulations pursuant to the Privacy Act are promulgated by each individual agency subject to the Act.	The Privacy Act protects from disclosure records maintained by agencies on individuals. With respect to federal employees, the Privacy Act protects them from unwanted access into their personal files.	Provisions do not apply in the legislative branch.
Provisions establishing the Merit Systems Protection Board and Office of Special Counsel.	5 U.S.C. 1201 to 1222 5 C.F.R. parts 120 to 1209 (Regulations of the Merit Systems Protection Board). 5 C.F.R. parts 1800 to 1850 (Regulations of the Office of Special Counsel).	The Merit Systems Protection Board was established to hear, adjudicate, and enforce many employment and labor disputes for employees in the competitive service. The Office of Special Counsel was established to protect employees in the executive branch from prohibited employment practices.	Provisions apply to the Government Printing Office and to legislative branch agencies that have positions in the competitive service.
Merit Systems Principles and Prohibited Personnel Practices.	5 U.S.C. 2301 to 2305 5 C.F.R. parts 300 & 720 (Regulations of the Office of Personnel Management).	Provisions establish principles to be applied in the implementation of federal personnel management, and prohibit discriminatory personnel practices.	Provisions and regulations apply to the Government Printing Office.
Authority to hire personal assistants for handicapped employees.	5 U.S.C. 3102 Regulations are promulgated by each individual agency subject to these provisions.	Provision authorizes agencies to employ personal assistants for handicapped employees, including blind and deaf employees.	Provision applies to the General Accounting Office and the Library of Congress.
Restriction on employment of relatives.	5 U.S.C. 3110 5 C.F.R. part 310 (Regulations of the Office of Personnel Management).	Provision restricts the employment, appointment, promotion, and advancement by public officials of relatives.	Provisions apply to ''an office, agency, or other establishment in the legislative branch.''
Provision relating to appointment of disabled veterans	5 U.S.C. 3112 5 C.F.R. 720.301 et seq. (Regulations of the Office of Personnel Management).	Provision allows agencies to make noncompetitive appointments of disabled veterans.	Provision applies to agencies in the legislative branch that have positions in the competitive service.
Senior Executive Service	5 U.S.C. 3131 to 3136, 3391 to 3397, 3591 to 3596, 4311 to 4315, 4507. 5 C.F.R. parts 214, 293, 317, 352, 359, 412, 430 (Regulations of the Office of Personnel Management).	Provisions throughout title 5 relate to terms and conditions of employment within the Senior Executive Service, including compensation, benefits, incentives, qualifications, removal, and performance appraisals.	Provisions do not apply in the legislative branch.
Civil Service	5 U.S.C. 3301 5 C.F.R. parts 771 & 930 (Regulations of the Office of Personnel Management).	Provision empowers the President to prescribe regulations for the admission of individuals into the civil service in the executive branch, and to ascertain fitness of applicants.	Provisions do not apply in the legislative branch.
Competitive Service	5 U.S.C. chapter 33 5 C.F.R. generally (Regulations of the Office of Personnel Management).	Provisions create the competitive service and relate to terms and conditions of employment within the competitive service including, appointment, examinations, qualifications, preference eligibility for veterans and certain other individuals, separation, promotion, and assignments.	Provisions apply only to legislative branch agencies that have positions in the competitive service.
Political Recommendations	5 U.S.C. 3303	Provision requires that appointments to positions in the competitive service, the senior executive service, or the excepted service be made without regard to any recommendation or statement by any Member of Congress or congressional employee, any elected official of the government of any State, county, city or other subdivision or any other individual or organization making the recommendation on the basis of the applicant's party affiliation.	Provisions apply only to legislative branch agencies that have positions in the competitive service.
Ramspeck Act provisions	5 U.S.C. 3304(c) 5 C.F.R. parts 315 to 316 (Regulations of the Office of Personnel Management).	Provisions give preference for transfer to the competitive service for certain legislative branch employees with at least 3 years of service, and certain judicial branch employees with at least 4 years of service, who are involuntarily separated without prejudice from the legislative or judicial branch and transfer to the competitive service within 1 year of separation.	Provisions apply to employees in the legislative branch who are paid by the Secretary of the Senate or the Clerk of the House of Representatives.
Selective Service Registration	5 U.S.C. 3328 5 C.F.R. part 300 (Regulations of the Office of Personnel Management).	Provisions make a person required to register under the Selective Service who has not done so ineligible to apply to a position within an Executive agency.	Provision applies to the General Accounting Office.
Part-Time Career Employment Opportunities	5 U.S.C. 3401 to 3408 5 C.F.R. part 340 generally (Regulations of the Office of Personnel Management).	Provisions require the heads of agencies to establish and maintain a program for part-time career employment. Restricts agencies' ability to abolish filled full-time positions to make room for part-time positions. Also protects full-time employees from being forced into part-time status.	Provisions apply to the Architect of the Capitol, the Botanic Garden, the General Accounting Office and the Library of Congress.
Retention preference	5 U.S.C. 3501 to 3504 5 C.F.R. parts 351 & 432 (Regulations of the Office of Personnel Management).	Provisions create retention preferences and notice requirements in case of reduction in force, transfer of agency functions or replacement of an agency by another agency.	Provisions of law do not apply in the legislative branch (the General Accounting Office was removed from coverage by the General Accounting Office Personnel Act). However, the Office of Personnel Management's regulations apply to employees in the legislative branch whose positions are in the competitive service.
Reemployment after service with an international organization.	5 U.S.C. 3581 to 3584 5 C.F.R. 352.301 et seq. (Regulations of the Office of Personnel Management).	Provisions protect the benefits, leave, and employment of certain employees who transfer temporarily to an international organization.	Provisions apply in the legislative branch.
Training	5 U.S.C. 4101 to 4119 5 C.F.R. part 410 generally (Regulations of the Office of Personnel Management).	Provisions require the head of each agency to establish, operate, and maintain programs for training of employees in or under the agency in conformity with this law.	Provisions apply to the Government Printing Office, the Library of Congress, and the General Accounting Office. Section 4119 allows Architect of the Capitol to apply provisions of the law deemed necessary for the training of employees of the Architect of the Capitol and the Botanic Garden.
Performance Appraisals	5 U.S.C. 4301 to 4305 5 C.F.R. parts 430 & 432 generally (Regulations of the Office of Personnel Management).	Provisions require each agency to develop performance appraisal systems to provide periodic appraisals of job performance of employees and to use the results of the performance appraisals in personnel decisions.	Provisions apply to the Government Printing Office.
Incentive awards for superior accomplishments	5 U.S.C. 4501 to 4509 5 C.F.R. part 451 (Regulations of the Office of Personnel Management).	Provisions allow the head of an agency to reward employees in the form of a cash award over and above their regular salary, or, under OPM regulations, to give employees paid time off as an award in recognition of superior accomplishment.	Provisions apply to the Architect of the Capitol, the Botanic Garden, the General Accounting Office, the Government Printing Office, and the Library of Congress.
Awards for cost saving disclosures	5 U.S.C. 4511 to 4513	Provisions allow the Inspector General or other designated official of an executive agency to pay a cash award to an employee of the agency whose disclosure of fraud, waste, or mismanagement has resulted in cost savings for the agency.	Provisions apply to the General Accounting Office.

TABLE B—PROVISIONS OF LAW THAT APPLY ONLY IN THE FEDERAL PUBLIC SECTOR—Continued

Name or topic	U.S. Code provisions and corresponding Federal regulations, if any	Provisions that relate to the terms and conditions of employment, or to access to public services or accommodations	Whether or to what degree the provisions are applicable or inapplicable to the legislative branch
Awards to law enforcement officers for foreign language capabilities.	5 U.S.C. 4521 to 4523	Provisions allow an agency to pay a cash award to law enforcement officers who possess and make substantial use of 1 or more foreign languages in the performance of official duties.	Provisions apply to the Architect of the Capitol, the Government Printing Office, the Library of Congress, and the Botanic Garden. (It has not been ascertained whether any of these agencies have the type of employee that would be covered by this provision.)
Pay Systems	5 U.S.C. 5101 to 5392 5 C.F.R. generally (Regulations of the Office of Personnel Management).	Provisions establish the General Schedule classification system for pay, locality-based comparability payments, pay systems for other government entities, the Executive Schedule classification system, prevailing rates, grade and pay retention, and payment in certain circumstances of employees' student loans.	Most provisions apply to one or more legislative branch agencies, including the Library of Congress, the Government Printing Office, the Architect of the Capitol, and the Botanic Garden.
Withholding Pay	5 U.S.C. 5511 to 5520a Regulations are promulgated by each individual agency subject to these provisions.	Allows withholding from employees' pay for payments such as debts to the United States, District of Columbia income taxes, other state taxes, state retirement systems, city or county income or employment taxes, debts owed to creditors following a legal process.	Most provisions apply in the legislative branch.
Dual Pay and Dual Employment	5 U.S.C. 5531 to 5537 5 C.F.R. parts 550 & 553 (Regulations of the Office of Personnel Management).	Provisions impose restrictions on dual government employment, extra pay, and receiving two or more government paychecks at the same time.	Statutory provisions apply throughout the legislative branch. The regulations of the Office of Personnel Management apply to the General Accounting Office.
Premium Pay	5 U.S.C. 5541 to 5550a 5 C.F.R. parts 550 and 551 (Regulations of the Office of Personnel Management).	Provisions allow for overtime pay for hours worked over 40 in a workweek or hours worked over 8 in a day, compensatory time off, and premium pay for holidays and Sundays, for certain employees of the Federal Government.	Statutory provisions apply to covered employees of covered legislative branch agencies, including the Library of Congress, the Botanic Garden, the Architect of the Capitol, the General Accounting Office and, in part, to the Government Printing Office as well. The regulations of the Office of Personnel Management apply to the General Accounting Office.
Payment for accumulated and accrued annual leave	5 U.S.C. 5551 to 5553	Provisions allow for employees to receive a lump sum payment for accumulated and accrued annual leave upon separation from government service.	Provisions apply in the legislative branch.
Payments to missing employees	5 U.S.C. 5561 to 5570 32 C.F.R. part 718 (Regulations of the Department of the Army, DOD) 22 C.F.R. part 19 (Regulations of the Secretary of State).	Provisions allow for payments to employees who are missing in certain circumstances.	Provisions apply to the General Accounting Office.
Settlement of Accounts	5 U.S.C. 5581 to 5584 4 C.F.R. parts 33, 91, 92 (Regulations of the General Accounting Office).	Provisions allow for payment of money due to an employee at the time of death of the employee and, in certain circumstances, for recoupment by the government of overpayments or erroneous payments to employees.	Provisions apply in the legislative branch.
Severance pay and Back pay	5 U.S.C. 5595 to 5597 5 C.F.R. 550.701 et seq., 550.801 et seq. (Regulations of the Office of Personnel Management).	Provisions allow for severance pay upon separation from government service and back pay due to unjustified personnel actions in certain circumstances.	Provisions generally apply to the General Accounting Office, the Government Printing Office, and the Library of Congress.
Travel and subsistence expenses; Mileage allowances	5 U.S.C. 5701 to 5709 41 C.F.R. parts 301 to 304 (Federal Travel Regulations).	Provisions establish rules and policies regarding per diems and traveling on official business, transportation expenses, mileage and related allowances, and subsistence and travel expenses for federal employees.	Provisions generally apply in the legislative branch.
Travel and transportation expenses for new appointees, student trainees, and transferred employees.	5 U.S.C. 5721 to 5735 5 C.F.R. part 572 generally (Regulations of the Office of Personnel Management).	Provisions establish rules and policies for travel and transportation reimbursement for new appointees, student trainees, transferred employees, employees assigned to danger areas, and storage and other miscellaneous expenses.	Provisions apply to the General Accounting Office, the Library of Congress, the Botanic Garden, the Government Printing Office.
Basic 40-hour workweek; work schedules	5 U.S.C. 6101 5 C.F.R. part 610 (Regulations of the Office of Personnel Management).	Provisions establish the 40-hour workweek and work schedules in the federal government.	Statutory provisions apply to the General Accounting Office, and are optional for the Library of Congress, the Botanic Garden, the Architect of the Capitol. The regulations of the Office of Personnel Management apply to the General Accounting Office.
Holidays	5 U.S.C. 6103 and 6104 5 C.F.R. 610.301 et seq. (Regulations of the Office of Personnel Management).	Provisions establish statutory public holidays for government employees; also entities daily, hourly, or piecework employees to be paid for holidays.	Provisions apply in the legislative branch.
Flexible and Compressed Work Schedules	5 U.S.C. 6120 to 6133 5 C.F.R. 610.401 et seq. (Regulations of the Office of Personnel Management). 5 C.F.R. 2472.6 (Regulations of the Federal Labor Relations Authority).	Provisions allow the heads of agencies to establish flexible work schedule programs and compressed work week schedules, within certain guidelines.	Statutory provisions apply to the General Accounting Office, the Government Printing Office, and the Library of Congress. The regulations of the Office of Personnel Management apply to the General Accounting Office. The Federal Labor Relations Authority regulations apply to the Government Printing Office and the Library of Congress.
Annual and Sick Leave	5 U.S.C. 6301 to 6312 5 C.F.R. part 630 (Regulations of the Office of Personnel Management).	Provisions establish rules for government employees to accrue and accumulate annual and sick leave.	Provisions apply in the legislative branch except they do not apply to employees of the House of Representatives or the Senate.
Leave for jury or witness service	5 U.S.C. 6322	Provision entitles government employees to leave without loss of, or reduction in pay, or leave, for jury duty or to be a witness in a judicial proceeding in which the United States, the District of Columbia or a State or local government is a party. In certain situations, an employee called as a witness will be considered on official duty status.	Provision applies in the legislative branch except for individuals whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives.
Military Leave; Reserves and National Guardsmen	5 U.S.C. 6323	Provision entitles government employees to leave without loss of, or reduction in pay, etc. in connection with certain reserve duties, military training.	Provision applies in the legislative branch.
Absence resulting from hostile action abroad	5 U.S.C. 6325	Provision entitles government employees not to have leave charged to their account for up to one year if their leave is due to an injury incurred while serving abroad and resulting from war, insurgency, mob violence, or similar hostile action and not due to the employee himself.	Provision applies in the legislative branch.
Absence for funerals of immediate relatives in the Armed Forces.	5 U.S.C. 6326 5 C.F.R. part 630 (Regulations of the Office of Personnel Management).	Provision entitles employees whose immediate relative has died as a result of wounds, disease or injury incurred while serving in the armed forces in a combat zone, to up to three days leave, without loss of pay, leave, etc.	Provisions applies to the General Accounting Office.
Absence in connection with serving as a bone-marrow or organ donor.	5 U.S.C. 6327	Provision entitles employees to leave without loss of or reduction in pay, leave, etc. when such employees need leave to serve as a bone-marrow or organ donor.	Provision applies to the General Accounting Office.
Voluntary transfers of leave and Voluntary Leave Bank Program.	5 U.S.C. 6331 to 6373 5 C.F.R. part 630 (Regulations of the Office of Personnel Management).	Provisions establish policies under which annual leave accrued or accumulated by an employee may be (1) transferred to the annual leave account of any other employee if the recipient requires additional leave due to a medical emergency, or (2) contributed to a leave bank established by the employment agency and made available to any employee requiring it due to a medical emergency.	Provisions apply in the legislative branch except they do not apply to employees of the House of Representatives or the Senate.

TABLE B—PROVISIONS OF LAW THAT APPLY ONLY IN THE FEDERAL PUBLIC SECTOR—Continued

Name or topic	U.S. Code provisions and corresponding Federal regulations, if any	Provisions that relate to the terms and conditions of employment, or to access to public services or accommodations	Whether or to what degree the provisions are applicable or inapplicable to the legislative branch
Family and Medical Leave	5 U.S.C. 6381 to 6387 5 C.F.R. part 630 Regulations of the Office of Personnel Management).	Provisions entitle an employee to take leave for certain family and medical related reasons.	Provisions apply in the legislative branch except they do not apply to employees of the House of Representatives or the Senate. Under section 202 of the CAA, the General Accounting Office and the Library of Congress are removed from coverage of these provisions and made subject to provisions of title 29 U.S.C., governing family and medical leave, effective one year after the study required by section 230 of the CAA is transmitted to Congress. Furthermore, employees of certain other legislative branch entities are included within the terms of both 5 U.S.C. 6381 to 6387 and section 202 of the CAA, which applies certain provisions of title 29, U.S.C., relating to family and medical leave. (See table A)
Federal Service Labor-Management Provisions	5 U.S.C. 7101 to 7135 5 C.F.R. chapter 24 generally (Regulations of the Federal Labor Relations Authority). 142 Cong. Rec. H10369 to H10384, S10405 to S10420 (Sept. 12, 1996) (Regulations of the Office of Compliance under section 220(d) of the CAA.	Provisions protect the rights of employees in the Federal Government to form, join, or assist any labor organization, or to refrain from any such activity, without fear of penalty or reprisal.	Chapter 71 of title 5 and applicable regulations apply to the Government Printing Office and the Library of Congress. Certain provisions of chapter 71 were made applicable to the legislative branch by section 220 of the CAA. Among those provisions not made applicable are those relating to injunctive relief. However, the CAA generally required that the Board of Directors of the Office of Compliance issue implementation regulations that are the same as substantive regulations of the Federal Labor Relations Authority except where good cause existed to modify them.
Provisions relating to Anti-Discrimination in Employment	5 U.S.C. 7201 to 7204 5 C.F.R. 720.101 et seq. (Regulations of the Office of Personnel Management).	Provisions establish policy to insure equal employment opportunities for employees without discrimination because of race, color, religion, sex, or national origin. Provisions prohibit discrimination on the basis of martial status or handicapping condition. Require executive agencies to recruit minorities.	Provision prohibiting discrimination on the basis of marital status or handicapping condition applies to competitive service positions in the legislature branch.
Employees' right to petition Congress	5 U.S.C. 7211	Provision protects employees' rights to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or Member thereof.	Provision applies in the legislative branch.
Employment Limitations	5 U.S.C. 7311 to 7313 5 C.F.R. part 732 (Regulations of the Office of Personnel Management).	Provide that an individual is ineligible to accept or hold a position in the Government of the United States or District of Columbia for certain specified reasons including if he advocates or is a member of an organization that advocates the overthrow of government; participates in a strike or asserts the right to strike, or is a member of an organization that asserts the right to strike against the U.S. or D.C. government.	Statutory provisions apply to the legislative branch. Office of Personnel Management regulations apply to competitive service positions in the legislative branch.
Political Participation	5 U.S.C. 7321 to 7326 5 C.F.R. parts 733 to 734 (Regulations of the Office of Personnel Management).	Imposes various restrictions on the political activities of Federal employees.	Provisions apply to entities in the legislative branch with positions in the competitive service.
Foreign Gifts and Decorations	5 U.S.C. 7342 Regulations are promulgated by each individual agency subject to these provisions.	Establishes and limits the right of government employees to accept gifts or decorations from foreign governments.	Provisions apply to employees in the legislative branch, as well as Members of Congress.
Misconduct	5 U.S.C. 7351 to 7353 5 C.F.R. part 2635 generally (Regulations of the Office of Government Ethics)	Prohibits gifts to superiors and prohibits certain gifts to employees.	Statutory provisions apply to employees in the legislative branch. Regulations of the Office of Government Ethics apply only in the executive branch.
Adverse Actions	5 U.S.C. 7501 to 7543 5 C.F.R. parts 752, 930, 990 (Regulations of the Office of Personnel Management).	Creates disciplinary proceedings and sanctions for employees under the Merit Systems Protections Board system.	Provisions apply to competitive service positions in the legislative branch.
Safety Programs	5 U.S.C. 7902	Requires the heads of agencies to develop and support organized safety promotion to reduce accidents and injuries among employees of the agency.	Provisions apply in the legislative branch. (NB: Executive Order 12196, which was promulgated under 5 U.S.C. 7902 and sets forth specific duties for heads of federal agencies in establishing health and safety programs, covers only executive branch agencies.)
Employee Assistance Programs relating to drug and alcohol abuse.	5 U.S.C. 7904	Requires the heads of Executive agencies to establish employee assistance programs for drug and alcohol abuse for employees of the agency.	Provisions apply to GAO.
Compensation for Work Injuries	5 U.S.C. 8101 to 8193 20 C.F.R. parts 1, 10, 25 (Regulations of the Office of Worker's Compensation Programs, Dept. of Labor). 5 C.F.R. part 353 (Regulations of the Office of Personnel Management).	Provisions establish systems for compensation and job retention for employees injured, disabled or killed on the job.	Provisions apply in the legislative branch.
Civil Service Retirement and Federal Employees Retirement Systems.	5 U.S.C. 8301 to 8407 5 C.F.R. parts 831, 841 to 846 (Regulations of the Office of Personnel Management). 5 C.F.R. chapter 16 (Regulations of the Federal Retirement Thrift Supervision Board).	Provisions establish retirement systems for employees of the United States Government (and others) and include annuities, thrift savings, retirement on disability, and early retirement.	Provisions apply in the legislative branch.
Unemployment Compensation	5 U.S.C. 8501 to 8525 20 C.F.R. parts 609 & 614 (Regulations of the Employment and Training Administration, Dept. of Labor).	Provisions establish systems for payment of unemployment compensation by states to former federal employees.	Provisions apply in the legislative branch except they do not apply to Members of Congress.
Life Insurance	5 U.S.C. 8701 to 8716 5 C.F.R. parts 870 to 874 (Regulations of the Office of Personnel Management).	Provisions establish system for life insurance for government employees.	Provisions apply in the legislative branch.
Health Insurance	5 U.S.C. 8901 to 8914 5 C.F.R. parts 890 to 891 (Regulations of the Office of Personnel Management).	Provisions establish health insurance system for government employees. Provisions include continuation coverage similar to COBRA's. (See Table C).	Provisions apply in the legislative branch.
Provisions relating to criminal penalties for government employees.	18 U.S.C. 203, 205, 207 to 209 Regulations are promulgated by each individual agency subject to these provisions.	Provisions imposed criminal penalties on certain government employees for, among other things, soliciting or taking bribes, acting as an agent or attorney for bringing claims against the United States, and for participating in an official capacity in official proceedings in which the employee may have a personal interest. The provisions also prohibit former government employees from participating in certain types of actions following their departure from the government.	Provisions apply in the legislative branch.
Provisions relating to illegal government employee contracts.	18 U.S.C. 431 to 443	Provisions impose criminal penalties on certain government employees for entering into contracts which, among other things, create a conflict of interest, or exceed appropriation amounts.	Certain provisions apply in the legislative branch.
Provisions relating to accounting generally for public money.	18 U.S.C. 643	Provisions imposes criminal penalties for embezzlement of public monies by an officer, employee or agent of the United States, or of any department or agency thereof.	Provisions apply in the legislative branch.
Criminal penalties for certain violations by United States employees.	18 U.S.C. 1913, 1915 to 1918	Provisions impose criminal penalties on officers and employees of the United States, or of any department or agency thereof, for a variety of transgressions, including lobbying with appropriate moneys, unauthorized employment and disposition of lapsed appropriations, interference with civil service examinations, and disloyalty and asserting the right to strike against the government.	Provisions apply in the legislative branch.

TABLE B—PROVISIONS OF LAW THAT APPLY ONLY IN THE FEDERAL PUBLIC SECTOR—Continued

Name or topic	U.S. Code provisions and corresponding Federal regulations, if any	Provisions that relate to the terms and conditions of employment, or to access to public services or accommodations	Whether or to what degree the provisions are applicable or inapplicable to the legislative branch
Provisions relating to discrimination on the basis of disability.	29 U.S.C. 701 to 797(b) Regulations are promulgated by each individual agency subject to these provisions.	The Rehabilitation Act of 0000 requires affirmative action in federal employment, requires federal buildings to be accessible, and bars discrimination on the basis of disability by federal agencies.	The Rehabilitation Act and applicable regulations apply to the Government Printing Office and the Library of Congress. Section 201 of the CAA requires that ''[a]ll personnel actions affecting covered employees shall be made free from any discrimination based on— . . . (3) disability, within the meaning of section 501 of the Rehabilitation Act of 1973. . .'' The CAA also provides that the remedy for a violation would be ''(A) such remedy as would be appropriate if awarded under section 505(a)(1) of the Rehabilitation Act of 1973. . .; and (B) such compensatory damages as would be appropriate if awarded under sections 1977A(a)(2), 1977A(a)(3), 1977A(b)(2), and, irrespective of the size of the employing office, 1977A(b)(3)(D) of the Revised Statutes. . .''. The Board has not adopted substantive regulations on employment-related disability discrimination.
Government Accounting Office Personnel Act	31 U.S.C. 731 to 736, 751 to 755 4 C.F.R. parts 2 et seq. (Regulations of the Comptroller General and of the GAO Personnel Appeals Board).	Provisions authorize the Comptroller General to establish a personnel system for GAO, and create the Personnel Appeals Board System for GAO employees. These provisions require that the personnel system for GAO include rights and protections based on various provisions of employment and civil service law.	Provisions and regulations apply to the General Accounting Office.
Provisions relating to terms and conditions of employment for postal employees.	39 U.S.C. 1001 to 1011, 1201 to 1209 39 C.F.R. parts 211, 255, 265, 760, 761, 946 (Regulations of the Postal Service).	Provisions establish framework for determining salaries, benefits, and leave for employees of the Postal Service.	Provisions do not apply in the legislative branch.
Provision relating to substance abuse among government and other employees.	42 U.S.C. 290dd	Provision generally prohibits, with some exceptions, the denial of federal civilian employment or a federal professional license or right solely on the grounds of prior substance abuse.	Provisions apply in at least parts of the legislative branch. (See ***Judd*** v. ***Billington***, 863 F.2d 103 (1988) (provision applies to employee of the Library of Congress).)
Provisions relating to enforcement of child support and alimony orders.	42 U.S.C. 659 to 662 Regulations are promulgated by each individual agency subject to these provisions.	Provisions allow for the garnishment of wages of employees of the United States government for payment of child support and alimony.	Provisions apply in the legislative branch.
Provisions relating to design and construction of public buildings to accommodate physically handicapped persons.	42 U.S.C. 4151 to 4157 41 C.F.R. parts 101 to 119 generally (Regulations of the General Services Administration)	Provisions require that United States public buildings and facilities be constructed to insure wherever possible that physically handicapped persons will have access and use of the building or facility.	Provisions of the law appear to apply on their face in the legislative branch. However, there is no enforceable right or remedy in the legislative branch. The standards enunciated by GSA in their regulations are, however, the same standards as those applied under title II of the ADA, which does apply in the legislative branch by virtue of section 210 of the CAA.

TABLE C—PRIVATE-SECTOR AND STATE AND LOCAL GOVERNMENT PROVISIONS OF LAW FOR WHICH CORRESPONDING RIGHTS AND PROTECTIONS UNDER OTHER FEDERAL-SECTOR LAWS COVER THE LEGISLATIVE BRANCH

Name or topic	U.S. Code provisions and corresponding Federal regulations, if any	Provisions that relate to the terms and conditions of employment, or to access to public services or accommodations	Whether or to what degree the provisions are applicable or inapplicable to the legislative branch
Government Employees Rights Act of 1991 (GERA)	2 U.S.C. 1201–1220	As amended by the CAA, GERA protects the rights of certain elected officials of State and local government and their confidential assistants with respect to their public employment, to be free from discrimination on the basis of race, color, religion, sex, national origin, age, and disability.	GERA does not apply to the legislative branch (except with respect to claims that arose before the effective date of the CAA). However, corresponding rights and protections of Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act, and the Rehabilitation Act were made applicable in the legislative branch by the CAA.
Immigration Reform and Control Act (IRCA) provisions	8 U.S.C. 1324a 8 C.F.R. part 274a (regulations of the Immigration and Naturalization Service).	Provision of IRCA makes it illegal for employers to hire unauthorized aliens and requires employers to verify employment authorization.	Provision of IRCA does not apply in the legislative branch. However, the legislative branch has, in the context of appropriations bills, imposed citizenship restrictions (and, therefore some form of employment verification) on federal government hiring. (See, e.g. P.L. 104–52, title VI, 606, 109 Stat. 497 (Nov. 19, 1995)).
National Labor Relations Act (NLRA)	29 U.S.C. 141 to 187 29 C.F.R. parts 100 to 103, 1401 to 1430 (Regulations of the National Labor Relations Board).	Encourages the practice of collective bargaining and protects the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.	The NLRA does not apply in the legislative branch. However, the corresponding rights and protections of 5 U.S.C. chapter 71 were made applicable in the legislative branch by the CAA.
Employment Retirement Income Security Act (ERISA)	29 U.S.C. 1001 to 1461 29 C.F.R. chapter 25 (Regulations of the Pension and Welfare Benefits Administration, Dept. of Labor).	ERISA governs the funding, vesting, and administration of pension plans with the goal of protecting interstate commerce, the Federal taxing power, and the interests of participants and beneficiaries of private pension plans.	ERISA does not apply in the legislative branch. However, the legislative branch is covered by the corresponding rights and protections of civil service provisions through the Federal Employee Retirement System (5 U.S.C. 8301 to 8479).
COBRA provisions	29 U.S.C. 1161 to 1169	Provisions require most employer-sponsored group health plans to offer employees the ability to continue receiving health benefits in certain situations, for certain period of time, and for certain premiums.	COBRA does not apply to government insurance plans. However, continuation coverage similar to that under COBRA was enacted for federal employees in the Federal Employees Health Benefits Amendments Act of 1988, codified at 5 U.S.C. 8905a. The Federal Employees Health Benefits Program, which includes the continuation coverage provided by the 1988 Act, is available to all federal employees, including legislative branch employees.

TABLE D—PRIVATE-SECTOR AND STATE AND LOCAL GOVERNMENT LAWS THAT DO NOT APPLY OR CREATE NO ENFORCEABLE RIGHT IN THE LEGISLATIVE BRANCH

Name or topic	U.S. Code provisions and corresponding Federal regulations, if any	Provisions that relate to the terms and conditions of employment, or to access to public services or accommodations	Whether or to what degree the provisions are applicable or inapplicable to the legislative branch
Immigration Reform and Control Act (IRCA)	8 U.S.C. 1324b 28 C.F.R. part 44 (regulations of the Department of Justice)	Provision of IRCA prohibits employers from discriminating based on national origin or citizenship status.	IRCA does not, by its terms, appear to apply to the legislative branch. However, the national origin discrimination provisions do not apply to any employer that is covered by Title VII of the Civil Rights Act of 1964, and consequently, would not apply in the legislative branch. Further, with respect to the citizenship provisions, IRCA gives an ''override'' power to federal government agencies and employers by allowing them to exempt themselves from application of these provisions by regulation.
Prohibition of discrimination on the basis of bankruptcy ..	11 U.S.C. 525	Provision prohibits discrimination in employment by any ''governmental unit'' against any person who is or has been bankrupt or a debtor under this Act. Provision also applies in the private sector.	Although ''governmental unit'' includes the United States and a department, agency or instrumentality of the United States, as well as state and local governments, it is not clear that the provision applies in the legislative branch.
Restriction on discharge from employment by reason of garnishment.	15 U.S.C. 1674(a)	Provision prohibits the discharge of an employee by reason of the fact that his earnings have been subjected to garnishment. Imposes a fine of up to $1000 or imprisonment for willful violations..	Provision applies in the private sector, where the Secretary of Labor has jurisdiction to enforce the law. However, the circuits are split as to whether this section allows for a private civil suit against an employer. As for government employers, it appears that, because there is no waiver of sovereign immunity, this provision creates no enforceable right in the legislative branch.
Protection of Juror's Employment Act	28 U.S.C. 1875	Law prohibits an employer from discharging, threatening to discharge, intimidating, or coercing any permanent employee because of the employee's jury service, or attendance in connection with such service, in any court of the United States. The provision allows an individual claiming discrimination under this law to sue in district court. Remedies may include reinstatement, damages for lost wages or other benefits, and a civil penalty of up to $1000.	Provision does not appear to apply in the legislative branch.
Title II of the Civil Rights Act of 1964 (Title II)	42 U.S.C. 2000a to 2000a–6	Title II prohibits discrimination on the basis of race, color, religion, or national origin, in the provision of public accommodations.	Title II does not apply in the legislative branch.
Title III of the Civil Rights Act of 1964 (Title II)	42 U.S.C. 2000b to 2000b–3	Title III prohibits discrimination on the basis of race, color, religion, or national origin, in the provision of public services and facilities..	Title III does not apply in the legislative branch.
Environmental Protection Statutes: Safe Drinking Water Act, Water Pollution Control Act, Toxic Substances Control Act, Solid Waste Disposal Act, Clean Air Act, and Energy Reorganization Act of 1974.	42 U.S.C. 300j–9(i); 33 U.S.C. 1367; 15 U.S.C. 2622; 42 U.S.C. 6971; 42 U.S.C. 7622; 42 U.S.C. 5851. 29 C.F.R. 24.2 (Enforcement Procedures of the Secretary of Labor).	These statutory employee protection provisions provide that no employer subject to the provisions of the Federal statute of which these protective provisions are a part may discharge or otherwise discriminate against the employee with respect to compensation, terms, conditions, or privileges of employment because the employee, or any person acting on his behalf pursuant to the employee's request, commenced, or caused to be commenced proceedings under the statutes, testified or is about to testify in any such proceedings, or assisted or participated, or is about to assist or participate in any manner in proceedings under those statutes.	None of these statutes appears to apply to employing offices in the legislative branch.
Comprehensive, Environmental Response, Compensation, and Liability Act. (CERCLA).	42 U.S.C. 9610 29 C.F.R. 24.2 (Enforcement procedures of the Secretary of Labor).	Provides that no person shall fire or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has provided information to a State or to the Federal Government, filed, instituted, or caused to be filed or instituted any proceedings under CERCLA, or has testified or is about to testify in any administration or enforcement proceedings under CERCLA.	42 U.S.C. 9620 applies CERCLA to each department, agency, and instrumentality of the United States (including the executive, legislative, and judicial branches of government) to the same extent, both procedurally and substantively, as any nongovernmental entity. It is unclear whether and to what extent there are facilities and operations of entities within the legislative branch that would come within the coverage of section 9620 and, therefore, within the coverage of section 9610. Moreover, given that the exclusive means of enforcement of section 9610 is through the Secretary of Labor, an executive agency, such employee protection provisions would not likely apply to legislative branch entities.

INDEX OF STATUTORY AND REGULATORY PROVISIONS REVIEWED

TITLE 1 UNITED STATES CODE—GENERAL PROVISIONS

No provisions were found in title 1 that relate to the terms and conditions of employment.

TITLE 2 UNITED STATES CODE—THE CONGRESS

1. *2 U.S.C. 31 to end* (except sections 1201–1220, 1301–1438, discussed below. Table B.

2. *2 U.S.C. 1201 to 1220*—the Government Employees Rights Act of 1991. Table C.

3. *2 U.S.C. 1301 to 1438*—the Congressional Accountability Act of 1995. *142 Cong. Rec. S3896 to S3952* generally—Regulations issued by the Board of Directors and the Executive Director of the Office of Compliance. Table B.

TITLE 3 UNITED STATES CODE—THE PRESIDENT

4. *3 U.S.C. 101 to 209*—the President. Table B.

5. *P.L. 104–331*—The Presidential and Executive Office Accountability Act. Table B.

TITLE 4 UNITED STATES CODE—FLAG AND SEAL, SEAT OF GOVERNMENT AND THE STATES

No provisions were found in title 4 that relate to the terms and conditions of employment.

TITLE 5 UNITED STATES CODE—GOVERNMENT ORGANIZATION AND EMPLOYEES

6. *5 U.S.C.*—Privacy Act. *Regulations* pursuant to the Privacy Act are promulgated by each individual agency subject to the Act. Table B.

7. *5 U.S.C. 1201 to 1222*—Provisions establishing the Merit Systems Protection Board and Office of Special Counsel. *5 C.F.R. parts 12000 to 1209*—Regulations of the Merit Systems Protection Board. *5 C.F.R. parts 1800 to 1850*—Regulations of the Office of Special Counsel. Table B.

8. *5 U.S.C. 1501 et seq.*—Provisions applying Hatch Act type restrictions to state and local employees in certain circumstances relates to grants to states. Not included in report.

9. *5 U.S.C. 2301 to 2305*—Provisions establishing Merit Systems Principles. *5 C.F.R. parts 300 & 720*—Regulations of the Office of Personnel Management. Table B.

10. *5 U.S.C. 3102*—Authority to hire personal assistants for handicapped employees. *Regulations* are promulgated by each individual agency subject to these provisions. Table B.

11. *5 U.S.C. 3110*—Restriction on employment of relatives. *5 C.F.R. part 310*—Regulations of the Office of Personnel Management. Table B.

12. *5 U.S.C. 3112*—Provision relating to appointment of disabled veterans. *5 C.F.R. 720.301 et seq.*—Regulations of the Office of Personnel Management. Table B.

13. *5 U.S.C. 3131 to 3136*, *3391 to 3397*, *3591 to 3596*, *4311 to 4315*, *4507*—Senior Executive Service. *5 C.F.R. parts 214*, *293*, *317*,*352*, *359*, *412*, *430*—Regulations of the Office of Personnel Management. Table B.

14. *5 U.S.C. chapter 33* general—Competitive Service. *5 C.F.R.* generally—Regulations of the Office of Personnel Management. Table B.

15. *5 U.S.C. 3301*—Civil Service. *5 C.F.R. parts 771 & 930*—Regulations of the Office of Personnel Management. Table B.

16. *5 U.S.C. 3303*—Political Recommendations. Table B.

17. *5 U.S.C. 3304(c)*—Ramspeck Act provisions. *5 C.F.R. parts 315 to 316*—Regulations of the Office of Personnel Management. Table B.

18. *5 U.S.C. 3328*—Selective Service Registration. *5 C.F.R. part 300*—Regulations of the Office of Personnel Management. Table B.

19. *5 U.S.C. 3401 to 3408*—Part-Time Career Employment Opportunities. *5 C.F.R. part 340*—Regulations of the Office of Personnel Management. Table B.

20. *5 U.S.C. 3501 to 3504*—Retention preference. *5 C.F.R. parts 351 & 432*—Regulations

of the Office of Personnel Management. Table B.

21. *5 U.S.C. 3581 to 3584*—Reemployment after service with an international organization. *5 C.F.R. 352.301 et seq.*—Regulations of the Office of Personnel Management. Table B.

22. *5 U.S.C. 4101 to 4119*—Training. *5 C.F.R. part 410*—Regulations of the Office of Personnel Management. Table B.

23. *5 U.S.C. 4301 to 4305*—Performance Appraisals. *5 C.F.R. parts 430 & 432*—Regulations of the Office of Personnel Management. Table B.

24. *5 U.S.C. 4501 to 4509*—Incentive awards for superior accomplishments. *5 C.F.R. part 451*—Regulations of the Office of Personnel Management. Table B.

25. *5 U.S.C. 4511 to 4513*—Awards for cost saving disclosures. Table B.

26. *5 U.S.C. 4521 to 4523*—Awards to law enforcement officers for foreign language capabilities. Table B.

27. *5 U.S.C. 5101 to 5392*—Pay Systems. *5 C.F.R. generally*—Regulations of the Office of Personnel Management. Table B.

28. *5 U.S.C. 5511 to 5520a*—Withholding Pay. *Regulations* are promulgated by each individual agency subject to these provisions. Table B.

29. *5 U.S.C. 5531 to 5537*—Dual Pay and Dual Employment. *5 C.F.R. parts 550 & 553*—Regulations of the Office of Personnel Management. Table B.

30. *5 U.S.C. 5541 to 5550*—Premium Pay. *5 C.F.R. parts 550 and 551*—Regulations of the Office of Personnel Management. Table B.

31. *5 U.S.C. 5551 to 5553*—Payment for accrued and accumulated annual leave. Table B.

32. *5 U.S.C. 5561 to 5570*—Payments to missing employees. *32 C.F.R. part 718*—Regulations of the Department of the Army, DOD. *22 C.F.R. part 19*—Regulations of the Secretary of State. Table B.

33. *5 U.S.C. 5581 to 5584*—Settlement of Accounts. *4 C.F.R. parts 33, 91, 92*—Regulations of the General Accounting Office. Table B.

34. *5 U.S.C. 5595 to 5597*—Severance pay and Back pay. *5 C.F.R. 550.701 et seq., 550.801 et seq.*—Regulations of the Office of Personnel Management. Table B.

35. *5 U.S.C. 5701 to 5709*—Travel and subsistence expenses; Mileage allowances. *41 C.F.R. parts 301 to 304*—Federal Travel Regulations. Table B.

36. *5 U.S.C. 5721 to 5735*—Travel and transportation expenses for new appointees, student trainees, and transferred employees. *5 C.F.R. part 572*—Regulations of the Office of Personnel Management. Table B.

37. *5 U.S.C. 6101*—Basic 40-hour workweek; work schedules. *5 C.F.R. part 610*—Regulations of the Office of Personnel Management. Table B.

38. *5 U.S.C. 6103 and 6104*—Holidays. *5 C.F.R. 610.301 et seq.*—Regulations of the Office of Personnel Management. Table B.

39. *5 U.S.C. 6120 to 6133*—Flexible and Compressed Work Schedules. *5 C.F.R. 610.401 et seq.*—Regulations of the Office of Personnel Management. *5 C.F.R. 2472.6*—Regulations of the Federal Labor Relations Authority. Table B.

40. *5 U.S.C. 6301 to 6312*—Annual and Sick Leave. *5 C.F.R. part 630*—Regulations of the Office of Personnel Management. Table B.

41. *5 U.S.C. 6322*—Leave for jury or witness service. Table B.

42. *5 U.S.C. 6323*—Military Leave; Reserves and National Guardsmen. Table B.

43. *5 U.S.C. 6325*—Absence resulting from hostile action abroad. Table B.

44. *5 U.S.C. 6326*—Absence for funerals of immediate relatives in the Armed Forces. *5 C.F.R. part 630*—Regulations of the Office of Personnel Management. Table B.

45. *5 U.S.C. 6327*—Absence in connection with serving as a bone-marrow or organ donor. Table B.

46. *5 U.S.C. 6331 to 6340*—Voluntary Transfers of Leave. *5 C.F.R. parts 630*—Regulations of the Office of Personnel Management. Table B.

47. *5 U.S.C. 6361 to 6363*—Voluntary Leave Bank Program. *5 C.F.R. part 630*—Regulations of the Office of Personnel Management. Table B.

48. *5 U.S.C. 6381 to 6387*—Family and Medical Leave. *5 C.F.R. part 630*—Regulations of the Office of Personnel Management. Table B.

49. *5 U.S.C. 7101 to 7135*—Federal Service Labor-Management Relations Provisions. *5 C.F.R. chapter 24*—Regulations of the Federal Labor Relations Authority. *142 Cong. Rec. H10369 to H10384, S10405 to S10420*—Regulations of the Office of Compliance. Table B.

50. *5 U.S.C. 7201 to 7204*—Provisions relating to Anti-Discrimination in Employment. *5 C.F.R. 720.101 et seq.*—Regulations of the Office of Personnel Management. Table B.

51. *5 U.S.C. 7211*—Employees' right to petition Congress. Table B.

52. *5 U.S.C. 7311 to 7313*—Employment Limitations. *5 C.F.R. part 732*—Regulations of the Office of Personnel Management. Table B.

53. *5 U.S.C. 7321 to 7326*—Political Participation. *5 C.F.R. parts 733 & 734*—Regulations of the Office of Personnel Management. Table B.

54. *5 U.S.C. 7342*—Foreign Gifts and Decorations. Regulations are promulgated by each individual agency subject to this provision. Table B.

55. *5 U.S.C. 7351 to 7353*—Misconduct. *5 C.F.R. part 2635*—Regulations of the Office of Government Ethics. Table B.

56. *5 U.S.C. 7501 to 7543*—Adverse Actions. *5 C.F.R. parts 752, 930, 990*—Regulations of the Office of Personnel Management. Table B.

57. *5 U.S.C. 7902*—Safety Programs. Table B.

58. *5 U.S.C. 7904*—Employee Assistance Programs relating to drug and alcohol abuse. Table B.

59. *5 U.S.C. 8101 to 8193*—Compensation for Work Injuries. *20 C.F.R. parts 1, 10, 25*—Regulations of the Office of Worker's Compensation Programs, Department of Labor. *5 C.F.R. part 353*—Regulations of the Office of Personnel Management. Table B.

60. *5 U.S.C. 8301 to 8479*—Civil Service Retirement and Federal Employees Retirement System.

5 C.F.R. parts 831, 841 to 846—Regulations of the Office of Personnel Management.

5 C.F.R. chapter 16—Regulations of the Federal Retirement Thrift Supervision Board. Table B.

61. *5 U.S.C. 8501 to 8525*—Unemployment Compensation.

20 C.F.R. parts 609 & 614—Regulations of the Employment and Training Administration, Department of Labor. Table B.

62. *5 U.S.C. 8701 to 8716*—Life insurance.

5 C.F.R. parts 870 to 874—Regulations of the Office of Personnel Management. Table B.

63. *5 U.S.C. 8901 to 8914*—Health Insurance.

5 C.F.R. parts 890 & 891—Regulations of the Office of Personnel Management.

TITLE 6 UNITED STATES CODE—BONDS

Title 6 of the United States Code has been repealed.

TITLE 7 UNITED STATES CODE—AGRICULTURE

No provisions were found in title 7 that related to the terms and conditions of employment.

TITLE 8 UNITED STATES CODE—ALIENS AND NATIONALITY

64. *8 U.S.C. 1324a*—Provisions of the Immigration Reform and Control Act, regarding unlawful employment of aliens.

8 C.F.R. part 274a—Regulations of the Immigration and Naturalization Service, Department of Justice. Table C.

65. *8 U.S.C. 1324b*—Provisions of the Immigration Reform and Control Act, regarding unfair employment-related practices.

28 C.F.R. part 44—Regulations of the Department of Justice. Table D.

TITLE 9 UNITED STATES CODE—ARBITRATION

No provisions were found in title 9 that related to the terms and conditions of employment

TITLE 10 UNITED STATES CODE—ARMED FORCES

No provisions were found in title 10 that related to terms and conditions of employment, other than those provisions involving terms and conditions of employment of members of the armed forces specifically.

TITLE 11 UNITED STATES CODE—BANKRUPTCY

66. *11 U.S.C. 525*—Protection against discriminatory treatment on basis of bankruptcy. Table D.

TITLE 12 UNITED STATES CODE—BANKS AND BANKING

No provisions were found in title 12 that related to the terms and conditions of employment.

TITLE 13 UNITED STATES CODE—CENSUS

No provisions were found in title 13 that related to the terms and conditions of employment, other than those provisions involving compensation and dual and temporary employment of employees of the census bureau.

TITLE 14 UNITED STATES CODE—COAST GUARD

No provisions were found in title 14 that relate to terms and conditions of employment, other than those provisions involving terms and conditions of employment of members of the coast guard specifically.

TITLE 15 UNITED STATES CODE—COMMERCE AND TRADE

67. *15 U.S.C. 1673*—Restrictions on Garnishment.

5 C.F.R. parts 581 and 582 generally—Regulations of the Office of Personnel Management. Table A.

68. *15 U.S.C. 1674a*—Restriction on discharge from employment by reason of garnishment. Table D.

69. *15 U.S.C. 2622*—Toxic Substances Control Act (Employee protection provisions). Table D.

TITLE 16 UNITED STATES CODE—CONSERVATION

No provisions were found in title 16 that related to the terms and conditions of employment, other than the establishment of a variety of commissions and boards.

TITLE 17 UNITED STATES CODE—COPYRIGHTS

No provisions were found in title 17 that relate to the terms and conditions of employment.

TITLE 18 UNITED STATES CODE—CRIMINAL CODE

70. *18 U.S.C. 203, 205, 207 to 209*—Provisions relating to criminal penalties for government employees. *Regulations* are promulgated by each individual agency subject to these provisions. Table B.

71. *18 U.S.C. 431 to 443*—Provisions relating to illegal government employee contracts. Table B.

72. *18 U.S.C. 600*—Provision relating to promise of employment for political activity. Table A.

73. *17 U.S.C. 601*—Provision relating to deprivation of employment for political contribution. Table A.

74. *18 U.S.C. 643*—Provision relating to accounting generally for public money. Table B.

75. *18 U.S.C. 1581 and 1584*—Provisions relating to peonage and involuntary servitude. Table A.

76. *18 U.S.C. 1913, 1915 to 1918*—Criminal penalties for certain violations by officers or employees of the United States. Table B.

TITLE 19 UNITED STATES CODE—CUSTOMS AND DUTIES

No provisions were found in title 19 that relate to the terms and conditions of employment, other than provisions involving

terms and condition of employment for customs officers specifically.

TITLE 20 UNITED STATES CODE—EDUCATION

No provisions were found in title 20 that relate to terms and conditions of employment, other than those provisions involving terms and conditions of employment of certain teachers specifically.

TITLE 21 UNITED STATES CODE—FOOD AND DRUGS

No provisions were found in title 21 that relate to the terms and conditions of employment.

TITLE 22 UNITED STATES CODE—FOREIGN RELATIONS AND INTERCOURSE

No provisions were found in title 22 that relate to the terms and conditions of employment, other than provisions establishing agencies such as the IMF, the Foreign Service, the Peace Corps, and USIA.

TITLE 23 UNITED STATES CODE—HIGHWAYS

No provisions were found in title 23 that relate to the terms and conditions of employment.

TITLE 24 UNITED STATES CODE—HOSPITALS AND ASYLUMS

No provisions were found in title 24 that relate to the terms and conditions of employment.

TITLE 25 UNITED STATES CODE—INDIANS

No provisions were found in title 25 that relate to terms and conditions of employment, other than those that involve the hiring of Indians within the Indian Office specifically.

TITLE 26 UNITED STATES CODE—INTERNAL REVENUE CODE

No provisions were found in title 26 that relate to terms and conditions of employment.

TITLE 27 UNITED STATES CODE—INTOXICATING LIQUORS

No provisions were found in title 27 that relate to the terms and conditions of employment.

TITLE 28 UNITED STATES CODE—JUDICIARY

77. *28 U.S.C. 1875*—Protection of Juror's Employment Act. Table D.

TITLE 29 UNITED STATES CODE—LABOR

78. *29 U.S.C. 141 to 187*—National Labor Relations Act. *29 C.F.R. parts 100 to 103 and 1401 to 1430*—Regulations of the National Labor Relations Board. Table C.

79. *29 U.S.C. 201 to 219*—Fair Labor Standards Act. *29 C.F.R. parts 510 to 580*—Regulations of the Secretary of Labor. *142 Cong. Rec. S3924 to S3949*—Regulations of the Office of Compliance. Table A.

80. *29 U.S.C. 251 to 262*—the Portal to Portal Act. *29 C.F.R. part 775*—Regulations of the Secretary of Labor. *142 Cong. Rec. S3924 to S3949*—Regulations of the Office of Compliance. Table A.

81. *29 U.S.C. 621 to 633a*—Age Discrimination in Employment Act of 1967. *29 C.F.R. parts 1625 to 1627*—Interpretations of the Equal Employment Opportunity Commission. Table A.

82. *29 U.S.C. 651 to 677*—Occupational Safety and Health Act. *29 C.F.R. parts 1900 to 1926*—Regulations of the Secretary of Labor. *142 Cong. Rec. H10711 to H10719, S11019 to S11027*—Proposed regulations of the Office of Compliance. Table A.

83. *29 U.S.C. 701 to 797(b)*—The Rehabilitation Act of 1973. *Regulations* are promulgated by each individual agency subject to these provisions. Table B.

84. *29 U.S.C.A. 1001 to 1461*—Employee Retirement Income Security Act (ERISA). *29 C.F.R. chapter 25*—Regulations of the Pension and Welfare Benefits Administration, Department of Labor. Table C.

85. *19 U.S.C. 1161 to 1169*—COBRA provisions. Table C.

86. *29 U.S.C. 2001 to 2009*—Employee Polygraph Protection Act. *29 C.F.R. part 801*—Regulations of the Secretary of Labor. *142 Cong. Rec. S3917 to S3924*—Regulations of the Office of Compliance. Table A.

87. *29 U.S.C. 2101 to 2109*—Worker Adjustment Retraining and Notification Act. *20 C.F.R. part 639*—Regulations of the Employment and Training Administration, Department of Labor. *142 Cong. Rec. S3949 to S3952*—Regulations of the Office of Compliance. Table A.

88. *29 U.S.C. 2601 to 2654*—Family and Medical Leave Act. *29 C.F.R. part 825*—Regulations of the Secretary of Labor. *142 Cong. Rec. S3896 to S3917*—Regulations of the Office of Compliance. Table A.

TITLE 30 UNITED STATES CODE—MINERAL LANDS AND MINING

No provisions were found in title 30 that relate to terms and conditions of employment other than those that involve terms and conditions of employment for individuals in the mining industry specifically.

TITLE 31 UNITED STATES CODE—MONEY AND FINANCE

89. *31 U.S.C. 731 to 736, 751 to 755*—Government Accounting Office Personnel Act. *4 C.F.R. parts 2 et seq.*—Regulations of the Comptroller General and of the GAO Personnel Appeals Board. Table B.

TITLE 32 UNITED STATES CODE—NATIONAL GUARD

No provisions were found in title 32 that relate to terms and conditions of employment other than those that involve terms and conditions of employment for members of the National Guard specifically.

TITLE 33 UNITED STATES CODE—NAVIGATION AND NAVIGABLE WATERS

90. *33 U.S.C. 1367*—Water Pollution Control Act (Employee protection provisions). Table D.

TITLE 34 UNITED STATES CODE—NAVY

Incorporated into title 10 of the United States Code.

TITLE 35 UNITED STATES CODE—PATENTS

No provisions were found in title 35 that relate to terms and conditions of employment.

TITLE 36 UNITED STATES CODE—PATRIOTIC SOCIETIES AND OBSERVANCES

No provisions were found in title 36 that relate to terms and conditions of employment.

TITLE 37 UNITED STATES CODE—PAY AND ALLOWANCES OF THE UNIFORMED SERVICES

No provisions were found in title 37 that relate to terms and conditions of employment other than those that involve terms and conditions of employment for members of the uniformed services.

TITLE 38 UNITED STATES CODE—VETERAN'S BENEFITS

91. *38 U.S.C. 4301 to 4333*—Uniformed Services Employment and Reemployment Rights. *5 C.F.R. part 353* for executive branch—Regulations of the Office of Personnel Management. Table A.

TITLE 39 UNITED STATES CODE—POSTAL SERVICE

92. *39 U.S.C. 1001 to 1011, 1201 to 1209*—Terms and conditions of employment for postal employees. *39 C.F.R. parts 211, 255, 265, 760, 761, 946*—Regulations of the Postal Service. Table B.

TITLE 40 UNITED STATES CODE—PUBLIC BUILDINGS, PROPERTY, AND WORKS

No provisions were found in title 40 that relate to terms and conditions of employment other than those that involve contractor laws and the establishment of Boards and Commissions.

TITLE 41 UNITED STATES CODE—PUBLIC CONTRACTS

No provisions were found in title 41 that relate to terms and conditions of employment other than those that involve contractor laws.

TITLE 42 UNITED STATES CODE—PUBLIC HEALTH AND WELFARE

93. *42 U.S.C. 290dd*—Provision relating to substance abuse among government and other employees. Table B.

94. *42 U.S.C. 300j–9(i)*—Safe Drinking Water Act (employee protection provisions). Table D.

95. *42 U.S.C. 401 to 433*—Provisions relating to Social Security Insurance. *20 C.F.R. parts 404, 410, 416*—Regulations of the Social Security Administration. *42 C.F.R. parts 405, 406, 424*—Regulations of the Health Care Financing Administration, Health and Human Services. Table A.

96. *42 U.S.C. 659 to 662*—Provisions relating to enforcement of child support and alimony orders. *Regulations* are promulgated by each individual agency subject to these provisions. Table B.

97. *42 U.S.C. 2000a to 2000a–6*—Title II of the Civil Rights Act of 1964. Table D.

98. *42 U.S.C. 2000b to 2000b–3*—Title III of the Civil rights Act of 1964. Table D.

99. *42 U.S.C. 2000e to 2000e–17*—Title VII of the Civil Rights Act of 1964. *29 C.F.R. part 1601* generally—Procedural regulations of the Equal Employment Opportunity Commission. Table A.

100. *42 U.S.C. 4151 to 4157*—Provisions relating to design and construction of public buildings to accommodate physically handicapped persons. *41 C.F.R. parts 101 to 119* generally—Regulations of the General Services Administration. Table B.

101. *42 U.S.C. 5851*—Energy Reorganization Act of 1974 (Employee protection provisions). Table D.

102. *42 U.S.C. 6971*—Solid Waste Disposal Act (Employee protection provisions). Table D.

103. *42 U.S.C. 7622*—Clean Air Act (Employee protection provisions). Table D.

104. *42 U.S.C. 9610*—Comprehensive, Environmental Response, Compensation, and Liability Act (CERCLA) (Employee protection provisions). *29 C.F.R. 24.2*—Enforcement procedures of the Secretary of Labor. Table D.

105. *42 U.S.C. 12101 to 12213*—The Americans with Disabilities Act of 1990. *29 C.F.R. parts 1602, 1614, 1640, 1641*—Record keeping and reporting requirements of the Equal Employment Opportunity Commission. *28 C.F.R. part 35*—Regulations of the Attorney General. *49 C.F.R. parts 27, 37, 38*—Regulations of the Secretary of Transportation. *142 Cong. Rec. H10676 to H10711, S10984 to S11019*—Proposed regulations of the Office of Compliance. Table A.

TITLE 43 UNITED STATES CODE—PUBLIC LANDS

No provisions were found in title 43 that relate to the terms and conditions of employment.

TITLE 44 UNITED STATES CODE—PUBLIC PRINTING AND DOCUMENTS

No provisions were found in title 44 that relate to the terms and conditions of employment.

TITLE 45 UNITED STATES CODE—RAILROADS

No provisions were found in title 45 that relate to terms and conditions of employment other than those that prescribe terms and conditions of employment for railroad employees specifically, and the establishment of Boards and Commissions.

TITLE 46 UNITED STATES CODE—SHIPPING

No provisions were found in title 46 that relate to terms and conditions of employment other than those that prescribe terms and conditions of employment for shipping industry employees specifically.

TITLE 47 UNITED STATES CODE—TELEGRAPHS, TELEPHONES, AND RADIOTELEGRAPHS

No provisions were found in title 47 that relate to terms and conditions of employment.

TITLE 48 UNITED STATES CODE—TERRITORIES AND INSULAR POSSESSIONS

No provisions were found in title 48 that relate to terms and conditions of employment.

TITLE 49 UNITED STATES CODE—TRANSPORTATION

No provisions were found in title 49 that relate to terms and conditions of employment other than those that prescribe terms and conditions of employment for common carrier employees specifically.

TITLE 50 UNITED STATES CODE—WAR AND NATIONAL DEFENSE

No provisions were found in title 50 that relate to terms and conditions of employment other than those that prescribe terms and conditions of employment for CIA employees specifically.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a treaty and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT—PM 1

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Pursuant to the requirements of 42 U.S.C. 3536, I transmit herewith the 31st Annual Report of the Department of Housing and Urban Development, which covers calendar year 1995.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 7, 1997.*

REPORT OF THE DEPARTMENT OF ENERGY—MESSAGE FROM THE PRESIDENT—PM 2

Thee PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources.

To the Congress of the United States:

In accordance with the requirements of section 657 of the Department of Energy Organization Act (Public Law 95–91; 42 U.S.C. 7267), I transmit herewith the 31st Annual Report of the Department of Energy, which covers the years 1994 and 1995.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 7, 1997.*

REPORT CONCERNING THE BIENNAL REPORT ON HAZARDOUS MATERIALS—MESSAGE FROM THE PRESIDENT—PM 3

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation.

To the Congress of the United States:

In accordance with Public Law 103–272, as amended (49 U.S.C. 5121(e)), I transmit herewith the Biennial Report on Hazardous Materials Transportation for Calendar Years 1994–1995 of the Department of Transportation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 7, 1997.*

REPORT CONCERNING THE APPOINTMENT OF THE UNITED STATES TRADE REPRESENTATIVES—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE RECESS—PM 4

Under the authority of the order of the Senate of January 7, 1997, the Secretary of the Senate, on January 7, 1997, during the recess of the Senate, received the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs.

To the Congress of the United States:

I am pleased to transmit herewith for your immediate consideration and enactment legislation to provide a waiver from certain provisions relating to the appointment of the United States Trade Representative.

This draft bill would authorize the President, acting by and with the advice and consent of the Senate, to appoint Charlene Barshefsky as the United States Trade Representative, notwithstanding any limitations imposed by certain provisions of law. The Lobbying Disclosure Act of 1995 amended the provisions of the Trade Act of 1974 regarding the appointment of the United States Trade Representative and the Deputy United States Trade Representatives by imposing certain limitations on their appointment. These limitations only became effective with respect to the appointment of the United States Trade Representative and Deputy United States Trade Representatives on January 1, 1996, and do not apply to individuals who were serving in one of those positions on that date and continue to serve in them. Because Charlene Barshefsky was appointed Deputy United States Trade Representative on May 28, 1993, and has continued to serve in that position since then, the limitations in the Lobbying Disclosure Act, which became effective on January 1, 1996, do not apply to her in her capacity as Deputy United States Trade Representative and it is appropriate that they not apply to her if she is appointed to be the United States Trade Representative.

I have today nominated Charlene Barshefsky to be the next United States Trade Representative. She has done an outstanding job as Deputy United States Trade Representative since 1993 and as Acting United States Trade Representative for the last 9 months. I am confident she will make an excellent United States Trade Representative. I urge the Congress to take prompt and favorable action on this legislation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 7, 1997.*

MESSAGES FROM THE HOUSE RECEIVED SUBSEQUENT TO SINE DIE ADJOURNMENT

Under the authority of the order of the Senate of January 4, 1996, the Secretary of the Senate, on October 4, 1996, subsequent to the sine die adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker pro tempore (Mrs. MORELLA) has signed the following enrolled bills:

S. An act to amend the Magnuson Fishery Conservation and Management Act to authorize appropriations, to provide for sustainable fisheries, and for other purposes.

H.R. 3539. An act to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes.

H.R. 3723. An act to amend title 18, United States Code, to protect proprietary economic information, and for other purposes.

Under the authority of the order of the Senate of January 4, 1996, the enrolled bills were signed on October 4, 1996, during the sine die adjournment of the Senate by the President pro tempore (Mr. THURMOND).

Under the authority of the order of the Senate of January 4, 1996, the Secretary of the Senate, on October 9, 1996, subsequent to the sine die adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker pro tempore (Mrs. MORELLA) has signed the following enrolled bills and joint resolutions:

S. 342. An act to establish the Cache La Poudre River Corridor.

S. 1004. An act to authorize appropriations for the United States Coast Guard, and for other purposes.

S. 1194. An act to promote the research, identification, assessment, and exploration of marine mineral resources, and for other purposes.

S. 1649. An act to extend contracts between the Bureau of Reclamation and irrigation

districts in Kansas and Nebraska, and for other purposes.

S. 1887. An act to make improvements in the operation and administration of the Federal courts, and for other purposes.

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

S. 2183. An act to make technical corrections to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

S. 2197. An act to extend the authorized period of stay within the United States for certain nurses.

S. 2198. An act to provide for the Advisory Commission on Intergovernmental Relations to continue in existence, and for other purposes.

H.R. 632. An act to enhance fairness in compensating owners of patents used by the United States.

H.R. 1087. An act for the relief of Nguyen Quy An.

H.R. 1281. An act to express the sense of the Congress that the United States Government agencies in possession of records about individuals who are alleged to have committed Nazi war crimes should make these records public.

H.R. 1776. An act to establish United States commemorative coin programs, and for other purposes.

H.R. 1874. An act to modify the boundaries of the Talladega National Forest, Alabama.

H.R. 3155. An act to amend the Wild and Scenic Rivers Act by designating the Wekiva River, Seminole Creek, and Rock Springs Run in the States of Florida for study and potential addition to the National Wild and Scenic Rivers System.

H.R. 3249. An act to authorize appropriations for a mining institutes to develop domestic technological capabilities for the recovery of minerals from the Nations seabed, and for other purposes.

H.R. 3378. An act to amend the Indian Health Care Improvement Act to extend the demonstration program for direct billing of Medicare, Medicaid, and other third party payors.

H.R. 3568. An act to designate 51.7 miles of the Clarion River, located in Pennsylvania, as a component of the National Wild and Scenic Rivers System.

H.R. 3632. An act to amend title XIX of the Social Security Act to repeal the requirement for annual resident review for nursing facilities under the Medicaid program and to require resident reviews for mentally ill or mentally retarded residents when there is a significant change in physical or mental condition.

H.R. 3864. An act to amend laws authorizing auditing, reporting, and other functions by the General Accounting Office.

H.R. 3910. An act to provide emergency drought relief to the city of Corpus Christi, Texas, and the Canadian River Municipal Water Authority, Texas, and other purposes.

H.R. 4036. An act making certain provisions with respect to internationally recognized human rights, refugees, and foreign relations.

H.R. 4083. An act to extend certain programs under the Energy Policy and Conservation Act through September 30, 1997.

H.R. 4137. An act to combat drug-facilitated crimes of violence, including sexual assaults.

H.R. 4194. An act to reauthorize alternative means of dispute resolution in the Federal administrative process, and other purposes.

H.J. Res. 193. Joint resolution granting the consent of Congress to the Emergency Management Assistance Compact.

H.J. Res. 194. Joint resolution granting the consent to the Congress to amendments made by Maryland, Virginia, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact.

Under the authority of the order of the Senate of January 4, 1995, the enrolled bills and joint resolutions were signed on October 9, 1996, during the sine die adjournment of the Senate by the President pro tempore (Mr. THURMOND).

Under the authority of the order of the Senate of January 4, 1996, the Secretary of the Senate, on October 18, 1996, subsequent to the sine die adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker pro tempore (Mrs. MORELLA) has signed the following enrolled bills:

H.R. 3219. An act to provide Federal assistance for Indian tribes in a manner that recognizes the right of tribal self-governance, and for other purposes.

H.R. 3452. An act to make certain laws applicable to the Executive Office of the President, and for other purposes.

H.R. 4283. An act to provide for ballast water management to prevent the introduction and spread of nonindigenous species into the waters of the United States, and for other purposes.

Under the authority of the order of the Senate of January 4, 1995, the enrolled bills and joint resolutions were signed on October 18, 1996, during the sine die adjournment of the Senate by the President pro tempore (Mr. THURMOND).

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on October 4, 1996, he had presented to the President of the United States, the following enrolled bill:

S. 39. An act to amend the Magnuson Fishery Conservation and Management Act to authorize appropriations, to provide for sustainable fisheries, and for other purposes.

The Secretary of the Senate reported that on October 9, 1996, he had presented to the President of the United States, the following enrolled bills:

S. 342. An act to establish the Cache La Poudre River Corridor.

S. 1004. An act to authorize appropriations for the United States Coast Guard, and for other purposes.

S. 1194. An act to promote the research, identification, assessment, and exploration of marine mineral resources, and for other purposes.

S. 1649. An act to extend contracts between the Bureau of Reclamation and irrigation districts in Kansas and Nebraska, and for other purposes.

S. 1887. An act to make improvements in the operation and administration of the Federal courts, and for other purposes.

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

S. 2183. An act to make technical corrections to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

S. 2197. An act to extend the authorized period of stay within the United States for certain nurses.

S. 2198. An act to provide for the Advisory Commission on Intergovernmental Relations to continue in existence, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1. A communication from the Chairman of the Federal Election Commission, transmitting, the budget request for fiscal year 1998; to the Committee on Rules and Administration.

EC–2. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, a report relative to tuition payment assistance; to the Committee on Rules and Administration.

EC–3. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to tomatoes grown in Florida, (FV96-966-2) received on October 30, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to Irish potatoes grown in Maine, (FV95-950-1) received on October 16, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to fresh fruits, vegetables, and other products (FV95-306) received on October 18, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to regulations under the export grape and plum act (FV96-35-1) received on October 17, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to assessment rate for marketing orders, (FV96-927-2) received on October 9, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of four rules including a rule relative to dried prunes in California, (FV96-993-1, 945-1, 929-3) received on October 3, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to the eastern Colorado milk order, (DA-96-13) received on October 25, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–10. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to olives grown in California and imported olives (FV96-932-3) received on October 25, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–11. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to domestically produced peanuts,

(FV96-998-3) received on October 28, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–12. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to brucellosis in cattle, received on October 30, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–13. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to importation of fruit trees from France, received on October 1, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–14. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to Japanese beetle, received on November 1, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–15. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to importation of horses, received on October 16, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–16. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to commuted traveltime periods, received on October 16, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–17. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to viruses, serums, toxins, and analogous products, received on October 16, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–18. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to remove interstate movement regulations, received on October 18, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–19. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to viruses, serums, toxins, and analogous products, received on October 4, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–20. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to a change in disease status, received on October 4, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–21. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to karnal bunt, received on October 4, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–22. A communication from the Administrator of the Farm Service Agency, Department of Agriculture, the report of a rule relative to burley tobacco, (RIN0560–AE47) received on October 1, 1996; to Committee on Agriculture, Nutrition, and Forestry.

EC–23. A communication from the Administrator of the Farm Service Agency, Department of Agriculture, the report of a rule relative to the disaster reserve assistance program, received on October 24, 1996; to Committee on Agriculture, Nutrition, and Forestry.

EC–24. A communication from the Administrator of the Foreign Agricultural Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to agreements for the development of foreign markets, (RIN0551–AA24) received on October 4, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–25. A communication from the Administrator of the Grain Inspection and Stockyards Administration, Department of Agriculture, the report of a rule relative to protection for purchasers of farm products, (RIN0580–AA13) received on October 17, 1996; to Committee on Agriculture, Nutrition, and Forestry.

EC–26. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report of a major rule relative to dairy tariff-rate quote licensing, received on October 16, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–27. A communication from the Under Secretary for Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to Food Stamp Program regulations, (RIN0584–AB74) received on October 7, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–28. A communication from the Under Secretary for Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to Food Stamp Program regulations, (RIN0584–AB98) received on October 7, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–29. A communication from the Under Secretary for Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to Food Stamp Program regulations, (RIN0584–AB58) received on October 7, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–30. A communication from the Under Secretary for Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to Food Stamp Program regulations, (RIN0584–AB60) received on October 7, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–31. A communication from the Under Secretary for Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to Food Stamp Program regulations, (RIN0584–AB02) received on October 7, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–32. A communication from the Assistant Secretary for Administration, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to agriculture acquisition regulation, (RIN0599–AA00) received on October 1, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–33. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report on the Horse Protection Enforcement Act for fiscal year 1995; to the Committee on Agriculture, Nutrition, and Forestry.

EC–34. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report on foreign ownership of U.S. agricultural land for calendar year 1995; to the Committee on Agriculture, Nutrition, and Forestry.

EC–35. A communication from the Acting Executive Director of the Commodities Futures Trading Commission, transmitting, pursuant to law, the report of a rule relative to inflation adjusted civil monetary penalties, received on October 24, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–36. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, the report of a rule relative to adjusting civil money penalties for inflation, (RIN3052–AB74) received on October 25, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–37. A communication from the Director of the Office of Regulations Management, Department of Veterans' Affairs, transmitting, pursuant to law, a rule entitled ''Willful Misconduct'' (RIN2900–AI26) received on November 1, 1996; to the Committee on Veterans' Affairs.

EC–38. A communication from the Director of the Office of Regulations Management, Department of Veterans' Affairs, transmitting, pursuant to law, a rule entitled ''Contract Program for Veterans With Alcohol and Drug Dependence Disorders'' (RIN2900–AH77) received on November 1, 1996; to the Committee on Veterans' Affairs.

EC–39. A communication from the Director of the Office of Regulations Management, Department of Veterans' Affairs, transmitting, pursuant to law, a rule entitled ''Federal Civil Penalties Inflation Adjustment'' (RIN2900–AI48) received on October 31, 1996; to the Committee on Veterans' Affairs.

EC–40. A communication from the Director of the Office of Regulations Management, Department of Veterans' Affairs, transmitting, pursuant to law, a rule entitled ''Evidence of Dependents and Age'' (RIN2900–AH51) received on October 31, 1996; to the Committee on Veterans' Affairs.

EC–41. A communication from the Director of the Office of Regulations Management, Department of Veterans' Affairs, transmitting, pursuant to law, a rule entitled ''VA Acquisition Regulation: Service Contracting'' (RIN2900–AG67) received on October 31, 1996; to the Committee on Veterans' Affairs.

EC–42. A communication from the Director of the Office of Regulations Management, Department of Veterans' Affairs, transmitting, pursuant to law, a rule entitled ''Schedule for Rating Disabilities; Mental Disorders'' (RIN2900–AF01) received on October 27, 1996; to the Committee on Veterans' Affairs.

EC–43. A communication from the President of the United States, transmitting, pursuant to law, the report on continued production of the naval petroleum reserves; to the Committee on Armed Services.

EC–44. A communication from the President of the United States, transmitting, pursuant to law, a report on ballistic missiles; to the Committee on Armed Services.

EC–45. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–46. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on continued production of the naval petroleum reserves; to the Committee on Armed Services.

EC–47. A communication from the Secretary of the Navy, transmitting, pursuant to law, a proposal to transfer a battleship; to the Committee on Armed Services.

EC–48. A communication from the Under Secretary of Defense, transmitting, pursuant to law, notice of fund transfers; to the Committee on Armed Services.

EC–49. A communication from the Deputy Secretary of Defense, transmitting, pursuant

to law, the report on opportunities for greater efficiencies in the operation of the military exchanges, commissary stores, and other morale, welfare and recreation activities; to the Committee on Armed Services.

EC–50. A communication from the Director of the Defense Procurement, Under Secretary of Defense, transmitting, pursuant to law, a rule entitled ''The Pilot Mentor-Protege Program'' received on October 15, 1996; to the Committee on Armed Services.

EC–51. A communication from the Director of the Defense Procurement, Under Secretary of Defense, transmitting, pursuant to law, a rule entitled ''The Defense Federal Acquisition Regulation Supplement'' received on September 27, 1996; to the Committee on Armed Services.

EC–52. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 92–12; to the Committee on Appropriations.

EC–53. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 92–27; to the Committee on Appropriations.

EC–54. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to the Anti-Terrorism Assistance Program; to the Committee on Appropriations.

EC–55. A communication from the Director of the Office of Management and Budget in the Executive Office of the President, transmitting, pursuant to law, a report concerning direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–56. A communication from the Director of the Office of Management and Budget in the Executive Office of the President, transmitting, pursuant to law, a report concerning direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–57. A communication from the Director of the Office of Management and Budget in the Executive Office of the President, transmitting, pursuant to law, a report concerning direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–58. A communication from the Director of the Office of Management and Budget in the Executive Office of the President, transmitting, pursuant to law, a report concerning direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–59. A communication from the Director of the Office of Management and Budget in the Executive Office of the President, transmitting, pursuant to law, a report concerning direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–60. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report concerning direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–61. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report concerning direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–62. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report concerning direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–63. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report concerning direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–64. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report concerning direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–65. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report concerning direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–66. A communication from the Under Secretary for Food, Nutrition, and Consumer Services, transmitting, pursuant to law, the report of rule relative to Food Stamp Program regulations, received on October 7, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–67. A communication from the Deputy Under Secretary Natural Resources and Environment, Department of Agriculture, transmitting, pursuant to law, the report under the Wilderness Act; to the Committee on Energy and Natural Resources.

EC–68. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the electric and hybrid vehicles program for fiscal year 1995; to the Committee on Energy and Natural Resources.

EC–69. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, the report of rule relative to Bonneville Power Administration, received on October 1, 1996; to the Committee on Energy and Natural Resources.

EC–70. A communication from the Secretary of Energy, transmitting, pursuant to law, the report relative to alternative fuel vehicles in Federal fleets; to the Committee on Energy and Natural Resources.

EC–71. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, the report entitled ''Emissions of Greenhouse Gases in the United States 1995''; to the Committee on Energy and Natural Resources.

EC–72. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, the report of a rule relative to personnel assurance program, received on October 22, 1996; to the Committee on Energy and Natural Resources.

EC–73. A communication from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting, pursuant to law, the report of a rule relative to Outer Continental Shelf Leases, (RIN1010–AC07) received on October 24, 1996; to the Committee on Energy and Natural Resources.

EC–74. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC–75. A communication from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting, pursuant to law, the report of a rule relative to Outer Continental Shelf Leases, (RIN1010–AC15) received on October 24, 1996; to the Committee on Energy and Natural Resources.

EC–76. A communication from the Assistant Secretary for Fish and Wildlife and Parks, transmitting, pursuant to law, the report of rule relative to national parks system units in Alaska, (RIN1024–AC19) received on October 15, 1996; to the Committee on Energy and Natural Resources.

EC–77. A communication from the Acting Director of the Office of Surface Mining, Department of Interior, transmitting, pursuant to law, the report of two final rules including one relative to the Ohio Regulatory Program, received on October 23, 1996; to the Committee on Energy and Natural Resources.

EC–78. A communication from the Acting Director of the Office of Surface Mining, Department of Interior, transmitting, pursuant to law, the report of a final rule relative to North Dakota abandoned Mine Land Reclamation Program, received on October 4, 1996; to the Committee on Energy and Natural Resources.

EC–79. A communication from the National Service Officer of the American Gold Star Mothers, transmitting, pursuant to law, the report of the audit of financial statements for 1995 and 1996; to the Committee on the Judiciary.

EC–80. A communication from the Assistant Attorney General, transmitting, pursuant to law, the report relative to the rule entitled ''Grants Program for Indian Tribes''; to the Committee on the Judiciary.

EC–81. A communication from the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, transmitting, pursuant to law, the rule entitled ''Communications with the Patent and Trademark Office'' (RIN0651-AA70) received on October 29, 1996; to the Committee on the Judiciary.

EC–82. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the rule entitled ''Visas Documentation of Nonimmigrants Under the Immigration and Nationality Act, As Amended'' received on September 27, 1996; to the Committee on the Judiciary.

EC–83. A communication from the Assistant Attorney General, transmitting, a draft of proposed legislation entitled ''The Child Support Recovery Amendments Act of 1996''; to the Committee on the Judiciary.

EC–84. A communication from the Secretary of Education, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC–85. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the rule entitled ''Employer Sanctions Modifications'' received on October 2, 1996; to the Committee on the Judiciary.

EC–86. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a rule concerning the Port Passenger Accelerated Service Program received on October 9, 1996; to the Committee on the Judiciary.

EC–87. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the rule entitled ''Collection of Fees Under the Dedicated Commuter Lane Program'' received on October 11, 1996; to the Committee on the Judiciary.

EC–88. A communication from the Assistant Attorney General, transmitting, a draft of proposed legislation to include American Samoa in the Act of October 5, 1984; to the Committee on the Judiciary.

EC–89. A communication from the Assistant Attorney General, transmitting, a draft

of proposed legislation entitled ''The International Crime Control Act of 1996''; to the Committee on the Judiciary.

EC–90. A communication from the National Commander of the American Ex-Prisoners of War, transmitting, pursuant to law, the report of the audit of financial statements for 1995 and 1996; to the Committee on the Judiciary.

EC–91. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the annual report for fiscal year 1994; to the Committee on the Judiciary.

EC–92. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals dated September 1, 1996; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Agriculture, Nutrition, and Forestry, to the Committee on Armed Services, to the Committee on Environment and Public Works, to the Committee on Finance, to the Committee on Foreign Relations, and to the Committee on Government Affairs.

EC–93. A communication from the Director of the Congressional Budget Office, transmitting, pursuant to law, the final sequestration report for fiscal year 1997; referred jointly, pursuant to the order of January 30, 1975, as modified by the order April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Agriculture, Nutrition, and Forestry, to the Committee on Armed Services, to the Committee on Banking, Housing, and Urban Affairs, to the Committee on Commerce, Science, and Transportation, to the Committee on Energy and Natural Resources, to the Committee on Environment and Public Works, to the Committee on Finance, to the Committee on Foreign Relations, to the Committee on Governmental Affairs, to the Committee on the Judiciary, to the Committee on Labor and Human Resources, to the Committee on Small Business, to the Committee on Veterans' Affairs, to the Select Committee on Intelligence, and to the Committee on Indian Affairs.

EC–94. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, Treasury Notice 96–54, received on October 29, 1996; to the Committee on Finance.

EC–95. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, Treasury Announcement 96–105, received on October 1, 1996; to the Committee on Finance.

EC–96. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, Treasury Announcement 96–106, received on October 1, 1996; to the Committee on Finance.

EC–97. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, Treasury Announcement 96–108, received on October 15, 1996; to the Committee on Finance.

EC–98. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, Treasury Announcement 96–112, received on October 21, 1996; to the Committee on Finance.

EC–99. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, Treasury Announcement 96–116, received on October 24, 1996; to the Committee on Finance.

EC–100. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, Revenue Procedure 250588–96, received on November 1, 1996; to the Committee on Finance.

EC–101. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, Revenue Procedure 96–49, received on October 7, 1996; to the Committee on Finance.

EC–102. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, Revenue Procedure 96–50, received on October 31, 1996; to the Committee on Finance.

EC–103. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, Treasury Notice 96–51, received on September 27, 1996; to the Committee on Finance.

EC–104. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, Treasury Notice 96–52, received on September 27, 1996; to the Committee on Finance.

EC–105. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, Revenue Ruling 96–41, received on October 22, 1996; to the Committee on Finance.

EC–106. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, Revenue Ruling 96–45, received on September 27, 1996; to the Committee on Finance.

EC–107. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, Revenue Ruling 96–50, received on September 27, 1996; to the Committee on Finance.

EC–108. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, Revenue Ruling 96–52, received on October 18, 1996; to the Committee on Finance.

EC–109. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, the report of two rules relative to Revenue Ruling 96–51, received on October 3, 1996; to the Committee on Finance.

EC–110. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, a rule relative to an Action on Decision, received on October 17, 1996; to the Committee on Finance.

EC–111. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, a rule relative to an Action on Decision, received on October 17, 1996; to the Committee on Finance.

EC–112. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, a rule relative to Revenue Procedure 96–48, received on September 27, 1996; to the Committee on Finance.

EC–113. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, the report of a rule relative to a Treasury Regulation, (RIN1545–AM98) received on October 9, 1996; to the Committee on Finance.

EC–114. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, the report of a rule relative to a Treasury Regulation, (RIN1545–AU08) received on October 9, 1996; to the Committee on Finance.

EC–115. A communication from the Chief Counsel of the Bureau of Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of a final rule relative to United States Savings Bonds, received on October 15, 1996; to the Committee on Finance.

EC–116. A communication from the Administrator of the Health Care Financing Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule relative to recovery of overpayments, received on September 27, 1996; to the Committee on Finance.

EC–117. A communication from the Administrator of the Health Care Financing Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule relative to services under Medicare Part B, received on September 27, 1996; to the Committee on Finance.

EC–118. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule relative to ambulatory surgical center payment rates, received on October 1, 1996; to the Committee on Finance.

EC–119. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule relative to limitations on aggregate payments, (RIN0938–AH44) received on October 8, 1996; to the Committee on Finance.

EC–120. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule relative to monthly actuarial rates, (RIN0938–AH42) received on October 30, 1996; to the Committee on Finance.

EC–121. A communication from the Chief of Staff of the Social Security Administration, transmitting, pursuant to law, the report of a final rule relative to lawful admission for permanent residence, (RIN0960–AD90) received on October 31, 1996; to the Committee on Finance.

EC–122. A communication from the Chief of Staff of the Social Security Administration, transmitting, pursuant to law, the report of a final rule relative to overpayment appeals and waiver rights, (RIN0960–AD99) received on October 30, 1996; to the Committee on Finance.

EC–123. A communication from the President of the United States, transmitting, pursuant to law, the report relative to the Generalized System of Preferences (GSP) program, received on October 18, 1996; to the Committee on Finance.

EC–124. A communication from the Secretary of Labor, transmitting, pursuant to law, the report on the worker adjustment assistance training funds under the Trade Act of 1974; to the Committee on Finance.

EC–125. A communication from the Chairman of the International Trade Commission, transmitting, pursuant to law, the Caribbean Basin Recovery Act; to the Committee on Finance.

EC–126. A communication from the Director of the U.S. Arms Control and Disarmament Agency, transmitting, pursuant to law, the report entitled ''Arms Control, Nonproliferation and Disarmament Studies Completed in 1995''; to the Committee on Foreign Relations.

EC–127. A communication from the Assistant Attorney General (Civil Rights Division), transmitting, pursuant to law, the rule entitled ''Redress Provisions for Persons of Japanese Ancestry'' (RIN1190-AA42) received on

October 31, 1996; to the Committee on the Judiciary.

EC–128. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, a rule concerning Personnel Security Activities received on November 4, 1996; to the Committee on Energy and Natural Resources.

EC–129. A communication from the Chairman of the Senate Delegation and Chairman of the House of Representatives Delegation of the Canada–United States Interparliamentary Conference, transmitting, pursuant to law, the annual report for 1996; to the Committee on Foreign Relations.

EC–130. A communication from the Assistant Attorney General, transmitting, pursuant to law, the report on the administration of the Foreign Agents Registration Act for the calendar year 1995; to the Committee on Foreign Relations.

EC–131. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC–132. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC–133. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to a rule on nonimmigrant visas received on October 18, 1996; to the Committee on Foreign Relations.

EC–134. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the notice of intention relative to the Hashemite Kingdom of Jordan; to the Committee on Foreign Relations.

EC–135. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to the United Nations and United Nations-affiliated agencies; to the Committee on Foreign Relations.

EC–136. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, a rule concerning the Work For Others Program received on November 4, 1996; to the Committee on Energy and Natural Resources.

EC–137. A communication from the Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, the Selected Acquisition Reports for the period July 1 through September 30, 1996; to the Committee on Armed Services.

EC–138. A communication from the Secretary of the Senate, transmitting, pursuant to law, the report of the receipts and expenditures of the Senate for the period April 1, 1996 through September 30, 1996; ordered to lie on the table.

EC–139. A communication from the Director of the Office of Regulations Management, Department of Veterans' Affairs, transmitting, pursuant to law, a rule entitled ''Diseases Associated with Exposure to Certain Herbicide Agents'' (RIN2900–AI35) received on November 8, 1996; to the Committee on Veterans' Affairs.

EC–140. A communication from the Chairman of the U.S. Advisory Commission on Public Diplomacy, transmitting, pursuant to law, the report entitled ''A New Diplomacy for the Information Age''; to the Committee on Foreign Relations.

EC–141. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC–142. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC–143. A communication from the Principal Deputy Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report relative to Saudi Arabia; to the Committee on Appropriations.

EC–144. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 92–09; to the Committee on Appropriations.

EC–145. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to the Waste Isolation Pilot Plant; to the Committee on Energy and Natural Resources.

EC–146. A communication from the Acting Assistant Secretary of the Interior for Land Minerals Management, transmitting, pursuant to law, a rule entitled ''Grazing Administration, Exclusive of Alaska'' (RIN1004–AB89) received on November 22, 1996; to the Committee on Energy and Natural Resources.

EC–147. A communication from the Acting Director of the Office of Surface Mining, Reclamation and Enforcement. Department of the Interior, transmitting, pursuant to law, a rule entitled ''Grazing Administration, Exclusive of Alaska'' (RIN1004–AB89) received on November 22, 1996; to the Committee on Energy and Natural Resources.

EC–148. A communication from the Assistant Secretary of the Interior (Land and Minerals Management), transmitting, pursuant to law, a rule entitled ''Oil and Gas and Sulphur Operations in the Outer Continental Shelf'' (RIN101004–AC03); to the Committee on Energy and Natural Resources.

EC–149. A communication from the Director of the Office of Insular Affairs, Department of the Interior, transmitting, pursuant to law, a rule entitled ''Changes In Procedures For the Insular Possessions Watch Program'' (RIN0625–AA46) received on October 30, 1996; to the Committee on Energy and Natural Resources.

EC–150. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of thirteen rules including one relative to revision of Class E airspace (RIN2120–AA64, AA66), received on October 10, 1996; to the Committee on Commerce, Science, and Transportation.

EC–151. A communication from General Counsel, Department of Transportation, transmitting, pursuant to law, the report of thirteen rules including one relative to revision of Class E airspace (RIN2120–AA64, AA65, AA66), received on October 10, 1996; to the Committee on Commerce, Science, and Transportation.

EC–152. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of seven rules including one relative to Class E airspace (RIN2120–AA64, AA66), received on October 3, 1996; to the Committee on Commerce, Science, and Transportation.

EC–153. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of three rules including one relative to standard instrument approach procedures (RIN2120–AA65), received on October 31, 1996; to the Committee on Commerce, Science, and Transportation.

EC–154. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule relative to airworthiness directives (RIN2120–AA64), received on October 28, 1996; to the Committee on Commerce, Science, and Transportation.

EC–155. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of two rules including one relative to crashworthiness protection (RIN2115–AE47), received on November 14, 1996; to the Committee on Commerce, Science, and Transportation.

EC–156. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of twenty-five rules including one relative to airworthiness directives (RIN2120–AA63, AA64, AA65, AA66, AC43, AD74), received on November 14, 1996; to the Committee on Commerce, Science, and Transportation.

EC–157. A communication from the Secratary of Commerce, transmitting, pursuant to law, the report entitled ''Historic Rational, Effectiveness and Biological Efficiency of Existing Regulations for the U.S. Atlantic Bluefin Tuna Fisheries''; to the Committee on Commerce, Science, and Transportation.

EC–158. A communication from the Secretary of Commerce, transmitting, pursuant to law, the annual report for fiscal year 1995; to the Committee on Commerce, Science, Transportation.

EC–159. A communication from the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, transmitting, pursuant to law, the report of a rule relative to establishment of recordal fees, (RIN0651–AA90) received October 23, 1996; to the Committee on Commerce, Science, and Transportation.

EC–160. A communication from the Director of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of rule relative to the Endangered Species Act, received on November 13, 1996; to the Committee on Commerce, Science, and Transportation.

EC–161. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to fisheries of the Northeastern United States (RIN0648–AH06) received on November 20, 1996; to the Committee on Commerce, Science, and Transportation.

EC–162. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to fisheries of the Northeastern United States (RIN0648–AH05) received on October 31, 1996; to the Committee on Commerce, Science, and Transportation.

EC–163. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to fisheries of the Northeastern United States (RIN0648–AJ26) received on November 12, 1996; to the Committee on Commerce, Science, and Transportation.

EC–164. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Gulf of Mexico Fisheries Disaster Program (RIN0648–ZA19), received on October 23, 1996; to the Committee on Commerce, Science, and Transportation.

EC–165. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the North Pacific Fisheries Research Plan (RIN0648–AI95), received on November 1, 1996; to the Committee on Commerce, Science, and Transportation.

EC–166. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Exclusive Economic Zone Off Alaska, received on November 1, 1996; to the Committee on Commerce, Science, and Transportation.

EC–167. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the North Pacific Fisheries Research Plan (RIN0648–ZA20), received on November 1, 1996; to the Committee on Commerce, Science, and Transportation.

EC–168. A communication from the Under Secretary for Oceans and Atmosphere, Department of Commerce, transmitting, pursuant to law, the biennial report on the Coastal Zone Management Act for fiscal years 1994 and 1995; to the Committee on Commerce, Science, and Transportation.

EC–169. A communication from the Associate Director of the National Institute of Standards and Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Faster Quality Act (RIN0693–AA90); to the Committee on Commerce, Science, and Transportation.

EC–170. A communication from the Director of the Office of Regulations Management, Department of Veterans' Affairs, transmitting, pursuant to law, a rule entitled ''The Community Residential Care Program'' (RIN2900–AH61) received on December 2, 1996; to the Committee on Veterans' Affairs.

EC–171. A communication from the Secretary of Labor. transmitting, pursuant to law, a report on Vietnam-era and Disabled Veterans; to the Committee on Veterans' Affairs.

EC–172. A communication from the Assistant Secretary of Indian Affairs, Department of the Interior, transmitting, pursuant to law, the report of a proposed plan for the use and distribution of the White Mountain Apache Tribe's judgment funds; to the Committee on Indian Affairs.

EC–173. A communication from the Assistant Secretary of Indian Affairs, Department of the Interior, transmitting, pursuant to law, the report of a rule (RIN1035–AA00) received on December 19, 1996; to the Committee on Indian Affairs.

EC–174. A communication from the Director of the Office of Management and Budget in the Executive Office of the President, transmitting, pursuant to law, a report concerning direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–175. A communication from the Special Assistant to the President and Senior Director for Legislative Affairs, National Security Council, transmitting, pursuant to law, a report on the Livingston ABM Amendment; to the Committee on Appropriations.

EC–176. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 95–06; to the Committee on Appropriations.

EC–177. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 94–11; to the Committee on Appropriations.

EC–178. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 96–03; to the Committee on Appropriations.

EC–179. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 96–05; to the Committee on Appropriations.

EC–180. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 94–09; to the Committee on Appropriations.

EC–181. A communication from the Chief Counsel of the Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, a rule received on December 2, 1996; to the Committee on Foreign Relations.

EC–182. A communication from the Chairman of the J. William Fulbright Foreign Scholarship Board, transmitting, pursuant to law, the annual report for calendar year 1995; to the Committee on Foreign Relations.

EC–183. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a Presidential Determination relative to Iraq; to the Committee on Foreign Relations.

EC–184. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a notice relative to Iraq; to the Committee on Foreign Relations.

EC–185. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a Presidential Determination relative to United States Prisoners of War and Missing in Action; to the Committee on Foreign Relations.

EC–186. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC–187. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC–188. A communication from the President of the United States, transmitting, pursuant to law, the report of seven new deferrals of budgetary resources; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Finance, and to the Committee on Foreign Relations.

EC–189. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the OMB Final Sequestration Report for fiscal year 1997; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Agriculture, Nutrition, and Forestry, to the Committee on Armed Services, to the Committee on Commerce, Science, and Transportation, to the Committee on Energy and Natural Resources, to the Committee on Environment and Public Works, to the Committee on Finance, to the Committee on Foreign Relations, to the Committee on Governmental Affairs, to the Committee on the Judiciary, to the Committee on Labor and Human Resources, to the Committee on Banking, Housing, and Urban Affairs, to the Committee on Rules and Administration, to the Committee on Small Business, to the Committee on Veterans Affairs, to the Committee on Indian Affairs, to the Select Committee on Ethics, to the Select Committee on Intelligence, and to the Special Committee on Aging.

EC–190. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the report of the Cooperative Threat Reduction Program Plan; to the Committee on Armed Services.

EC–191. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report entitled ''The Uses and Counterfeiting of U.S. Currency in Foreign Countries''; to the Committee on the Judiciary.

EC–192. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a rule entitled ''Adjustment of Status to That of Person Admitted for Permanent Residence: Interview'' (RIN1115–AD15) received on December 2, 1996; to the Committee on the Judiciary.

EC–193. A communication from the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, transmitting, pursuant to law, a rule entitled ''Changes in Signature and Filing Requirements for Correspondence Filed in the Patent and Trademark Office'' (RIN0651–AA55) received on November 27, 1996; to the Committee on the Judiciary.

EC–194. A communication from the Director of the Office for Victims of Crime, Office of Justice Programs, Department of Justice, transmitting, pursuant to law, the report on the programs and activities of the Office for Victims of Crime; to the Committee on the Judiciary.

EC–195. A communication from the Deputy Assistant Administrator of the Office of Diversion Control, Drug Enforcement Administration, Department of Justice, transmitting, pursuant to law, a rule entitled ''Distribution of Chemical Import/Export Declaration'' (RIN1117–AA21) received on October 31, 1996; to the Committee on the Judiciary.

EC–196. A communication from the Director of the Executive Office for Immigration Review, Department of Justice, transmitting, pursuant to law, a rule affecting expansion of the Board of Immigration Appeals (RIN1125–AA17) received on December 24, 1996; to the Committee on the Judiciary.

EC–197. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a rule entitled ''Revocation of Naturalization'' (RIN1115–AD45) received on October 31, 1996; to the Committee on the Judiciary.

EC–198. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a rule entitled ''Visas: Regulations Pertaining to Both Nonimmigrants and Immigrants'' received on November 7, 1996; to the Committee on the Judiciary.

EC–199. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a rule entitled ''Visas: Regulations Pertaining to Both Nonimmigrants and Immigrants'' received on December 4, 1996; to the Committee on the Judiciary.

EC–200. A communication from the Director of the Federal Bureau of Prisons, Department of Justice, transmitting, pursuant to law, four rules including a rule entitled ''Incoming Publications: Nudity and Sexually

Explicit Material or Information'' (RIN1120–AA59, 1120–AA50, 1120–AA21, 1120–AA45); to the Committee on the Judiciary.

EC–201. A communication from the Director of the Administrative Office of the U.S. Courts, transmitting, pursuant to law, a report on the continuing need for existing bankruptcy judgeship positions; to the Committee on the Judiciary.

EC–202. A communication from the Chief Justice of the Supreme Court of the United States, transmitting, pursuant to law, a report entitled ''Study of Judicial Branch Coverage''; to the Committee on the Judiciary.

EC–203. A communication from the Secretary of the Navy, transmitting, pursuant to law, a report entitled ''U.S. Navy Ship Solid Waste Compliance Plan for MARPOL Annex V Special Areas''; to the Committee on Armed Services.

EC–204. A communication from the Secretary of the Panama Canal Commission, transmitting, pursuant to law, a rule entitled ''Proposal to Increase Tolls and Apply Certain Rules For Measurement of Vessels'' received on December 19, 1996; to the Committee on Armed Services.

EC–205. A communication from the President of the United States, transmitting, pursuant to law, a notice relative to nuclear, biological, and chemical weapons; to the Committee on Armed Services.

EC–206. A communication from the Chair of the Defense Environmental Response Task Force, Under Secretary of Defense, transmitting, pursuant to law, the report for fiscal year 1996; to the Committee on Armed Services.

EC–207. A communication from the Chief of the Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, notice of a cost comparison at the Air Force Development Test Center, Eglin Air Force Base, Florida; to the Committee on Armed Services.

EC–208. A communication from the Chief of the Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, notice of a cost comparison at Keesler Air Force Base, Mississippi, and Lackland AFB, Texas; to the Committee on Armed Services.

EC–209. A communication from the Chief of the Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, notice of a cost comparison at Bolling Air Force Base, Washington, DC; to the Committee on Armed Services.

EC–210. A communication from the Director of the Office of Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, a rule entitled ''Civilian Health and Medical Program of the Uniformed Services'' received on November 20, 1996; to the Committee on Armed Services.

EC–211. A communication from the Assistant Secretary of Defense (Health Affairs), transmitting, pursuant to law, a report relative to Medicare late enrollment penalties; to the Committee on Armed Services.

EC–212. A communication from the Director of the Washington Headquarters Services, Department of Defense, transmitting, pursuant to law, a rule entitled ''Civilian Health and Medical Program of the Uniformed Services'' (RIN0720–AA29) received on December 19, 1996; to the Committee on Armed Services.

EC–213. A communication from the Secretary of Defense, transmitting notice of four retirements; to the Committee on Armed Services.

EC–214. A communication from the Director of the Defense Procurement (Acquisition and Technology), Under Secretary of Defense, transmitting, pursuant to law, five rules including a rule entitled ''Defense Federal Acquisition Regulation Supplement'' (DFARS Case 96–D023, D332, D334, D320, D330); to the Committee on Armed Services.

EC–215. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report on the coke oven emission control program for fiscal year 1995; to the Committee on Energy and Natural Resources.

EC–216. A communication from the Secretary of Energy, transmitting, pursuant to law, the quarterly report on the Exxon Stripper Well Oil Overcharge Funds as of June 30, 1996; to the Committee on Energy and Natural Resources.

EC–217. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the Automotive Technology Development Program for fiscal year 1995; to the Committee on Energy and Natural Resources.

EC–218. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, the report of a rule relative to human resource management, received on October 30, 1996; to the Committee on Energy and Natural Resources.

EC–219. A communication from the Chair of the Federal Regulatory Commission, transmitting, pursuant to law, the report of a rule relative to the Federal Power Act, received on December 27, 1996; to the Committee on Energy and Natural Resources.

EC–220. A communication from the Assistant Secretary for Water and Science, Department of the Interior, transmitting, pursuant to law, the report of a rule relative to acreage limitation and water conservation (RIN1006–AA32) received on December 11, 1996; to the Committee on Energy and Natural Resources.

EC–221. A communication from the Acting Director of the Office of Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule relative to the Kentucky Regulatory Program, received on December 14, 1996; to the Committee on Energy and Natural Resources.

EC–222. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to Exclusive Economic Zone off Alaska, received on December 6, 1996; to the Committee on Commerce, Science, and Transportation.

EC–223. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to Fisheries of the Northeastern United States, received on December 9, 1996; to the Committee on Commerce, Science, and Transportation.

EC–224. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to Exclusive Economic Zone off Alaska, received on December 2, 1996; to the Committee on Commerce, Science, and Transportation.

EC–225. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to Scallop Registration Area D, received on December 9, 1996; to the Committee on Commerce, Science, and Transportation.

EC–226. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of four rules including one rule relative to Exclusive Economic Zone off Alaska, received on December 2, 1996; to the Committee on Commerce, Science, and Transportation.

EC–227. A communication from the Acting Deputy Assistant Administrator, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Monterey Bay National Marine Sanctuary (RIN0648–AH92) received on December 13, 1996; to the Committee on Commerce, Science, and Transportation.

EC–228. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to species bycatch allowances (RIN0648–xx73) received on December 6, 1996; to the Committee on Commerce, Science, and Transportation.

EC–229. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Fishery Management Plan (RIN0648–AH28) received on December 19, 1996; to the Committee on Commerce, Science, and Transportation.

EC–230. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Fishery Management Plan (RIN0648–AG29) received on December 19, 1996; to the Committee on Commerce, Science, and Transportation.

EC–231. A communication from the Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Fishery Management Plan (RIN0648–AD91) received on December 19, 1996; to the Committee on Commerce, Science, and Transportation.

EC–232. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the List of Fisheries for 1997 (RIN0648–AH33) received on December 30, 1996; to the Committee on Commerce, Science, and Transportation.

EC–233. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to Sea Turtle Conservation (RIN0648–AH89) received on December 17, 1996; to the Committee on Commerce, Science, and Transportation.

EC–234. A communication from the Under Secretary of Agriculture for Food, Nutrition, and Consumer Services, transmitting, pursuant to law, a rule entitled ''Alaska, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and Demonstration Projects'' (RIN0584–AC14) received on November 20, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–235. A communication from the Assistant Secretary of Agriculture for Marketing and Regulatory Programs, transmitting, pursuant to law, a rule entitled ''Fees for Commodity Inspection'' (RIN0580–AA48) received on December 17, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–236. A communication from the Under Secretary of Agriculture for Rural Development, transmitting, pursuant to law, three rules including a rule entitled ''Rural Business Loan Program Streamlining'' (RIN0575–AA09, 0575–AB99, 0575–AB59); to the Committee on Agriculture, Nutrition, and Forestry.

EC–237. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, three rules including a rule entitled ''Accounting and Reporting Requirements'' (RIN3052–AB54, 3052–AB61, 3052–AB73); to the Committee on Agriculture, Nutrition, and Forestry.

EC–238. A communication from the Administrator of the Agriculture Marketing Service, Department of Agriculture, transmitting, pursuant to law, sixteen rules including a rule entitled ''Tomatoes Grown in Florida'' (FV96–966–1, 981–4, 989–3, 905–4, 906–2, 911–1, 920–3, 987–1, 920–3, 998–2, 906–3, 955–1, 984–1 IFR); to the Committee on Agriculture, Nutrition, and Forestry.

EC–239. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, three rules including a rule entitled ''Importation of Fruits and Vegetables'' (95–098–3, 96–045–1, 96–074–1); to the Committee on Agriculture, Nutrition, and Forestry.

EC–240. A communication from the Acting Executive Director of the U.S. Commodity Futures Trading Commission, transmitting, pursuant to law, two rules including a rule entitled ''Report for Commission Interpretation''; to the Committee on Agriculture, Nutrition, and Forestry.

EC–241. A communication from the Administrator of the Foreign Agricultural Service, Department of Agriculture, transmitting, pursuant to law, two rules including a rule entitled ''Foreign Donation of Agricultural Commodities'' (7 CFR Part 1499, 1485); to the Committee on Agriculture, Nutrition, and Forestry.

EC–242. A communication from the Acting Administrator of the Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, three rules including a rule entitled ''Dairy Indemnity Payment Program'' (RIN0560–AE97, 0560–AE45, 0560–AE46); to the Committee on Agriculture, Nutrition, and Forestry.

EC–243. A communication from the Administrator of the Agriculture Marketing Service, Department of Agriculture, transmitting, pursuant to law, a rule entitled ''Grading and Inspection'' (RIN0581–AB43) received on December 31, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–244. A communication from the Administrator of the Food and Consumer Service, Department of Agriculture, transmitting, pursuant to law, a rule entitled ''Revisions in Use and Disclosure Rules'' (RIN0584–AC00) received on January 2, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–245. A communication from the Board of Directors of the Panama Canal Commission, transmitting, pursuant to law, the report of the dissolution study; to the Committee on Armed Services.

EC–246. A communication from the Director of the Office of Administration and Management, Secretary of Defense, transmitting, pursuant to law, a rule entitled ''Inflation Adjustment of Civil Monetary Penalties'' received on January 2, 1997; to the Committee on Armed Services.

EC–247. A communication from the Assistant Secretary of the Army (Civil Works) transmitting, pursuant to law, a rule entitled ''Cooper River and Tributaries, Charleston, South Carolina, Danger Zones and Restricted Areas'' received on December 19, 1996; to the Committee on Environment and Public Works.

EC–248. A communication from the Director of the National Institutes of Health, Public Health Service, Department of Health and Human Services, transmitting, pursuant to law, a rule entitled ''National Institute of Environmental Health Sciences Hazardous Substances Basis Research and Training Grants'' (RIN0925–AA03) received on December 19, 1996; to the Committee on Environment and Public Works.

EC–249. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of the Agency for Toxic Substances and Disease Registry for fiscal year 1993, 1994, and 1995; to the Committee on Environment and Public Works.

EC–250. A communication from the General Counsel of the Secretary of Transportation, transmitting, pursuant to law, a rule entitled ''Emergency Relief Program'' (RIN2125–AD60) received on December 19, 1996; to the Committee on Environment and Public Works.

EC–251. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report under the Superfund Amendments and Reauthorization Act for fiscal year 1996; to the Committee on Environment and Public Works.

EC–252. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, a rule entitled ''Determination of Endangered Status for Lesquerella perforata'' (RIN:AC42) received on December 19, 1996; to the Committee on Environment and Public Works.

EC–253. A communication from the Chairman of the U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, the report on the nondisclosure of safeguards information for the period July 1 through September 30, 1996; to the Committee on Environment and Public Works.

EC–254. A communication from the Director of the Office of the Congressional Affairs of the U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, seven rules including a rule entitled ''Interim Guidance On Transportation of Steam Generators''; to the Committee on Environment and Public Works.

EC–255. A communication from the Director of the Office of Regulatory Management and Information, Office of Policy, Planning, and Evaluation, U.S. Environmental Protection Agency, transmitting, pursuant to law, twenty-three (23) rules including a rule entitled ''National Priorities List for Uncontrolled Hazardous Waste Sites'' (FRL5601–7, 5668–3, 5665–9, 5658–6, 5658–7, 5659–9, 5658–4, 5658–5, 5671–1, 5670–5, 5670–2, 5665–8, 5666–1, 5659–7, 5654–7, 5664–3, 5664–6, 5665–1, 5657–5, 5649–8, 5662–8, 5667–8, 5662–5); to the Committee on Environment and Public Works.

EC–256. A communication from the Administrator of the U.S. Environmental Protection Agency, transmitting, pursuant to law, the report on environmental monitoring of organotin for the period April 1991 through June 1992; to the Committee on Environment and Public Works.

EC–257. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, four rules including a rule entitled ''Medicare Program; Changes Concerning Suspension of Medicare Payments, and Determinations of Allowable Interest Expenses'' (RIN0938–AC99, AH45, AH08, AH41); to the Committee on Finance.

EC–258. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a rule entitled ''Certain Provisions of the National Voter Registration Act of 1993'' (RIN0970–AB32) received on November 22, 1996; to the Committee on Finance.

EC–259. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a rule entitled ''Certain Provisions of the National Voter Registration Act of 1993'' (RIN0970–AB34) received on December 6, 1996; to the Committee on Finance.

EC–260. A communication from the Acting U.S. Trade Representative, Executive Office of the President, transmitting, pursuant to law, a report concerning eliminating or reducing foreign unfair trade practices for the period January 1995 through June 1996; to the Committee on Finance.

EC–261. A communication from the President of the United States, transmitting, pursuant to law, a report relative to broom corn brooms; to the Committee on Finance.

EC–262. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, a rule entitled ''Requirement of Return and Time for Filing'' (RIN1545–AU65) received on January 2, 1997; to the Committee on Finance.

EC–263. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, two announcements (96–133, 97–1); to the Committee on Finance.

EC–264. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, eighteen Treasury regulations including a regulation entitled ''Sale of Seized Property'' (RIN1545–AU13, 1545–AE94, 1545–AS19, 1545–AT48, 1545–AU52, 1545–AS52, 1545–AT64, 1545–AS94, 1545–AT92, 1545–AS14, 1545–AT91, 1545–AR57, 1545–AS09, 1545–AS30, 1545–AT19, 1545–AU44, 1545–AS04, 1545–AU47, 1545–AT25); to the Committee on Finance.

EC–265. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, Revenue Ruling 92–62 received on December 17, 1996; to the Committee on Finance.

EC–266. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, Revenue Ruling 92–65 received on December 18, 1996; to the Committee on Finance.

EC–267. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, thirteen Revenue Rulings (96–61, 96–63, 96–56, 96–58, 96–59, 96–64, 97–1, 97–3, 97–4, 96–53, 96–54, 96–57, 96–60); to the Committee on Finance.

EC–268. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, eighteen Revenue Procedures (96–38, 96–52, 96–53, 96–54, 96–55, 96–56, 96–57, 96–58, 96–60, 96–59, 96–61, 96–63, 96–62, 96–64, 97–3, 97–8, 97–9, 97–5); to the Committee on Finance.

EC–269. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, twenty-one Notices (96–64, 96–65, 96–66, 96–67, 96–68, 97–1, 97–2, 97–3, 97–4, 97–6, 97–7, 97–10, 97–11, 96–53, 96–55, 96–57, 96–58, 96–59, 96–60, 96–61, 96–62); to the Committee on Finance.

EC–270. A communication from the Inspector General of the Department of Commerce, transmitting, pursuant to law, a report on the export license application screening process; to the Committee on Banking, Housing, and Urban Affairs.

EC–271. A communication from the Chairman of the Federal Deposit Insurance Corporation, transmitting, pursuant to law, the annual report for calendar year 1995; to the

Committee on Banking, Housing, and Urban Affairs.

EC–272. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the annual report on the operations of the Exchange Stabilization Fund for fiscal year 1995; to the Committee on Banking, Housing, and Uban Affairs.

EC–273. A communication from the Under Secretary of Commerce for Export Administration, transmitting, pursuant to law, the report on the imposition of foreign policy export controls; to the Committee on Banking, Housing, and Urban Affairs.

EC–274. A communication from the Acting Executive Director of the Thrift Depositor Protection Oversight Board, transmitting, pursuant to law, a rule entitled ''Book-Entry Procedure'' received on December 17, 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–275. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the annual report on fair housing programs for calendar year 1994; to the Committee on Banking, Housing, and Urban Affairs.

EC–276. A communication from the Acting Secretary of the Board of the National Credit Union Administration, transmitting, pursuant to law, four rules including a rule entitled ''Supervisory Committee Audits and Verifications''; to the Committee on Banking, Housing, and Urban Affairs.

EC–277. A communication from the Chairman of the Board of the National Credit Union Administration, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–278. A communication from the Assistant Secretary of Commerce for Export Administration, transmitting, pursuant to law, two rules including a rule entitled ''Revisions to the Export Administration Regulations: License Exceptions'' (RIN0694–AB51, AB09); to the Committee on Banking, Housing, and Urban Affairs.

EC–279. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a Presidential Determination relative to the People's Republic of China; to the Committee on Banking, Housing, and Urban Affairs.

EC–280. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a Presidential Determination relative to the People's Republic of China; to the Committee on Banking, Housing, and Urban Affairs.

EC–281. A communication from the Chief Counsel of the Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, four rules including a rule entitled ''Iranian Transactions Regulations''; to the Committee on Banking, Housing, and Urban Affairs.

EC–282. A communication from the Federal Register Liaison Officer of the Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, four rules including a rule entitled ''Subsidiaries and Equity Investments''; to the Committee on Banking, Housing, and Urban Affairs.

EC–283. A communication from the General Counsel of the Department of Housing and Urban Development, transmitting, pursuant to law, nineteen rules including a rule entitled ''Streamlining of the Supportive Housing Program Regulations'' (FR–4022, 2206, 4072, 4091, 4089, 4088, 3982, 4038, 4077, 4148, 4112, 4154, 4095, 4139, 3324, 4081, 4116, 4136); to the Committee on Banking, Housing, and Urban Affairs.

EC–284. A communication from the Chief Counsel of the Bureau of the Public Debt, Department of the Treasury, transmitting, pursuant to law, two rules including a rule entitled ''Fiscal Service''; to the Committee on Banking, Housing, and Urban Affairs.

EC–285. A communication from the Managing Director of the Federal Housing Finance Board, transmitting, pursuant to law, four rules including a rule entitled ''Amendment of Budgets Regulation'' (96–71, 96–80, 96–81, 96–79); to the Committee on Banking, Housing, and Urban Affairs.

EC–286. A communication from the Legislative and Regulatory Activities Division, Administrator of National Banks, Comptroller of the Currency, transmitting, pursuant to law, eight rules including a rule entitled ''Sales of Credit Life Insurance'' (RIN1557–AB49, AB40, AB37, AB42, AB41, AB45, AB12, AB27); to the Committee on Banking, Housing, and Urban Affairs.

EC–287. A communication from the Secretary of the U.S. Securities and Exchange Commission, transmitting, pursuant to law, five rules including a rule entitled ''Adjustments to Civil Monetary Penalty Amounts'' (RIN3235–AG47, AG78, AF54); to the Committee on Banking, Housing, and Urban Affairs.

EC–288. A communication from the Assistant to the Board of Governors of the Federal Reserve Board, transmitting, pursuant to law, eleven rules including a rule entitled ''Reimbursement for Providing Financial Records'' (Docket Numbers R–0934, 0938, 0928, 0892, 0936, 0939, 0931, 0946, 0937, 0841, 0929); to the Committee on Banking, Housing, and Urban Affairs.

EC–289. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a report on rules on home-equity credit; to the Committee on Banking, Housing, and Urban Affairs.

EC–290. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a report on funds availability schedules and check fraud at depository institutions; to the Committee on Banking, Housing, and Urban Affairs.

EC–291. A communication from the President of the United States, transmitting, pursuant to law, notice of the continuation of the Libyan emergency; to the Committee on Banking, Housing, and Urban Affairs.

EC–292. A communication from the President of the United States, transmitting, pursuant to law, notice of the continuation of the Iran emergency; to the Committee on Banking, Housing, and Urban Affairs.

EC–293. A communication from the President of the United States, transmitting, pursuant to law, notice of the continuation of the emergency with respect to significant narcotics traffickers centered in Colombia; to the Committee on Banking, Housing, and Urban Affairs.

EC–294. A communication from the President of the United States, transmitting, pursuant to law, a notice relative to processing export license applications; to the Committee on Banking, Housing, and Urban Affairs.

EC–295. A communication from the President of the United States, transmitting, pursuant to law, a notice relative to the Chinese FY–1 meteorological satellite; to the Committee on Banking, Housing, and Urban Affairs.

EC–296. A communication from the President of the United States, transmitting, pursuant to law, a notice relative to the SINOSAT project; to the Committee on Banking, Housing, and Urban Affairs.

EC–297. A communication from the President of the United States, transmitting, pursuant to law, notice of the continuation of the emergency with respect to significant narcotics traffickers centered in Colombia; to the Committee on Banking, Housing, and Urban Affairs.

EC–298. A communication from the President of the United States, transmitting, pursuant to law, a report on the administration of export controls on encryption products; to the Committee on Banking, Housing, and Urban Affairs.

EC–299. A communication from the President of the United States, transmitting, pursuant to law, notice relative to the continuation of the Iran emergency; to the Committee on Banking, Housing, and Urban Affairs.

EC–300. A communication from the President of the United States, transmitting, pursuant to law, notice of the continuation of the emergency regarding weapons of mass destruction; to the Committee on Banking, Housing, and Urban Affairs.

EC–301. A communication from the President of the United States, transmitting, pursuant to law, notice relative to the Governments of Serbia and Montenegro; to the Committee on Banking, Housing, and Urban Affairs.

EC–302. A communication from the President of the United States, transmitting, pursuant to law, a report on the national emergency caused by the lapse of the Export Administration Act of 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC–303. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to the People's Republic of China; to the Committee on Banking, Housing, and Urban Affairs.

EC–304. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to Lithuania; to the Committee on Banking, Housing, and Urban Affairs.

EC–305. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to Mexico; to the Committee on Banking, Housing, and Urban Affairs.

EC–306. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to the Republic of the Philippines; to the Committee on Banking, Housing, and Urban Affairs.

EC–307. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to Qatar; to the Committee on Banking, Housing, and Urban Affairs.

EC–308. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to the Republic of Uzbekistan; to the Committee on Banking, Housing, and Urban Affairs.

EC–309. A communication from the Acting Deputy Secretary of Education, transmitting, pursuant to law, a report relative to paperwork; to the Committee on Labor and Human Resources.

EC–310. A communication from the Chair of the U.S. Commission On Child and Family Welfare, transmitting, pursuant to law, a report entitled ''Parenting Our Children: In the Best Interest of the Nation''; to the Committee on Labor and Human Resources.

EC–311. A communication from the Chairman of the Railroad Retirement Board, transmitting, pursuant to law, the annual report for calendar year 1996; to the Committee on Labor and Human Resources.

EC–312. A communication from the Secretary of Education and the Secretary of

Labor, transmitting jointly, pursuant to law, a report on activities under the School-to-Work Opportunities Act; to the Committee on Labor and Human Resources.

EC–313. A communication from the Acting Deputy Assistant Secretary of Labor, Office of Labor-Management Standards, transmitting, pursuant to law, a rule entitled ''Permanent Replacement of Lawfully Striking Employees by Federal Contractors'' (RIN1294–AA15); to the Committee on Labor and Human Resources.

EC–314. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the annual report of the audit of the Student Loan Marketing Association's financial statements for calendar year 1995; to the Committee on Labor and Human Resources.

EC–315. A communication from the Office of the Assistant Secretary of Health and Human Services, Administration For Children and Families, transmitting, pursuant to law, a rule on the Developmental Disabilities Program (RIN0970–AB11) received on October 1, 1996; to the Committee on Labor and Human Resources.

EC–316. A communication from the Assistant Secretary of Labor for Occupational Safety and Health, transmitting, pursuant to law, a rule entitled ''Occupational Exposure to 1,3-Butadiene'' (RIN1218–AA83) received on November 4, 1996; to the Committee on Labor and Human Resources.

EC–317. A communication from the Assistant Secretary of Labor for Occupational Safety and Health, transmitting, pursuant to law, a rule entitled ''North Carolina State Plan; Final Approval Determination'' received on December 16, 1996; to the Committee on Labor and Human Resources.

EC–318. A communication from the Assistant Secretary of Labor for Mine Safety and Health, transmitting, pursuant to law, two rules including a rule entitled ''First Aid at Metal and Nonmetal Mines'' (RIN1219–AA97, AA27); to the Committee on Labor and Human Resources.

EC–319. A communication from the Assistant Secretary of Labor for Employment and Training, transmitting, pursuant to law, three rules including a rule entitled ''Unemployment Insurance Program Letter 30–96 and 37–96'' (RIN1205–AB13); to the Committee on Labor and Human Resources.

EC–320. A communication from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, six rules including a rule entitled ''Payment of Premiums'': to the Committee on Labor and Human Resources.

EC–321. A communication from the Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, fourteen rules including the final regulations for the Federal Family Education Loan Program; to the Committee on Labor and Human Resources.

EC–322. A communication from the Secretary of Education, transmitting, pursuant to law, a report relative to institutions of higher education; to the Committee on Labor and Human Resources.

EC–323. A communication from the Director of the National Institutes of Health, Public Health Services, Department of Health and Human Services, transmitting, pursuant to law, four rules including a rule entitled ''Grants for Research Projects'' (RIN0905–AC02, AD56, AA15, AE00); to the Committee on Labor and Human Resources.

EC–324. A communication from the Director of Regulations Policy, Management Staff, Office of Policy, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, eleven rules including a rule entitled ''Extralabel Drug Use in Animals'' (RIN0910–AA47, AA01, AA23, AA31); to the Committee on Labor and Human Resources.

EC–325. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, five rules including a rule entitled ''Civil Money Penalty Inflation Adjustments'' (RIN0991–AZ00, 0910–AA60, 0910–AA09, 0970–AB55); to the Committee on Labor and Human Resources.

EC–326. A communication from the Administrator of the Health Resources and Services Administration, Public Health Services, Department of Health and Human Services, transmitting, pursuant to law, a rule entitled ''Grants for Nurse Practitioner and Nurse Midwifery Programs'' (RIN0906–AA40); to the Committee on Labor and Human Resources.

EC–327. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, an annual report relative to the Prescription Drug User Fee Act for fiscal year 1996; to the Committee on Labor and Human Resources.

EC–328. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the effectiveness of demonstration projects to address child access problems; to the Committee on Labor and Human Resources.

EC–329. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on childhood lead poisoning prevention activities for fiscal years 1993 and 1994; to the Committee on Labor and Human Resources.

EC–330. A communication from the Secretary of Education, transmitting, a draft of proposed legislation entitled ''The Presidential Honors Scholarship Act of 1996''; to the Committee on Labor and Human Resources.

EC–331. A communication from the Secretary of Education, transmitting, pursuant to law, a report on efforts to assure the free appropriate public education of all children with disabilities; to the Committee on Labor and Human Resources.

EC–332. A communication from the Secretary of Education, transmitting, pursuant to law, a report relative to vocational education programs; to the Committee on Labor and Human Resources.

EC–333. A communication from the Director of the National Science Foundation, transmitting, pursuant to law, a report entitled ''Scientific and Engineering Research Facilities at Colleges and Universities: 1996''; to the Committee on Labor and Human Resources.

EC–334. A communication from the Director of the National Science Foundation, transmitting, pursuant to law, a report entitled ''Women, Minorities, and Persons With Disabilities in Science and Engineering''; to the Committee on Labor and Human Resources.

EC–335. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on the program operations of the Office of Workers' Compensation Programs for fiscal year 1995; to the Committee on Labor and Human Resources.

EC–336. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report covering the administration of the Employee Retirement Income Security Act for calendar year 1994; to the Committee on Labor and Human Resources.

EC–337. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on training and employment programs for program year 1992 and fiscal year 1993; to the Committee on Labor and Human Resources.

EC–338. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of seven rules including one rule relative to prohibition of oxygen generators (RIN2137–AC89, 2115–AA97, 2127–AF63, 2105–AC59, 2120–AA66, 2127–AG14, 2125–AD92); to the Committee on Commerce, Science, and Transportation.

EC–339. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of two rules including one rule relative to power brake regulations (RIN2130–AA73, 2127–AG60), received on January 2, 1997; to the Committee on Commerce, Science, and Transportation.

EC–340. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of eight rules relative to Airworthiness Directives (RIN2120–AA64), received on January 2, 1997; to the Committee on Commerce, Science, and Transportation.

EC–341. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of thirty-one rules including one rule relative to Airworthines Directives, (RIN2120–AA64, AA65, AA66, AG27, AD47), received on December 2, 1996; to the Committee on Commerce, Science, and Transportation.

EC–342. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of five rules including one rule relative to hazardous materials regulations (RIN2130–AB00, 2127–AG54, 2115–AE72, 2127–AD01, 2127–AG20), received on October 31, 1996; to the Committee on Commerce, Science, and Transportation.

EC–343. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of six rules including one rule relative to Airworthiness Directives, (RIN2120–AG30, 2120–AA64) received on November 21, 1996; to the Committee on Commerce, Science, and Transportation.

EC–344. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of nine rules relative to Airworthiness Directives, (RIN2120–AA64) received on November 7, 1996; to the Committee on Commerce, Science, and Transportation.

EC–345. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of four rules relative to Class E Airspace, (RIN2120–AA66) received on November 4, 1996; to the Committee on Commerce, Science, and Transportation.

EC–346. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of three rules including one rule relative to commercial fishing regulations (RIN21115–AF35, 2105–AC63, 2105–AB62), received on November 7, 1996; to the Committee on Commerce, Science, and Transportation.

EC–347. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of six rules including one rule relative to drawbridge regulations (RIN2115–AE46, AA–97, AF17); to the Committee on Commerce, Science, and Transportation.

EC–348. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of five rules relative to Class E Airspace, (RIN2120–AA66) received on October 7, 1996; to the Committee on Commerce, Science, and Transportation.

EC–349. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of two rules including one rule relative

to notice of arrivals, (2115–AF29 , AF19); to the Committee on Commerce, Science, and Transportation.

EC–350. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of three rules including one rule relative to Safety Zones, (RIN2137–AC94, 2115–AA97, 2115–AF34) received on October 1, 1996; to the Committee on Commerce, Science, and Transportation.

EC–351. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of eight rules relative to Airworthiness Directives (RIN2120–AA64); to the Committee on Commerce, Science, and Transportation.

EC–352. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of two rules including one rule relative to Maritime Security Program Regulations, (RIN2133–AB24, 2125–AD96) received on October 18, 1996; to the Committee on Commerce, Science, and Transportation.

EC–353. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of four rules including one rule relative to Airworthiness Directives, (RIN2120–AA64, AG28, AF43) received on October 18, 1996; to the Committee on Commerce, Science, and Transportation.

EC–354. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of six rules including one rule relative to roadway worker protection, (RIN2130–AB13, 2130–AA86, 2132–AA57, 2115–AF35, 2115–AA97, 2115–AF11) received on December 19, 1996; to the Committee on Commerce, Science, and Transportation.

EC–355. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of three rules including one rule relative to commercial fishing regulations, (RIN2115–AF35, 2125–AD62, 2105–AB62) received on December 3, 1996; to the Committee on Commerce, Science, and Transportation.

EC–356. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of six rules relative to Airworthiness Directives, (RIN2120–AA64) received on December 12, 1996; to the Committee on Commerce, Science, and Transportation.

EC–357. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of seven rules including one rule relative to railroad accident reporting, (RIN2115–AE01, 2115–AE46, 2130–AA58, 2127–AG14) received on December 5, 1996; to the Committee on Commerce, Science, and Transportation.

EC–358. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of five rules including one rule relative to Airworthiness Directives, (RIN2120–AA64, AA65, AA66) received on December 5, 1996; to the Committee on Commerce, Science, and Transportation.

EC–359. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of two rules including one rule relative to Airworthiness Directives, (RIN2120–AA64) received on December 9, 1996; to the Committee on Commerce, Science, and Transportation.

EC–360. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of sixteen rules including one rule relative to Class E Airspace, (RIN2120–AA64, 2120–AA65, 2120–AA66, 2120–AF93, 2105–AC63,) received on December 5, 1996; to the Committee on Commerce, Science, and Transportation.

EC–361. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of eighteen rules including one rule relative to Airworthiness Directives, (RIN2120–AA64, AA66, AD47, AE83) received on December 19, 1996; to the Committee on Commerce, Science, and Transportation.

EC–362. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of six rules including one rule relative to appliance labeling; to the Committee on Commerce, Science, and Transportation.

EC–363. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of three rules including one relative to FM broadcast stations, received on October 8, 1996; to the Committee on Commerce, Science, and Transportation.

EC–364. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of five rules including one relative to FM broadcast stations, received on November 4, 1996; to the Committee on Commerce, Science, and Transportation.

EC–365. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of six rules including one relative to FM broadcast stations, received on September 24, 1996; to the Committee on Commerce, Science, and Transportation.

EC–366. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule relative to pay telephone provisions, received on November 22, 1996; to the Committee on Commerce, Science, and Transportation.

EC–367. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule relative to competitive bidding, received on November 22, 1996; to the Committee on Commerce, Science, and Transportation.

EC–368. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule relative to filing requirements, received on November 22, 1996; to the Committee on Commerce, Science, and Transportation.

EC–369. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule relative to interstate interexchange marketplace, received on November 7, 1996; to the Committee on Commerce, Science, and Transportation.

EC–370. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule relative to citizenship requirements, received on October 24, 1996; to the Committee on Commerce, Science, and Transportation.

EC–371. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule relative to competitive bidding, received on October 21, 1996; to the Committee on Commerce, Science, and Transportation.

EC–372. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of nine rules including one rule relative to TV broadcast stations; to the Committee on Commerce, Science, and Transportation.

EC–373. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule relative to amateur radio service, received on November 1, 1996; to the Committee on Commerce, Science, and Transportation.

EC–374. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of nine rules including one rule relative to domestic ship and aircraft radio stations; to the Committee on Commerce, Science, and Transportation.

EC–375. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule relative to FM broadcast stations, received on December 2, 1996; to the Committee on Commerce, Science, and Transportation.

EC–376. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of seventeen rules including one rule relative to FM broadcast stations, received on December 24, 1996; to the Committee on Commerce, Science, and Transportation.

EC–377. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of ten rules including one rule relative to yellowtail rockfish; to the Committee on Commerce, Science, and Transportation.

EC–378. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of eleven rules including one rule relative to other rockfish; to the Committee on Commerce, Science, and Transportation.

EC–379. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to consolidation of all Alaska regulations, (RIN0648–AI18) received on October 7, 1996; to the Committee on Commerce, Science, and Transportation.

EC–380. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of two rules including one rule relative to Fisheries of the Northeastern United States, (RIN0648–AH70, AJ25) received on September 24, 1996; to the Committee on Commerce, Science, and Transportation.

EC–381. A communication from the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Atlantic bluefin tuna fishery, received on October 15, 1996; to the Committee on Commerce, Science, and Transportation.

EC–382. A communication from the Acting Deputy Assistant Administrator of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Exclusive Economic Zone off Alaska, (RIN0648–AI96) received on September 27, 1996; to the Committee on Commerce, Science, and Transportation.

EC–383. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to

the Exclusive Economic Zone off south Atlantic states, (RIN0648–AI92) received on September 11, 1996; to the Committee on Commerce, Science, and Transportation.

EC–384. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to Statistical Area 610 of the Gulf of Alaska, received on September 24, 1996; to theCommittee on Commerce, Science, and Transportation.

EC–385. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to spawning area closures, (RIN0648–AE50) received on October 7, 1996; to the Committee on Commerce, Science, and Transportation.

EC–386. A communication from the Assistant Administrator of the National Ocean Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of rule relative to graduate research fellowships, (RIN0648–ZA24) received on October 10, 1996; to the Committee on Commerce, Science, and Transportation.

EC–387. A communication from the Assistant Secretary for Communication, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Public Telecommunications Facilities Program, (RIN0660–AA09) received on November 6, 1996; to the Committee on Commerce, Science, and Transportation.

EC–388. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the annual report for fiscal year 1995; to the Committee on Commerce, Science, and Transportation.

EC–389. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report under the Federal Cigarette Labeling and Advertising Act for 1994; to the Committee on Commerce, Science, and Transportation.

EC–390. A communication from the Secretary of the Federal Maritime Commission, transmitting, pursuant to law, the report of rule relative to collection of debts, received on September 27, 1996; to the Committee on Commerce, Science, and Transportation.

EC–391. A communication from the Secretary of the Federal Maritime Commission, transmitting, pursuant to law, the report of rule relative to civil monetary penalties, received on October 2, 1996; to the Committee on Commerce, Science, and Transportation.

EC–392. A communication from the Chairman of the Surface Transportation Board, transmitting, pursuant to law, the report of a rule relative to Ex Parte No. 527, received on December 12, 1996; to the Committee on Commerce, Science, and Transportation.

EC–393. A communication from the Chairman of the Surface Transportation Board, transmitting, pursuant to law, the report of a rule relative to Ex Parte No. 346, received on December 17, 1996; to the Committee on Commerce, Science, and Transportation.

EC–394. A communication from the Chairman of the Surface Transportation Board, transmitting, pursuant to law, the report of a rule relative to Ex Parte No. 527, received on October 10, 1996; to the Committee on Commerce, Science, and Transportation.

EC–395. A communication from the Secretary of the Consumer Product Safety Commission, transmitting, pursuant to law, the report of a rule relative to the Small Business Program, received on October 9, 1996; to the Committee on Commerce, Science, and Transportation.

EC–396. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, an appeal letter regarding the fiscal year 1998 budget request; to the Committee on Commerce, Science, and Transportation.

EC–397. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, the report regarding the fiscal year 1998 budget request; to the Committee on Commerce, Science, and Transportation.

EC–398. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, the fiscal year 1998 budget request; to the Committee on Commerce, Science, and Transportation.

EC–399. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report on the National Implementation Plan for Modernization of the National Weather Service for Fiscal Year 1997; to the Committee on Commerce, Science, and Transportation.

EC–400. A communication from the Acting Chief Financial Officer and Assistant Secretary for Administration, transmitting, pursuant to law, the report of a rule relative to civil monetary penalties, (RIN0690–AA27) received on October 22, 1996; to the Committee on Commerce, Science, and Transportation.

EC–401. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report of the Metals Initiative for fiscal year 1995; to the Committee on Commerce, Science, and Transportation.

EC–402. A communication from the Director of the Bureau of Transportation Statistics, transmitting, pursuant to law, the annual report for 1996; to the Committee on Commerce, Science, and Transportation.

EC–403. A communication from the Administrator of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report on increased air traffic over Grand Canyon National Park; to the Committee on Commerce, Science, and Transportation.

EC–404. A communication from the Chairman of the Interagency Coordinating Committee on Oil Pollution Research, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the biennial report for fiscal years 1993 and 1994; to the Committee on Commerce, Science, and Transportation.

EC–405. A communication from the Administrator of the Federal Aviation Administration, Department of Commerce, transmitting, the report on the ninety day safety review as of September 16, 1996; to the Committee on Commerce, Science, and Transportation.

EC–406. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report entitled ''Status of the Public Ports of the United States'' for years 1994 and 1995; to the Committee on Commerce, Science, and Transportation.

EC–407. A communication from the Secretary of Transportation, transmitting, pursuant to law, the progress report on the transition to quieter airplanes for 1995; to the Committee on Commerce, Science, and Transportation.

EC–408. A communication from the Chairman of the National Science Board, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–409. A communication from the Secretary of Education, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–410. A communication from the Chairman of the U.S. Securities and Exchange Commission, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–411. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–412. A communication from the Chairman of the U.S. Consumer Product Safety Commission, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–413. A communication from the Chairman of the National Endowment For the Arts, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–414. A communication from the Secretary of Education, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–415. A communication from the Chairman of the Board, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–416. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–417. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–418. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–419. A communication from the Chairman of the U.S. International Trade Commission, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–420. A communication from the Office of the Public Printer, U.S. Government Printing Office, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–421. A communication from the Secretary of the Smithsonian Institution, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–422. A communication from the Secretary of Energy, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–423. A communication from the Chairman of the Railroad Retirement Board, transmitting, pursuant to law, the report of

the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–424. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–425. A communication from the Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–426. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–427. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–428. A communication from the Chairman of the Railroad Retirement Board, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–429. A communication from the Federal Co-Chairman of the Appalachian Regional Commission, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–430. A communication from the Chairman and General Counsel of the U.S. Government National Labor Relations Board, transmitting jointly, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–431. A communication from the Attorney General, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–432. A communication from the Chairman of the Board of Directors of the Panama Canal Commission, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–433. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–434. A communication from the Chairman and Chief Executive Office of the Farm Credit Administration, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–435. A communication from the Secretary of Labor, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–436. A communication from the Chairman of the U.S. Equal Employment Opportunity Commission, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–437. A communication from the Executive Director of the Neighborhood Reinvestment Corporation, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–438. A communication from the President and Chief Executive Office of the Overseas Private Investment Corporation, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–439. A communication from the Chairman of the U.S. Merit Systems Protection Board, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–440. A communication from the Director of the Federal Mediation and Conciliation Service, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–441. A communication from the Deputy Independent Counsel, Office of the Independent Counsel, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–442. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–443. A communication from the Chairman of the Postal Rate Commission, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–444. A communication from the Chief Financial Officer of the Export-Import Bank of the United States, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–445. A communication from the Director of the U.S. Trade and Development Agency, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–446. A communication from the President of the National Endowment for Democracy, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–447. A communication from the Chairman of the Federal Housing Finance Board, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–448. A communication from the Inspector General of the U.S. Office of Personnel Management, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–449. A communication from the Director of the U.S. Information Agency, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–450. A communication from the Chairman of the Farm Credit System Insurance Corporation, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–451. A communication from the President of the National Endowment for Democracy, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC–452. A communication from the Executive Secretary of the Barry M. Goldwater Scholarship and Excellence In Education Foundation, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC–453. A communication from the Board Members of the Railroad Retirement Board, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC–454. A communication from the Director of the U.S. Arms Control and Disarmament Agency, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC–455. A communication from the Chairman of the Defense Nuclear Facilities Safety Board, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC–456. A communication from the Director of the Office of Federal Housing Enterprise Oversight, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC–457. A communication from the Director of Selective Service, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC–458. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC–459. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC–460. A communication from the Director of the Woodrow Wilson Center, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–461. A communication from the Chairman of the U.S. Commission For the Preservation of America's Heritage Abroad, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–462. A communication from the Director of the U.S. Office of Government Ethics,

transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–463. A communication from the Acting Museum Director of the U.S. Holocaust Memorial Museum, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–464. A communication from the Chairperson of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–465. A communication from the Chairman of the Federal Mine Safety and Health Review Commission, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–466. A communication from the Chairman of the National Capital Planning Commission, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–467. A communication from the Chair of the U.S. Architectural and Transportation Barriers Compliance Board, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–468. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–469. A communication from the President of the African Development Foundation, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–470. A communication from the Executive Director of the Marine Mammal Commission, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–471. A communication from the Office of Special Counsel, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–472. A communication from the Executive Director of the State Justice Institute, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–473. A communication from the Director of the Morris K. Udall Foundation, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–474. A communication from the Executive Director of the Japan-United States Friendship Commission, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–475. A communication from the Executive Director of the U.S. Office of Navajo and Hopi Indian Relocation, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–476. A communication from the Executive Director of the National Education Goals Panel, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–477. A communication from the Chairman of the U.S. Nuclear Waste Technical Review Board, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–478. A communication from the President of the Inter-American Foundation, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–479. A communication from the President and Chief Executive Officer of the U.S. Enrichment Corporation, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–480. A communication from the Director of the National Gallery of Art, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–481. A communication from the Office of Independent Counsel, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–482. A communication from the Office of Independent Counsel, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–483. A communication from the Office of Independent Counsel, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–484. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–363 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–485. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–387 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–486. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–413 adopted by the Council on October 1, 1996; to the Committee on Governmental Affairs.

EC–487. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–414 adopted by the Council on October 1, 1996; to the Committee on Governmental Affairs.

EC–488. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–415 adopted by the Council on October 1, 1996; to the Committee on Governmental Affairs.

EC–489. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–432 adopted by the Council on October 1, 1996; to the Committee on Governmental Affairs.

EC–490. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–433 adopted by the Council on October 1, 1996; to the Committee on Governmental Affairs.

EC–491. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–454 adopted by the Council on November 7, 1996; to the Committee on Governmental Affairs.

EC–492. A communication from the Executive Director of the Federal Retirement Thrift Investment Board, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–493. A communication from the Executive Director of the Federal Retirement Thrift Investment Board, transmitting, pursuant to law, a rule entitled ''Allocation of Earnings'' received on December 2, 1996; to the Committee on Governmental Affairs.

EC–494. A communication from the Administrator of the U.S. Environmental Protection Agency, transmitting, pursuant to law, the report under the Program Fraud Civil Remedies Act for fiscal year 1996; to the Committee on Governmental Affairs.

EC–495. A communication from the Executive Director of the Federal Retirement Thrift Investment Board, transmitting, pursuant to law, three rules including a rule entitled ''Definition of Basic Pay''; to the Committee on Governmental Affairs.

EC–496. A communication from the Board Members of the Railroad Retirement Board,

transmitting, pursuant to law, the report under the Program Fraud Civil Remedies Act for fiscal year 1996; to the Committee on Governmental Affairs.

EC–497. A communication from the Interim District of Columbia Auditor, transmitting, pursuant to law, the report entitled ''Excepted Service Employee Failed to Comply with the District's Residency Requirement''; to the Committee on Governmental Affairs.

EC–498. A communication from the Interim District of Columbia Auditor, transmitting, pursuant to law, the report entitled ''Certification of the Fiscal Year 1997 Revenue Estimates in Support of the District of Columbia General Obligation Bonds (Series 1996A)''; to the Committee on Governmental Affairs.

EC–499. A communication from the Inspector General of the Corporation For National Service, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–500. A communication from the Vice President and Treasurer of the Farm Credit Financial Partners, transmitting, pursuant to law, the annual report of the Group Retirement Plan for the Agricultural Credit Associations and the Farm Credit Banks in the First Farm Credit District for calendar year 1995; to the Committee on Governmental Affairs.

EC–501. A communication from the Federal Reserve Employee Benefits Systems, transmitting, pursuant to law, the annual reports for the plan year 1995; to the Committee on Governmental Affairs.

EC–502. A communication from the President of the United States, transmitting, pursuant to law, a report concerning locality pay; to the Committee on Governmental Affairs.

EC–503. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the annual report of the U.S. Government for fiscal year 1996; to the Committee on Governmental Affairs.

EC–504. A communication from the Chairman of the U.S. Arctic Research Commission, transmitting, pursuant to law, the annual reports for fiscal years 1994 and 1995; to the Committee on Governmental Affairs.

EC–505. A communication from the Assistant Attorney General for Administration, transmitting, pursuant to law, a report entitled ''District of Columbia Department of Corrections Short-Term Improvements Plan''; to the Committee on Governmental Affairs.

EC–506. A communication from the Chairman of the District of Columbia Financial Responsibility and Management Assistant Authority, transmitting, pursuant to law, the annual report on progress for fiscal year 1996; to the Committee on Governmental Affairs.

EC–507. A communication from the Chairman of the District of Columbia Financial Responsibility and Management Assistant Authority, transmitting, pursuant to law, a revised annual report on progress for fiscal year 1996; to the Committee on Governmental Affairs.

EC–508. A communication from the Chairman of the District of Columbia Financial Responsibility and Management Assistant Authority, transmitting, pursuant to law, a report entitled ''Children in Crisis: A Report on the Failure of D.C. Public Schools''; to the Committee on Governmental Affairs.

EC–509. A communication from the U.S. Consumer Product Safety Commission, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1995; to the Committee on Governmental Affairs.

EC–510. A communication from the Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, a report relative to the Federal Employees Health Benefits program; to the Committee on Governmental Affairs.

EC–511. A communication from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report entitled ''Statistical Programs of the U.S. Government: Fiscal Year 1997''; to the Committee on Governmental Affairs.

EC–512. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report relative to accounts containing unvouchered expenditures; to the Committee on Governmental Affairs.

EC–513. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a list of General Accounting Office reports for September 1996; to the Committee on Governmental Affairs.

EC–514. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a list of General Accounting Office reports for October 1996; to the Committee on Governmental Affairs.

EC–515. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a list of General Accounting Office reports for November 1996; to the Committee on Governmental Affairs.

EC–516. A communication from the Executive Director of the Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–517. A communication from the Attorney-Advisor, Federal Register Certifying Officer, Financial Management Service, Department of the Treasury, transmitting, pursuant to law, a rule entitled ''Payment to Financial Institutions'' (RIN1510–AA30) received on December 19, 1996; to the Committee on Governmental Affairs.

EC–518. A communication from the Deputy General Counsel of the U.S. Office of Government Ethics, transmitting, pursuant to law, a rule entitled ''Interpretation, Exemptions and Waiver Guidance Concerning 18 U.S.C. 208'' (RIN3209–AA09) received on December 11, 1996; to the Committee on Governmental Affairs.

EC–519. A communication from the Deputy Associate Administrator for Acquisition Policy, Office of Governmentwide Policy, General Services Administration, transmitting, pursuant to law, four rules including a rule entitled ''Civil Monetary Penalties Inflation Adjustment'' (RIN3090–AG18, AG26, AG09, AG14); to the Committee on Governmental Affairs.

EC–520. A communication from the Chairman of the Board Contract Appeals, General Services Administration, transmitting, pursuant to law, two rules including a rule entitled ''Rules of Procedure for Travel and Relocation Expenses Cases'' (RIN3090–AG29, AF99); to the Committee on Governmental Affairs.

EC–521. A communication from the Director of the Office of the Secretary of Defense, transmitting, pursuant to law, two rules including a rule relative to the Privacy Program; to the Committee on Governmental Affairs.

EC–522. A communication from the Executive Director of the Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting, pursuant to law, six additions to the procurement list; to the Committee on Governmental Affairs.

EC–523. A communication from the Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, seven rules including a rule entitled ''Training'' (RIN3206–AF99, AG31, AH56, AH10, AH55); to the Committee on Governmental Affairs.

EC–524. A communication from the Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, four rules including a rule entitled ''Voting Rights Program'' (RIN3206–AH69, AH54, AH41, AG78); to the Committee on Governmental Affairs.

EC–525. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, a rule entitled ''Exotic Newcastle Disease in Birds and Poultry'' (RIN0579–AA22) received on November 6, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–526. A communication from the Secretary of Transportation, transmitting, pursuant to law, notice of a violation of the Antideficiency Act; to the Committee on Appropriations.

EC–527. A communication from the Office of Insular Affairs, Department of the Interior, transmitting, pursuant to law, a report entitled ''The Impact of the Compacts of Free Association on the U.S. Territories and Commonwealths and on the State of Hawaii''; to the Committee on Energy and Natural Resources.

EC–528. A communication from the Director of the Bureau of the Census, Department of Commerce, transmitting, pursuant to law, a rule entitled ''Collection of Canadian Province of Origin Information on Customs Entry Records'' (RIN0607–AA21) received on November 22, 1996; to the Committee on Finance.

EC–529. A communication from the Regulatory Policy Officer, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, a rule relative to the Debt Collection Improvement Act of 1996 (RIN1512–AB62) received on October 30, 1996; to the Committee on Finance.

EC–530. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, notice of a Presidential Determination relative to a peace monitoring force; to the Committee on Foreign Relations.

EC–531. A communication from the U.S. Arms Control and Disarmament Agency, U.S. Information Agency, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1 through September 30, 1996; to the Committee on Governmental Affairs.

EC–532. A communication from the Acting Director of the Federal Register, National Archives, transmitting, pursuant to law, a report relative to the Certificates of Ascertainment of the electors of the President and Vice President of the United States; ordered to lie on the table.

EC–533. A communication from the Acting Director of the Federal Register, National Archives, transmitting, pursuant to law, a report relative to the Certificates of Ascertainment of the electors of the President and Vice President of the United States; ordered to lie on the table.

EC–534. A communication from the Deputy Under Secretary of Defense (Environmental Security), transmitting, pursuant to law, the report of the Defense Environmental Restoration Program for fiscal year 1995; to the Committee on Environment and Public Works.

EC–535. A communication from the Inspector General, Department of Defense, transmitting, pursuant to law, the audit report of

Superfund financial transactions for fiscal year 1995; to the Committee on Environment and Public Works.

EC–536. A communication from the Deputy Administrator of the General Services Administration, transmitting, pursuant to law, informational copies of a Federal Space Situation Report; to the Committee on Environment and Public Works.

EC–537. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report relative to the Comprehensive Environmental Response Compensation and Liability Act; to the Committee on Environment and Public Works.

EC–538. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled ''Alaska Demonstration Programs''; to the Committee on Environment and Public Works.

EC–539. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report of the Surface Transportation Research and Development Plan; to the Committee on Environment and Public Works.

EC–540. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, two rules including a rule entitled ''Certification Acceptance'' (RIN2125–AD62, 2135–AA09); to the Committee on Environment and Public Works.

EC–541. A communication from the Assistant Secretary of the Interior for Fish and Wildlife and Parks, transmitting, pursuant to law, two rules including a rule entitled ''Removal of Subchapter D'' (RIN1018–AD72, AD62); to the Committee on Environment and Public Works.

EC–542. A communication from the Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances, U.S. Environmental Protection Agency, transmitting, pursuant to law, the report under the Toxic Substances Control Act for fiscal year 1994; to the Committee on Environment and Public Works.

EC–543. A communication from the Administrator of the U.S. Environmental Protection Agency, transmitting, pursuant to law, the report of the implementation of the Waste Isolation Pilot Plant Land Withdrawal Act; to the Committee on Environment and Public Works.

EC–544. A communication from the Administrator of the U.S. Environmental Protection Agency, transmitting, pursuant to law, the report of the study of hazardous air pollutant emissions from electric utility steam generating units; to the Committee on Environment and Public Works.

EC–545. A communication from the Director of the Office of Congressional Affairs, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, four rules including a rule entitled ''Policy and Procedure for Enforcement Actions'' (RIN3150–AF37); to the Committee on Environment and Public Works.

EC–546. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, eight rules including a rule entitled ''Endangered and Threatened Wildlife and Plants'' (RIN1018–AE05, AC01, AC47, AD50, AD25, AD58, AC56, AD46); to the Committee on Environment and Public Works.

EC–547. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a rule entitled ''St. Marys Falls Canal and Locks'' received on October 21, 1996; to the Committee on Environment and Public Works.

EC–548. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, the report of fully-authorized unconstructed projects; to the Committee on Environment and Public Works.

EC–549. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to a flood damage reduction project the Rio Guanajibo, Puerto Rico; to the Committee on Environment and Public Works.

EC–550. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to an environmental restoration project for the Willamette River, McKenzie Subbasin, Oregon; to the Committee on Environment and Public Works.

EC–551. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, a draft of proposed legislation to modify the Oakland Inner Harbor, California navigation project; to the Committee on Environment and Public Works.

EC–552. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to authorized project modifications for flood damage reduction along the Ramapo River at Oakland, New Jersey; to the Committee on Environment and Public Works.

EC–553. A communication from the Director of the Office of Regulatory Management and Information, Office of Policy, Planning, and Evaluation, U.S. Environmental Protection Agency, transmitting, pursuant to law, two rules (FRL5672–5, 5666–8) received on December 31, 1996; to the Committee on Environment and Public Works.

EC–554. A communication from the Director of the Office of Regulatory Management and Information, Office of Policy, Planning, and Evaluation, U.S. Environmental Protection Agency, transmitting, pursuant to law, twenty-six rules including a rule entitled ''Significant New Uses of Certain Chemical Substances (FRL5651–3, 5651–2, 5629–4, 5650–7, 5651–7, 5654–8, 5572–9, 5648–7, 5644–2, 5282–1, 5649–5, 5650–5, 5650–6, 5648–4, 5640–4, 5647–9, 5574–7, 5575–1, 5574–9, 5574–8, 4964–3, 5656–7, 5655–6, 5650–8, 5646–7, 5645–4); to the Committee on Environment and Public Works.

EC–555. A communication from the Director of the Office of Regulatory Management and Information, Office of Policy, Planning, and Evaluation, U.S. Environmental Protection Agency, transmitting, pursuant to law, seven rules including one rule relative to air quality (FRL5554–9, 5393–8, Environment and Public Works.

EC–556. A communication from the Director of the Office of Regulatory Management and Information, Office of Policy, Planning, and Evaluation, U.S. Environmental Protection Agency, transmitting, pursuant to law, nineteen rules including one rule relative to air quality (FRL5638–9, 5629–7, 5639–2, 5637–8, 5608–1, 5634–9, 5636–2, 5635–9, 5633–8, 5615–6, 5645–1, 5610–9, 5640–8, 5643–2, 5640–2, 5636–6, 5635–6, 5635–4, 5638–1, 5613–4, 5617–2, 5641–5, 5641–7, 5642–1); to the Committee on Environment and Public Works.

EC–557. A communication from the Director of the Office of Regulatory Management and Information, Office of Policy, Planning, and Evaluation, U.S. Environmental Protection Agency, transmitting, pursuant to law, twenty-three rules including a rule entitled ''Control Strategy: Ozone; Tennessee'' (FRL5637–A, 5637–3, 5619–8, 5631–2, 5631–6, 5630–4, 5630–5, 5466–9, 5630–9, 5620–1, 5619–6, 5612–7, 5613–3, 5629–5, 5634–4, 5612–6, 5618–8, 5619–4, 5628–6, 5616–6, 5613–1, 5617–4, 5618–2); to the Committee on Environment and Public Works.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–1. A joint resolution adopted by the Legislature of the State of California; to the Committee on Armed Services.

SENATE JOINT RESOLUTION NO. 27

Whereas, In 1853, the United States Congress granted to the State of California the 16th and 36th sections of every township of public land to support the public education system in California, a grant long held by the courts to create a ''solemn agreement'' between the federal government and the state; and

Whereas, In California, the State Teachers' Retirement System is the beneficiary of revenues derived from those school lands; and

Whereas, Those revenues are a significant source of income to the retired teachers of the state; and

Whereas, Elk Hills Naval Petroleum Reserve Numbered 1 contains two school land sections rich in oil reserves and constituting the two most valuable school land sections in the state; and

Whereas, The inclusion of these school lands within the petroleum reserve in 1912 made them unavailable to the state, with the result being that the State Teachers' Retirement System is deprived of substantial income; and

Whereas, Ever since 1976, the federal government has been producing oil and gas from the naval petroleum reserves at the maximum efficient rate and selling its production to gain further general revenues for the United States Treasury; and

Whereas, The federal government has stated that the role of the national petroleum reserves ''has evolved over time from an emergency source of oil to an income-generating federal business asset,'' and that ''federal ownership and operation of the reserves is not essential to the national energy policy goals and objectives''; and

Whereas, The Department of Energy proposes to sell Elk Hills Naval Petroleum Reserve Numbered 1, as part of the President's 1996 Budget submission to Congress calling for the privatization of the naval petroleum reserves, and has earmarked 9 percent of the anticipated proceeds from privatization to be paid to the State of California to benefit the Teacher's Retirement Fund; and

Whereas, Congress has passed, and the President has signed, legislation to compensate California after the sale of Elk Hills Naval Petroleum Reserve Numbered 1; and

Whereas, That compensation will be based on an agreement between the State of California and the Department of Energy; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress to expedite the agreement by the Department of Energy for recognizing the valid claim of this state to the two school land sections within the reserve, and to compensate California's retired teachers for their 9 percent interest in the reserve upon its sale; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of the Interior, the Secretary of Energy, and the Secretary of Defense.

POM–2. A joint resolution adopted by the Legislature of the State of California; to the Committee on Armed Services.

SENATE JOINT RESOLUTION NO. 45

Whereas, Alameda has a long history associated with the U.S. Navy and Naval Air Forces, and Alameda was shaped by the birth of aviation technology and is proudly and inextricably linked to the military's presence; and

Whereas, The acquisition of the aircraft carrier *Hornet* (CV–12) would preserve a vital part of the U.S. military history and its establishment as a museum would be a fitting memorial to Alameda's contributions to U.S. efforts in World War II, the Korean War, and the Vietnam War; and

Whereas, In the 18 months of combat during World War II, the aircraft and gunners of the U.S.S. *Hornet* (CV–12) destroyed 1,410, enemy planes, sank 73 ships, and damaged more than 400 vessels, including the first hits on the Japanese battleship Yamato, which was sunk on April 7, 1945, as it steamed toward Okinawa; and

Whereas, The U.S.S. *Hornet* (CV–12), a 53-year old Essex Class carrier is one of eight warships that bore that name, but it was the most decorated of them all, earning a presidential unit citation and seven battle stars in action during World War II, the Korean War, and the Vietnam War; and

Whereas, The first U.S. Navy aircraft carrier named ''*Hornet*'' was CV–8 (Yorktown Class, including: *Enterprise*/CV–6 and *Yorkton*/CV–5) laid down in September 1939 by the Newport News Shipbuilding & Drydock Company. It was launched on December 14, 1940, and commissioned on October 20, 1941; it displaced 20,000 tons, measured 761 feet long, and had a complement of 2,200 personnel; and

Whereas, The *Hornet* (CV–8) was designed with the benefit of real operating experience, sharing the basic design principles of a large, open hangar deck topped by a thin, rectangular wood and steel flight deck; and

Whereas, On April 2, 1942, the U.S.S. *Hornet* (CV–8) having just completed its workups, left Alameda with an unusual deckload of 16 Army Air Corps B–25 Mitchell bombers commanded by Lt. Colonel James ''Jimmy'' Doolittle, sailing to join a task force with *Enterprise* (CV–6) targeting the Japanese Cities of Tokyo, Nagoya, Yokohama, and Kobe; and

Whereas, On April 18, 1942, still some miles to the east of the intended launch point, the ships of the task force were sighted by Japanese picket boats. Faced with the decision whether to abort the mission, push on to the planned launch point against an alerted enemy, or launch immediately with full knowledge that the B–25s lacked the range to reach their intended landing fields in China, ''Doolittle's Raiders'' launched immediately, and struck the first successful attack upon the homeland of Japan; and

Whereas, The *Hornet* (CV–8) was further involved during World War II in the Central and South Pacific carrying out operations in the Battle of Midway, June 4–6, 1942, and the Battle of Santa Cruz Islands, where it received six Japanese bomb hits, two torpedo hits, and two hits by suicide aircraft, and sank on October 27, 1942; and

Whereas, The second U.S. Navy aircraft carrier named ''*Hornet*'' was CV–12 (modernized Essex Class, including 19 ships), constructed by the Newport News Shipbuilding & Drydock Company, and launched August 29, 1943. The *Hornet* (CV–12) was commissioned November 29, 1943, it displaced 38,500 tons, measured 889 feet long, carried 45 aircraft, and had a complement of 2,400 personnel; and

Whereas, In June, 1945, a typhoon ripped a 24-foot gash in the forward section of the flight deck, but the *Hornet* (CV–12) was simply turned around and the aircraft were launched off the stern; and

Whereas, Postwar modernization of the *Hornet* (CV–12) under the Fleet Rehabilitation and Modernization program allowed it to be refitted with improved elevators, a reinforced flight deck, increased aviation fuel storage, and other features for operating jet aircraft including modernization of its aircraft arresting system. These refittings increased the *Hornet's* ability to operate advanced aircraft and to improve antisubmarine capabilities; and

Whereas, The aircraft carrier *Hornet* (CV–12) contributed to U.S. efforts in World War II, the Korean War, and the Vietnam War, and served as the command ship for recovery of the *Apollo* XI and XII reentry vehicles; and

Whereas, The aircraft carrier *Hornet* (CV–12) was decommissioned on June 26, 1970, and is in good structural condition, and will soon be considered for sale as military surplus; and

Whereas, The McDonald Douglas F/A 18 *Hornet* multiple-role air superiority/ground attack aircraft that has become the fleet's principal carrier-based fixed wing aircraft, was named in honor of the aircraft carrier U.S.S. *Hornet*; and

Whereas, In 1995, the weathered-gray warship was scheduled for demolition despite its 1991 designation as a National Historic Landmark; and

Whereas, The decision to demolish the ship outraged former crew members, who recruited approximately 100 volunteers and embarked on a campaign to save the ship; and

Whereas, The Aircraft Carrier Hornet Museum is proposed to be permanently berthed in Alameda at Pier No. 2 and to be secured by eight 2-inch chains to existing chain pads welded on the shell, and would immeasurably enhance the maritime ambience of the regional shipyards, the Port of Oakland, and the Alameda Naval Air Station; and

Whereas, The Aircraft Carrier Hornet Foundation (ACHF) has arranged to acquire four 110-foot long by 34-foot wide YCs for mooring (that are certified as suitable for use associated with nuclear submarines) from Mare Island Naval Shipyard. This arrangement will provide a 440-foot long parallel load distribution plane from the hull to the fenders of the pier; and

Whereas, Use of this system of chain attachment to the pier bollards in conjunction with the four YCs will provide an arrangement of positive mechanical attachment sufficient to secure the ship and withstand 100-year weather requirements; and

Whereas, The carrier museum would be an attraction to both domestic and foreign tourists, thereby enhancing the global competitive position of the San Francisco Bay area; and

Whereas, According to the Historic Naval Ships Association, a 1994–95 survey shows attendance to similar historic U.S. naval ship museums as follows: battleship *Texas* (BB–35)—300,000; battleship *Arizona* (BB–39)—1.5 million; battleship *North Carolina* (BB–55)—225,000; battleship *Massachusetts* (BB–59)—140,000; battleship *Alabama* (BB–60)—245,000; aircraft carrier *Intrepid* (CV–11)—410,000; aircraft carrier *Lexington* (CV–16)—340,000; submarine *Bowfin* (SS–287)—195,000; submarine *Pampanito* (SS–383)—250,000; 3-masted frigate *Constitution*—420,000; and

Whereas, The added attraction of a carrier museum would result in longer tourist stays, with consequent increases in retail sales, hotel and motel occupancy, and restaurant patronage, resulting in higher sales and transient occupancy tax revenues; and

Whereas, Estimates indicate that establishment of the proposed museum and cultural center would employ up to 150 people within three years, and would annually infuse between 12 and 22 million dollars into the local economy; and

Whereas, A carrier museum could be used as an ongoing exposition to showcase Alameda's leadership in aerospace and defense technology, to develop educational programs for schoolaged children, and to provide entertainment attractions based on naval aviation history; and

Whereas, The presence of a military museum in Alameda would promote positive community relations between the citizens and the military; and

Whereas, Support for legislation pending before the 104th Session of the U.S. Congress entitled ''The World War II Education and Research Act'' would authorize that at least one site per state be officially designated a National World War II Education and Research Center; and

Whereas, The purposes of this Congressional Act are to enable industry, universities, research facilities, presidential libraries, museums, and public and private sector organizations to make available to the public all relevant information on the collective war effort involving the military, industrial, and civilian sectors; and

Whereas, The Aircraft Carrier Hornet Foundation intends to raise sufficient resources from various possible sources (donations, pledges, venture capital, and revenue bonds) to pay for all relevant startup costs and to develop a long-range master plan to do all of the following: (1) include a 1940–60's museum in hangar bays 1, 2, and 3, with an emphasis on Pacific theater battles including airplanes and artifacts from that era; (2) incorporate Airwings, Squadrons, Marine Detachments, and Reserve and Veterans Associations called ''Bringing the Ship Back to Life''; (3) provide mobile displays and exhibits in hangar bays for large community-sponsored events; and (4) establish *Apollo* XI and *Apollo* XII displays; and

Whereas, The Alameda Reuse and Redevelopment Association (ARRA), which will be responsible for the base after the Navy leaves in 1997, has indicated its willingness to enter into an interim lease of one of the piers for this purpose, and to adopt a resolution in support of the U.S.S. *Hornet* renovation project; and

Whereas, A group of Alameda citizens have established a nonprofit corporation and a committee, along with the support of the ARRA, the World War II Education and Research Commission, the Mayor and City Council of Oakland, the San Francisco Veterans' Affairs Commission, the City of Vacaville, the Oakland Navy League, the Aircraft Carrier Hornet Foundation, the Historic Naval Ships Association, and the Smithsonian Institution, to pursue the acquisition of the aircraft carrier *Hornet* (CV–12); now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That in order to enhance the public's awareness of the contributions of the citizens of the State of California and the County of Alameda to military preparedness and, in particular, naval aviation history, and to enhance the region's economy by increasing tourism and creating new employment opportunities, the Legislature of the State of California endorses the efforts to acquire the aircraft carrier U.S.S. *Hornet* (CV–12) as a permanent museum, educational, and entertainment complex to be located in Alameda; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States, the Secretary of Defense, and the Joint Chiefs of Staff to the Department of Defense, to support the efforts of the citizens of the State of California and the County of Alameda to acquire the aircraft carrier *Hornet*; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United

States, to the Secretary of Defense, and the Joint Chiefs of Staff of the Department of Defense, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

POM–3. A joint resolution adopted by the Legislature of the State of California; to the Committee on Armed Services.

Whereas, The recent worldwide conflicts have highlighted again the contributions of this nation's military and retired veterans; and

Whereas, Integral to the success of our military forces are those servicemen and servicewomen who have made a career of defending their country, who in peacetime may be called away to places remote from their families and loved ones, and who in war face the prospect of death or of serious disabling wounds as a constant possibility; and

Whereas, Legislation has been introduced by the United States Congress to remedy an inequity applicable to military careerists; and

Whereas, The inequity concerns those veterans who are both retired and disabled and who, because of an antiquated law that dates back to the nineteenth century, are denied concurrent receipt of full retirement pay and disability compensation pay, but instead may receive one or the other or must waive an amount of retirement pay equal to the amount of disability compensation pay; and

Whereas, No such deduction applies to the federal civil service so that a disabled veteran who has held a nonmilitary federal job for the requisite duration receives full longevity retirement pay undiminished by the subtraction of disability pay; and

Whereas, A statutory change is necessary to correct this injustice and discrimination in order that America's occasional commitment to war in pursuit of national and international goals may be matched by an allegiance to those who sacrificed on behalf of those goals; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California urges the Congress of the United States to amend Chapter 71 (commencing with Section 1401) of Title 10 of the United States Code, relating to the compensation of retired military personnel, to permit full concurrent receipt of military longevity retirement pay and service-connected disability pay; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Defense, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

POM–4. A resolution adopted by the Operation Combined Accident Reduction Effect relative to highway safety; to the Committee on Commerce, Science, and Transportation.

POM–5. A resolution adopted by the Operation Combined Accident Reduction Effect relative to safety belt laws; to the Committee on Commerce, Science, and Transportation.

POM–6. A resolution adopted by the Charter Township of Van Buren, Michigan relative to hazardous materials; to the Committee on Environment and Public Works.

POM–7. A resolution adopted by the Chamber of Commerce of Paradise, Michigan relative to Lake Superior; to the Committee on Environment and Public Works.

POM–8. A resolution adopted by the City of Melvindale, Michigan relative to hazardous wastes; to the Committee on Environment and Public Works.

POM–9. A resolution adopted by the Charter Township of Brownstown, Michigan relative to hazardous wastes; to the Committee on Environment and Public Works.

POM–10. A resolution adopted by the Mayor and Council of the Borough of Little Silver, Michigan relative to ocean dumping; to the Committee on Environment and Public Works.

POM–11. A resolution adopted by the Keane Valley Congregational Church of the City of Syracuse, New York relative to Adirondacks; to the Committee on Environment and Public Works.

POM–12. A resolution adopted by the Interfaith Council to Assist Vietnamese Refugees relative to asylum; to the Committee on Foreign Relations.

POM–13. A resolution adopted by the Lithuanian American Council and Lithuanian American Community of the City of Cicero, Illinois relative to Russia; to the Committee on Foreign Relations.

POM–14. A resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations.

Whereas, For one hundred and fifty years, Liberia and the United States have maintained a direct and cordial relationship; and

Whereas, Liberia, a former member of the League of Nations and founding member of the United Nations, now faces total disintegration; and

Whereas, Liberia has been burdened with a brutal civil war for the past six years that has displaced more than one-half of the country's population and claimed the lives of approximately 250,000 Liberians; and

Whereas, The brunt of the protracted civil war has been borne by the elderly, women, children, and their relatives living abroad, including in California; and

Whereas, A sizable portion of Liberian citizens in the United States reside in the State of California and contribute to the growth of this state and those citizens are individually and collectively impacted by the destruction of their people in Liberia, West Africa; and

Whereas, The leadership of Liberia has reneged on more than a dozen signed peace agreement; and

Whereas, The citizens of Liberia are being held hostage by the opposing forces resulting in a breakdown of the civil society and the government; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature hereby respectfully memorializes the President and Congress to ameliorate the situation in Liberia and seek a permanent resolution to Liberia's conflict; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

POM–15. A resolution adopted by the Legislature of the Commonwealth of Pennsylvania; to the Committee on Foreign Relations.

SENATE RESOLUTION

Whereas, The Republic of Poland is a free, democratic and independent nation with a long and proud history; and

Whereas, The North Atlantic Treaty Organization (NATO) is dedicated to the preservation of freedom and security of its member nations; and

Whereas, The Republic of Poland desires to share in both the benefits and obligations of NATO in pursuing the development, growth and promotion of democratic institutions and ensuring free market economic development; and

Whereas, The Republic of Poland recognizes its responsibilities as a democratic nation and wishes to exercise such responsibilities in concert with members of NATO; and

Whereas, The Republic of Poland desires to become part of NATO's efforts to prevent the extremes of nationalism; and

Whereas, The security of the United States is dependent upon the stability of Central Europe; therefore be it

Resolved, That the Senate of Pennsylvania respectfully urge the President of the United States and the Congress of the United States to support the Republic of Poland's petition for admission to the North Atlantic Treaty Organization; and be it further

Resolved, That the Senate of Pennsylvania respectfully urge the President of the United States and Congress to support the establishment of a timetable for the admission of the Republic of Poland to the North Atlantic Treaty Organization; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress, to each member of Congress from Pennsylvania and to Jerzy Kozminski, Ambassador, of the Republic of Poland.

I certify that the foregoing is a true and correct copy of Senate Resolution No. 154, introduced by Senators Jack Wagner, Gerald J. La Valle, Richard A. Kasunic, Clarence D. Bell, Roy C. Afflerbach, Michael A. O'Pake, James J. Rhoades, J. Barry Stout, Joseph M. Uliana, Jay Costa, Jr., Leonard J. Bodack, John E. Peterson, Melissa A. Hart and Raphael J. Musto, and adopted by the Senate of the Commonwealth of Pennsylvania the seventh day of October in the year of our Lord, one thousand nine hundred and ninety-six.

POM–16. A resolution adopted by the Village of Bridgeview, Illinois relative to the English language; to the Committee on Governmental Affairs.

POM–17. A joint resolution adopted by the Legislature of the State of California; to the Committee on Governmental Affairs.

SENATE JOINT RESOLUTION NO. 52

Whereas, Breast cancer is the most common cancer found in women, with one in every eight women likely to develop breast cancer in her lifetime, 183,400 new diagnoses of breast cancer each year, and 46,240 deaths from breast cancer expected in 1996; and

Whereas, In the United States, every 15 minutes, five new diagnoses of breast cancer and one death as a result of breast cancer will occur, and worldwide, every 30 seconds, a new diagnosis of breast cancer and a death as a result of breast cancer will occur; and

Whereas, The cause or causes of this disease have not been identified and no cure is available at this time, which indicates that more intense research is needed to improve care and treatment and to find a cure for this dreadful disease; and

Whereas, Dr. Balazs ''Ernie'' Bodai, M.D., F.A.C.S., chief of surgery at Kaiser Permanente Medical Center in North Sacramento, contributing his own money and time, has developed a proposal for a voluntary method to raise additional breast cancer research funds; and

Whereas, The proposal provides that additional breast cancer research funds would be collected from postal patrons who wish to donate one cent ($0.01) per first-class postage stamp purchased, by requesting a special breast cancer postal stamp and paying one cent ($0.01) more than the rate that would otherwise apply, with the extra one cent ($0.01) going into a special fund called the Cure Breast Cancer (CBC) fund; and

Whereas, Dr. Bodai has undertaken an extensive campaign to garner public and private support for the Cure Breast Cancer fund

by establishing an organization that is tax exempt for purposes of Section 501(c)(3) of the Internal Revenue Code and ensuring that all administrative costs will be raised separately and all postal donations will go directly into research to find the cause and cure for breast cancer; and

Whereas, The Cure Breast Cancer postal stamp donation program has received favorable attention from the media and endorsements from breast cancer organizations, corporations, medical groups, and elected officials, leading to the introduction of federal legislation to enable implementation of the Cure Breast Cancer postal stamp donation program; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature memorialize the Congress and the President to enact the federal legislation that has been introduced in the House of Representatives and Senate to enable the implementation of the Cure Breast Cancer postal stamp donation program and memorialize the Board of Governors of the United States Postal Service to implement this program to allow voluntary collection of supplemental breast cancer research funds; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

POM–18. A resolution adopted by the Council of the City of Long Branch, California relative to allegations concerning the sale of illegal drugs; to the Select Committee on Intelligence.

POM–19. A petition from a citizen of the State of Louisiana relative to the seating in the U.S. Senate of a citizen from the State of Louisiana, received on December 5, 1996; to the Committee on Rules and Administration.

POM–20. A resolution adopted by the White House Conference on Library and Information Services Taskforce relative to libraries; to the Committee on Labor and Human Resources.

POM–21. A petition from a citizen of the State of Tennessee relative to the seating of the U.S. Senate of a citizen from the State of Tennessee; to the Committee on Rules and Administration.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT:

S. Res. 1. A resolution informing the House of Representatives that a quorum of the Senate is assembled; considered and agreed to.

S. Res. 2. A resolution informing the President of the United States that a quorum of each House is assembled; considered and agreed to.

S. Res. 3. A resolution fixing the hour of daily meeting of the Senate; considered and agreed to.

S. Res. 4. A resolution to elect Strom Thurmond, a Senator from the State of South Carolina, to be President pro tempore of the Senate of the United States; considered and agreed to.

S. Res. 5. A resolution notifying the President of the United States of the election of a President pro tempore; considered and agreed to.

S. Res. 6. A resolution notifying the House of Representatives of the election of a President pro tempore of the Senate; considered and agreed to.

By Mr. DASCHLE (for himself, Mr. LOTT, Mr. ROCKEFELLER, and Mr. SARBANES):

S. Res. 7. A resolution commending Senator Robert Byrd for fifty years of public service; considered and agreed to.

By Mr. DASCHLE:

S. Res. 8. A resolution granting floor privileges; considered and agreed to.

By Mr. LOTT:

S. Con. Res. 1. A concurrent resolution to provide for the counting on January 9, 1997, of the electoral votes for President and Vice President of the United States; considered and agreed to.

S. Con. Res. 2. A concurrent resolution to extend the life of the Joint Congressional Committee on Inaugural Ceremonies and the provisions of S. Con. Res. 48; considered and agreed to.

S. Con. Res. 3. A concurrent resolution providing for a recess or adjournment of the Senate from January 9, 1997 to January 21, 1997, and an adjournment of the House from January 9, 1997 to January 20, 1997, from January 20, 1997 to January 21, 1997, and from January 21, 1997 to February 4, 1997; considered and agreed to.

SENATE CONCURRENT RESOLUTION 1—RELATIVE TO ELECTORAL VOTES FOR PRESIDENT AND VICE PRESIDENT

Mr. LOTT submitted the following concurrent resolution; which was considered and passed.

S. CON. RES. 1

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall meet in the Hall of the House of Representatives on Thursday, the 9th day of January 1997, at 1 o'clock post meridian, pursuant to the requirements of the Constitution and laws relating to the election of President and Vice President of the United States, and the President of the Senate shall be their Presiding Officer; that two tellers shall be previously appointed by the President of the Senate on the part of the Senate and two by the Speaker on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter ''A''; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules by law provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

SENATE CONCURRENT RESOLUTION 2—RELATIVE TO THE JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES

Mr. LOTT submitted the following concurrent resolution; which was considered and passed.

S. CON. RES. 2

Resolved by the Senate (the House of Representatives concurring), That effective from January 3, 1997, the joint committee created by Senate Concurrent Resolution 47 of the One Hundred Fourth Congress, to make the necessary arrangements for the inauguration, is hereby continued with the same power and authority.

SEC. 2. That effective from January 3, 1997, the provisions of Senate Concurrent Resolution 48 of the One Hundred Fourth Congress, to authorize the rotunda of the United States Capitol to be used in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President of the United States, and for other purposes, are hereby continued with the same power and authority.

SENATE CONCURRENT RESOLUTION 3—RELATIVE TO THE ADJOURNMENT OF THE SENATE

Mr. LOTT submitted the following concurrent resolution; which was considered and passed.

S. CON. RES. 3

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns on Thursday, January 9, 1997, pursuant to a motion made by the Majority Leader or his designee, in accordance with the provisions of this resolution, it stand recessed or adjourned until 12 noon on Tuesday, January 21, 1997, or until such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until 12 noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution; and that when the House adjourns on Thursday, January 9, 1997, it stand adjourned until 10 a.m. on Monday, January 20, 1997; that when the House adjourns on Monday, January 20, 1997, it stand adjourned until 12 noon on Tuesday, January 21, 1997; and that when the House adjourns on Tuesday, January 21, 1997; it stand adjourned until 12:30 p.m. on Tuesday, February 4, 1997, or until 12 noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and the House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

SENATE RESOLUTION 1—RELATIVE TO INFORMING THE HOUSE OF REPRESENTATIVES THAT A QUORUM OF THE SENATE IS ASSEMBLED

Mr. LOTT submitted the following resolution; which was considered and passed.

S. RES. 1

Resolved, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

SENATE RESOLUTION 2—RELATIVE TO INFORMING THE PRESIDENT THAT A QUORUM OF THE SENATE IS ASSEMBLED

Mr. LOTT submitted the following resolution; which was considered and passed.

S. RES. 2

Resolved, That a committee consisting of two Senators be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.

SENATE RESOLUTION 3—RELATIVE TO FIXING THE HOUR OF DAILY MEETING

Mr. LOTT submitted the following resolution; which was considered and passed.

S. RES. 3

Resolved, That the hour of daily meeting of the Senate be 12 o'clock meridian unless otherwise ordered.

SENATE RESOLUTION 4—RELATIVE TO ELECTING SENATOR STROM THURMOND AS PRESIDENT PRO TEMPORE

Mr. LOTT submitted the following resolution; which was considered and passed.

S. RES. 4

Resolved, That Strom Thurmond, a Senator from the State of South Carolina, be, and he is hereby, elected President of the Senate pro tempore, to hold office during the pleasure of the Senate, in accordance with rule I, paragraph 1, of the Standing Rules of the Senate.

SENATE RESOLUTION 5—RELATIVE TO NOTIFYING THE PRESIDENT OF THE ELECTION OF A PRESIDENT PRO TEMPORE

Mr. LOTT submitted the following resolution; which was considered and passed.

S. RES. 5

Resolved, That the President of the United States be notified of the election of Strom Thurmond, a Senator from the State of South Carolina, as President pro tempore.

SENATE RESOLUTION 6—RELATIVE TO NOTIFYING THE HOUSE OF REPRESENTATIVES OF THE ELECTION OF A PRESIDENT PRO TEMPORE

Mr. LOTT submitted the following resolution; which was considered and passed.

S. RES. 6

Resolved, That the House of Representatives be notified of the election of Strom Thurmond, a Senator from the State of South Carolina, as President pro tempore.

SENATE RESOLUTION 7—COMMENDING SENATOR ROBERT C. BYRD FOR 50 YEARS OF PUBLIC SERVICE

Mr. DASCHLE (for himself, Mr. LOTT, Mr. ROCKEFELLER, and Mr. SARBANES) submitted the following resolution; which was considered and passed.

S. RES. 7

Whereas, the Honorable Robert C. Byrd has dutifully and faithfully served the people of West Virginia since January 8, 1947;

Whereas, for 50 years, he had dedicated himself to improving the lives and welfare of the people of West Virginia and the United States,

Whereas, his 50-year commitment to public service has been one of total dedication to serving the people of his beloved state and to the highest ideals of public service,

Whereas, he has held more legislative offices than anyone else in the history of his state, and is the longest serving Senator in the history of his state: Now, therefore, be it

Resolved, That the U.S. Senate congratulates the Honorable Robert C. Byrd, the senior Senator from West Virginia, for his 50 years of public service to the people of West Virginia and to the United States of America.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Senator Robert C. Byrd.

SENATE RESOLUTION 8—GRANTING FLOOR PRIVILEGES

Mr. DASCHLE submitted the following resolution; which was considered and passed.

S. RES. 8

Resolved, That an employee in the office of Senator Max Cleland, to be designated from time to time by Senator Cleland, shall have the privilege of the Senate floor during any period when Senator Cleland is in the Senate chamber during the 105th Congress.

AUTHORITY FOR COMMITTEE TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. LOTT. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, January 7, 1997 at 4 p.m. to hold a closed business meeting.

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

ADDITIONAL STATEMENTS

THE SONS OF THE AMERICAN REVOLUTION

Mr. LIEBERMAN. Mr. President, I would like to take a few moments to acknowledge the Sons of the American Revolution, Gen. David Humphreys Branch, and the East Haven Historical Society. In a combined effort, these three groups have placed a marker on the northeast corner of the East Haven Town Green as a memorial to the Marquis de Lafayette, general in the Continental Army. General Lafayette and his troops camped on that site en route to support the American and French forces at Providence, RI, on July 26, 1778.

The dedication took place on May 27, 1996, in observance of Memorial Day. The ceremony included planes from the Connecticut Air National Guard flying overhead. Mayor Henry Luzzi of East Haven introduced State Representative Michael P. Lawlor, 99th District, as the guest speaker. Representative Lawlor spoke of General Lafayette's concern for our newly formed Government and his firm dedication to the cause of freedom. General Lafayette served at his own expense as a volunteer using his personal funds to supply the troops under his command and soon reached virtual bankruptcy. Additionally, he forged a friendship between two nations which has lasted to the present time. When he died in 1834, soil from each of the individual United States was placed on his grave. I commend the Sons of the American Revolution, Gen. David Humphreys Branch, and the East Haven Historical Society for their efforts and dedication to preserving the history of the United States.

MONITORING THE NEW LINE-ITEM VETO AUTHORITY

Mr. FEINGOLD. Mr. President, on the first of January, the clock began ticking on an historic 8-year experiment. The Line-Item Veto Act became effective on that date, a law that provides the President with significant new authority to cancel discretionary spending and new entitlement spending, along with an extremely limited ability to cancel new spending done through the Tax Code.

Though the version enacted was flawed in several ways, I supported this new authority to provide the President with some additional flexibility to eliminate inappropriate spending. I do not believe the line-item veto is the whole answer to our deficit problem, or even most of the answer, but it certainly can be part of the answer.

A key part of the new Presidential authority is the sunset clause. Unless Congress renews this authority, it will expire. The sunset clause will put the burden on those who want to retain the authority to demonstrate the experiment has worked.

Mr. President, though the continuing Federal budget deficits justify granting this temporary authority to the President on a trial basis, there are many extremely serious issues surrounding this proposal that merit close monitoring over the next several years. At the time I voted for the final version of this new authority last year, I announced my intention to form a line-item veto watchdog project to regularly monitor how this new law is implemented over the next 8 years, and I am pleased to take this opportunity to report on that project.

Mr. President, joining me in this line-item veto watchdog project are a number of distinguished observers of Federal policymaking, including Norman Ornstein of the American Enterprise Institute, Stephen Moore of the CATO Institute, and Demetri Coupanis on behalf of the Concord Coalition. In addition, several individuals from my home State of Wisconsin have also agreed to participate in the project. They include State Senator Lynn Adelman, State Representative Dave Travis, and attorney Fred Wade of Madison. Each of those three individuals has a deep interest in the partial veto authority granted to Wisconsin's

Governors and brings a critical perspective to the new authority given the President.

Mr. President, though we have no prior experience at the Federal level, many in this body who have served in State government may have seen the use of line-item veto authority at the State level. Indeed, much of the support for a Federal line-item veto stems from the State experience. But few other States, if any at all, have witnessed the abuses of line-item veto authority that we have seen in Wisconsin. That abuse has been bipartisan—Governors of both parties have used Wisconsin's partial veto authority in ways it is safe to say no one anticipated when that authority was first contemplated. For example, Wisconsin's current Governor, Governor Thompson, has used the veto authority not only to rewrite entire laws, but actually to increase spending and increase taxes.

Mr. President, given that history, the participation of Senator Adelman, Representative Travis, and attorney Wade will be invaluable in helping us monitor potential abuses of the new Presidential authority.

Mr. President, the watchdog project will be monitoring and chronicling a number of aspects of the Presidential power—first, the actual amount of Federal spending eliminated by the President's use of the line-item veto. Reducing unnecessary spending was the central argument for this new authority, and keeping track of how much spending is eliminated will be useful in seeing how effective this new tool actually is. It may also help encourage Presidents to make sure that they are making full use of this new authority as we will attempt to track missed opportunities as well as successes.

The watchdog project will also monitor instances where the new authority is abused by the executive branch. Some have suggested that the line-item veto could be used to coerce Members of Congress to toe the line on an administration's policies through the threat to cancel spending in home States. If a President starts misusing the line-item veto authority as a club to get votes on nominations or other policy matters, the public ought to hear about it, and our project will seek to document this kind of abuse if it takes place.

Mr. President, the watchdog project will also look for examples of excess spending that escape scrutiny because of loopholes in the new law. Some already are speculating on the different techniques that may be attempted to avoid the reach of this new Presidential power.

Mr. President, in this regard, I am especially concerned that the sections of the line-item veto authority that deal with tax expenditures were too narrowly drawn, and that many new special interest tax breaks could escape the line-item veto pen. Along with my good friend in the other body, Representative TOM BARRETT of Milwaukee, I have introduced legislation to address this weakness in the new law, and will do so again this session. It makes no sense to provide the President with this new authority while protecting one of the fastest growing areas of spending in the Federal budget, an area that includes unjustified subsidies to some of the wealthiest individuals and corporations in the world.

Mr. President, the watchdog group will also monitor efforts to twist the line item authority beyond its stated purpose. As I noted above, in Wisconsin, the partial veto authority has been abused by our Governors by striking out single letters in appropriation bills to create new words and new meanings to legislation. In some cases, the Wisconsin statute has been used to actually increase State spending. The new Federal law does not, on its surface, appear to allow for that kind of abuse, but our project will be monitoring that aspect of implementation of the new law as well.

Other aspects of the new law that warrant review are also sure to present themselves as we begin its actual use later this session, and I welcome suggestions from my colleagues who are interested in this historic new law.

It is critical that we track closely how the new authority is being used so that when it expires in 8 years, Congress and the public will have some measurable criteria by which to assess its effectiveness.

BURTON P. RESNICK

● Mr. LIEBERMAN. Mr. President, I rise today to honor Burton P. Resnick on the occasion of his birthday. Mr. Resnick turned 60 on November 28, 1996.

Mr. Resnick is the President of Jack Resnick & Sons, Inc. The company, founded by his father in 1928, has been a leader in real estate development, construction, ownership, and management of business in New York for many years. Today Jack Resnick & Sons, Inc., controls and operates over 5 million square feet of first-class real estate in prime locations in New York City. In recognition of his outstanding work in the field of real estate, Mr. Resnick was named chairman emeritus of the Board of Governors of the Real Estate Board of New York.

Burton P. Resnick is also extremely involved with numerous philanthropic and charitable organizations. One of his highest honors was being appointed by President Clinton to the Holocaust Memorial Council. He is chairman of the Executive Committee of the Board of Trustees of Yeshiva University and Chairman of the board of Overseers of Albert Einstein College of Medicine. He is also a member of the board of directors of the Hebrew Home for the Aged at Riverdale, NY, as well as Chairman of the Building Committee.

Mr. Resnick assists the National United Jewish Appeal through his role as vice chairman of the organization. He also serves as national campaign vice chairman of the Anti-Defamation League.

Burton P. Resnick's dedication to helping the community through his outstanding achievements and accomplishments is highly commendable and I take this time to wish him a very happy birthday.●

THE 220TH ANNIVERSARY OF THE FOUNDING OF THE U.S. CAVALRY

● Mr. LIEBERMAN. Mr. President, I rise today to recognize the 220th anniversary of the U.S. Cavalry. The anniversary occurred on December 16, 1996.

It was in the town of Wethersfield, CT, under orders by the First Continental Congress, that Revolutionary troops organized the 1st Cavalry Regiment in the Continental Army. Today, the town of Wethersfield, located in my home State of Connecticut, is proud to be recognized as the birthplace of the U.S. Cavalry.

Recognized by the U.S. Department of the Army's Center of Military History, the 2d Continental Light Dragoons—Sheldon's Horse—were organized in Wethersfield. This was the first dragoon regiment to become a part of the Continental Army. Training ground for this regiment had been created by a Wethersfield native, Capt. Benjamin Tallmadge. This regiment made numerous contributions in the Revolutionary War by participating in combat in northern New Jersey and the defense of Philadelphia.

The town of Wethersfield played a vital role in America's independence. From the historic Webb House, where Gen. George Washington met with Comte de Rochambeau to discuss strategies for the Battle of Yorktown, to the modern development of the Silas Deane Highway, the quaintness of Wethersfield is intermingled with the heroic greatness of the U.S. Cavalry. With origins in Wethersfield, the U.S. Cavalry fought epic battles at Brandy Station during the Civil War and the Punity Expedition before World War I.

The U.S. Cavalry now based in Fort Riley, KS, will be forever linked with Wethersfield and the State of Connecticut. I applaud the efforts of Deputy Mayor Richard Sparveri, Town Councilman Brendan T. Flynn, the Wethersfield Historical Society, Wethersfield Tourism Task Force, Mr. John Conway, Mr. Arthur Hutchinson, and so many others who have brought this significant part of American history into the spotlight it greatly deserves.●

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 105–1

Mr. LOTT. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on January 7, 1997, by the President of the United States: protocols to the 1980 Conventional Weapons Convention, Treaty Document No. 105–1.

I further ask unanimous consent that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the following Protocols to the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects: the amended Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices (Protocol II or the amended Mines Protocol); the Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons (Protocol III or the Incendiary Weapons Protocol); and the Protocol on Blinding Laser Weapons (Protocol IV). Also transmitted for the information of the Senate is the report of the Department of State with respect to these Protocols, together with article-by-article analyses.

The most important of these Protocols is the amended Mines Protocol. It is an essential step forward in dealing with the problem of anti-personnel landmines (APL) and in minimizing the very severe casualties to civilians that have resulted from their use. It is an important precursor to the total prohibition of these weapons that the United States seeks.

Among other things, the amended Mines Protocol will do the following: (1) expand the scope of the original Protocol to include internal armed conflicts, where most civilian mine casualties have occurred; (2) require that all remotely delivered anti-personnel mines be equipped with self-destruct devices and backup self-deactivation features to ensure that they do not pose a long-term threat to civilians; (3) require that all nonremotely delivered anti-personnel mines that are not equipped with such devices be used only within controlled, marked, and monitored minefields to protect the civilian population in the area; (4) require that all anti-personnel mines be detectable using commonly available technology to make the task of mine clearance easier and safer; (5) require that the party laying mines assume responsibility for them to ensure against their irresponsible and indiscriminate use; and (6) provide more effective means for dealing with compliance problems to ensure that these restrictions are actually observed. These objectives were all endorsed by the Senate in its Resolution of Ratification of the Convention in March 1995.

The amended Mines Protocol was not as strong as we would have preferred. In particular, its provisions on verification and compliance are not as rigorous as we had proposed, and the transition periods allowed for the conversion or elimination of certain noncompliant mines are longer than we thought necessary. We shall pursue these issues in the regular meetings that the amended Protocol provides for review of its operation.

Nonetheless, I am convinced that this amended Protocol will, if generally adhered to, save many lives and prevent many tragic injuries. It will, as well, help to prepare the ground for the total prohibition of anti-personnel landmines to which the United States is committed. In this regard, I cannot overemphasize how seriously the United States takes the goal of eliminating APL entirely. The carnage and devastation caused by anti-personnel landmines—the hidden killers that murder and maim more than 25,000 people every year—must end.

On May 16, 1996, I launched an international effort to this end. This initiative sets out a concrete path to a global ban on anti-personnel landmines and is one of my top arms control priorities. At the same time, the policy recognizes that the United States has international commitments and responsibilities that must be taken into account in any negotiations on a total ban. As our work on this initiative progresses, we will continue to consult with the Congress.

The second of these Protocols—the Protocol on Incendiary Weapons—is a part of the original Convention but was not sent to the Senate for advice and consent with the other 1980 Protocols in 1994 because of concerns about the acceptability of the Protocol from a military point of view. Incendiary weapons have significant potential military value, particularly with respect to flammable military targets that cannot so readily be destroyed with conventional explosives.

At the same time, these weapons can be misused in a manner that could cause heavy civilian casualties. In particular, the Protocol prohibits the use of air-delivered incendiary weapons against targets located in a city, town, village, or other concentration of civilians, a practice that caused very heavy civilian casualties in past conflicts.

The executive branch has given very careful study to the Incendiaries Protocol and has developed a reservation that would, in our view, make it acceptable from a broader national security perspective. This proposed reservation, the text of which appears in the report of the Department of State, would reserve the right to use incendiaries against military objectives located in concentrations of civilians where it is judged that such use would cause fewer casualties and less collateral damage than alternative weapons.

The third of these three Protocols—the new Protocol on Blinding Lasers—prohibits the use or transfer of laser weapons specifically designed to cause permanent blindness to unenhanced vision (that is, to the naked eye or to the eye with corrective devices). The Protocol also requires Parties to take all feasible precautions in the employment of other laser systems to avoid the incidence of such blindness.

These blinding lasers are not needed by our military forces. They are potential weapons of the future, and the United States is committed to preventing their emergence and use. The United States supports the adoption of this new Protocol.

I recommend that the Senate give its early and favorable consideration to these Protocols and give its advice and consent to ratification, subject to the conditions described in the accompanying report of the Department of State. The prompt ratification of the amended Mines Protocol is particularly important, so that the United States can continue its position of leadership in the effort to deal with the humanitarian catastrophe of irresponsible landmine use.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 7, 1997*.

RECESS UNTIL THURSDAY, JANUARY 9, 1997, AT 12:30 P.M.

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now stand in recess under the previous order.

There being no objection, the Senate, at 5:07 p.m., recessed until Thursday, January 9, 1997, at 12:30 p.m.

NOMINATIONS

Executive nominations received by the Senate January 7, 1997:

DEPARTMENT OF STATE

MADELEINE KORBEL ALBRIGHT, OF THE DISTRICT OF COLUMBIA, TO BE SECRETARY OF STATE, VICE WARREN CHRISTOPHER, RESIGNED.

DEPARTMENT OF DEFENSE

WILLIAM S. COHEN, OF MAINE, TO BE SECRETARY OF DEFENSE, VICE WILLIAM J. PERRY.

DEPARTMENT OF STATE

BILL RICHARDSON, OF NEW MEXICO, TO BE THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS WITH THE RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY, AND THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA IN THE SECURITY COUNCIL OF THE UNITED NATIONS, VICE MADELEINE KORBEL ALBRIGHT.

UNITED STATES CAPITOL

ALAN M. HANTMAN, OF NEW JERSEY, TO BE ARCHITECT OF THE CAPITOL FOR THE TERM OF 10 YEARS, VICE GEORGE MALCOLM WHITE.

THE JUDICIARY

ERIC L. CLAY, OF MICHIGAN, TO BE U.S. CIRCUIT JUDGE FOR THE SIXTH CIRCUIT, VICE RALPH B. GUY, JR., RETIRED.

MERRICK B. GARLAND, OF MARYLAND, TO BE U.S. CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT, VICE ABNER J. MIKVA, RETIRED.

WILLIAM A. FLETCHER, OF CALIFORNIA, TO BE U.S. CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE WILLIAM ALBERT NORRIS, RETIRED.

RICHARD A. PAEZ, OF CALIFORNIA, TO BE U.S. CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE CECIL F. POOLE, RESIGNED.

M. MARGARET MCKEOWN, OF WASHINGTON, TO BE U.S. CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE J. JEROME FARRIS, RETIRED.

ARTHUR GAJARSA, OF MARYLAND, TO BE U.S. CIRCUIT JUDGE FOR THE FEDERAL CIRCUIT, VICE HELEN WILSON NIES, RETIRED.

JAMES A. BEATY, JR., OF NORTH CAROLINA, TO BE U.S. CIRCUIT JUDGE FOR THE FOURTH CIRCUIT, VICE JAMES DICKSON PHILLIPS, JR., RETIRED.

ANN L. AIKEN, OF OREGON, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF OREGON, VICE JAMES H. REDDEN, RETIRED.

LAWRENCE BASKIR, OF MARYLAND, TO BE A JUDGE OF THE U.S. COURT OF FEDERAL CLAIMS FOR A TERM OF 15 YEARS, VICE REGINALD W. GIBSON, RETIRED.

JOSEPH F. BATAILLON, OF NEBRASKA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEBRASKA VICE LYLE E. STROM, RETIRED.

COLLEEN KOLLAR-KOTELLY, OF THE DISTRICT OF COLUMBIA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA, VICE HAROLD H. GREENE, RETIRED.

RICHARD A. LAZZARA, OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF FLORIDA VICE JOHN H. MOORE II, RETIRED.

DONALD M. MIDDLEBROOKS, OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA VICE JAMES W. KEHOE, RETIRED.

JEFFREY T. MILLER, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA VICE GORDON THOMPSON, JR., RETIRED.

SUSAN OKI MOLLWAY, OF HAWAII, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF HAWAII VICE HAROLD M. FONG, DECEASED.

MARGARET M. MORROW, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA VICE RICHARD A. GADBOIS, RETIRED.

ROBET W. PRATT, OF IOWA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF IOWA VICE HAROLD D. VIETOR, RETIRED.

CHRISTINA A. SNYDER, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA VICE EDWARD RAFEEDIE, RETIRED.

CLARENCE J. SUNDRAM, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF NEW YORK VICE CON. G. CHOLAKIA, RETIRED.

THOMAS W. THRASH, JR., OF GEORGIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA VICE ROBERT L. VINING, JR., RETIRED.

MARJORIE O. RENDELL, OF PENNSYLVANIA, TO BE U.S. CIRCUIT JUDGE FOR THE THIRD CIRCUIT, VICE WILLIAM D. HUTCHINSON, DECEASED.

HELENE N. WHITE, OF MICHIGAN, TO BE U.S. CIRCUIT JUDGE FOR THE SIXTH CIRCUIT, VICE DAMON J. KEITH, RETIRED.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

DONNA HOLT CUNNINGHAME, OF MARYLAND, TO BE CHIEF FINANCIAL OFFICER, CORPORATION FOR NATIONAL AND COMMUNITY SERVICE, (NEW POSITION), TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

JOSE-MARIE GRIFFITHS, OF TENNESSEE, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2001, VICE SHIRLEY ADAMOVICH, TERM EXPIRED.

DEPARTMENT OF STATE

MADELEINE MAY KUNIN, OF VERMONT, TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE PRINCIPALITY OF LIECHTENSTEIN.

FEDERAL ELECTION COMMISSION

JOHN WARREN MCGARRY, OF MASSACHUSETTS, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 2001. (REAPPOINTMENT)

DEPARTMENT OF EDUCATION

DONALD RAPPAPORT, OF THE DISTRICT OF COLUMBIA, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF EDUCATION, VICE DONALD RICHARD WURTZ, RESIGNED.

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

KAREN SHEPHERD, OF UTAH, TO BE U.S. DIRECTOR OF THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT, VICE LEE F. JACKSON, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ARTHUR I. BLAUSTEIN, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2002, VICE BRUCE D. BENSON, TERM EXPIRED.

NATIONAL COUNCIL ON DISABILITY

DAVE NOLAN BROWN, OF WASHINGTON, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1998, VICE JOHN A. GANNON, TERM EXPIRED.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

LORRAINE WEISS FRANK, OF ARIZONA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2002, VICE MIKISO HANE, TERM EXPIRED.

BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

HANS M. MARK, OF TEXAS, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING APRIL 17, 2002. (REAPPOINTMENT)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

SUSAN FORD WILTSHIRE, OF TENNESSEE, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2002, VICE HELEN GARY CRAWFORD, TERM EXPIRED.

EXECUTIVE OFFICE OF THE PRESIDENT

CHARLENE BARSHEFSKY, OF THE DISTRICT OF COLUMBIA, TO BE U.S. TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY, VICE MICHAEL KANTOR.

SMALL BUSINESS ADMINISTRATION

AIDA ALVAREZ, OF NEW YORK, TO BE ADMINISTRATOR OF THE SMALL BUSINESS ADMINISTRATION, VICE PHILIP LADER.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ANDREW M. CUOMO, OF NEW YORK, TO BE SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE HENRY G. CISNEROS, RESIGNED.

DEPARTMENT OF COMMERCE

WILLIAM M. DELAY, OF ILLINOIS, TO BE SECRETARY OF COMMERCE, VICE MICHAEL KANTOR.

DEPARTMENT OF LABOR

ALEXIS M. HERMAN, OF ALABAMA, TO BE SECRETARY OF LABOR, VICE ROBERT B. REICH.

DEPARTMENT OF TRANSPORTATION

RODNEY E. SLATER, OF ARKANSAS, TO BE SECRETARY OF TRANSPORTATION, VICE FEDERICO PENA.

EXECUTIVE OFFICE OF THE PRESIDENT

JANET L. YELLEN, OF CALIFORNIA, TO BE A MEMBER OF THE COUNCIL OF ECONOMIC ADVISERS, VICE JOSEPH E. STIGLITZ, RESIGNED.

IN THE COAST GUARD

THE FOLLOWING REGULAR OFFICERS OF THE U.S. COAST GUARD FOR PROMOTION TO THE GRADE OF REAR ADMIRAL (LOWER HALF):

THOMAS J. BARRETT
JOHN F. MC GOWAN
TERRY M. CROSS
JAMES D. HULL
GEORGE N. NACCARA

THE FOLLOWING INDIVIDUAL FOR APPOINTMENT AS A PERMANENT REGULAR COMMISSIONED OFFICER IN THE U.S. COAST GUARD IN THE GRADE OF LIEUTENANT COMMANDER:

LAURA H. GUTH

THE FOLLOWING OFFICERS OF THE U.S. COAST GUARD PERMANENT COMMISSIONED TEACHING STAFF AT THE COAST GUARD ACADEMY FOR PROMOTION TO THE GRADE INDICATED:

To be commander

ROBERT R. ALBRIGHT II
LUCRETIA A. FLAMMANG

To be lieutenant commander

JAMES R. DIRE

THE FOLLOWING OFFICERS OF THE U.S. COAST GUARD RESERVE FOR PROMOTION TO THE GRADE INDICATED:

To be captain

FRANCIS C. BUCKLEY

To be commander

SHARON K. RICHEY
ALLEN K. HARKER

PURSUANT TO THE PROVISIONS OF 14 U.S.C. 729, THE FOLLOWING NAMED COMMANDERS OF THE COAST GUARD RESERVE TO BE PERMANENT COMMISSIONED OFFICERS IN THE COAST GUARD RESERVE IN THE GRADE OF CAPTAIN:

RONALD G. DODD
JOHN M. RICHMOND
MICHAEL E. THOMPSON

THE FOLLOWING REGULAR OFFICERS OF THE U.S. COAST GUARD FOR PROMOTION TO THE GRADE OF CAPTAIN:

JOSEPH F. AHERN
JEFFREY G. LANTZ
ADAN D. GUERRERO
WALTER S. MILLER
MARK E. BLUMFELDER
RICHARD W. GOODCHILD
JON T. BYRD
DAVID W. RYAN
JEFFREY A. FLORIN
JOHN C. SIMPSON
WILLIAM C. BENNETT
JOEL R. WHITEHEAD
JAMES J. LOBER, JR.
WAYNE D. GUSMAN
MICHAEL J. DEVINE
SCOTT F. KAYSER
JAMES B. CRAWFORD
WILLIAM J. HUTMACHER
GLENN L. SNYDER
DOUGLAS P. RUDOLPH
JOHN L. GRENIER
TIMOTHY S. SULLIVAN
MARK G. VANHAVERBEKE
JAMES SABO
PAUL C. ELLNER
STEVEN A. NEWELL
DOUGLAS E. MARTIN
RICHARD M. BROOKS

THE FOLLOWING RESERVE OFFICER OF THE U.S. COAST GUARD FOR PROMOTION TO THE GRADE OF CAPTAIN:

CATHERINE M. KELLY

PURSUANT TO THE PROVISIONS OF 14 U.S.C. 729, THE FOLLOWING NAMED LIEUTENANT COMMANDERS OF THE COAST GUARD RESERVE TO BE PERMANENT COMMISSIONED OFFICERS IN THE COAST GUARD RESERVE IN THE GRADE OF COMMANDER:

ROY F. WILLIANS
THEODORE B. ROYSTER
GEORGE J. SCHULER
JACQUELINE V. WYLAND
LAWRENCE A. GASS
KRISTIN Q. CORCORAN
MARYELLEN M. COLELLA
DAVID A. MAES
JOHN J. MADEIRA
JEANNE CASSIDY
CHARLES E. POLK
JOHN A. HOLUB
JOHN W. LONG
MICHAEL D. OAKS
ANN M. COURTNEY
ANTHONY B. CANORRO
LARRY L. JONES
MATTHEW P. BERNARD
MAUREEN B. HARKINS
ROBERT W. GRABB
WAYNE C. DUMAS
MARK A. JONES
STEPHEN N. JACKSON
WILLIAM C. HANSEN
JOSEPH A. KEGLOVITS
DAVID P. ROUNDY
THOMAS PLESNARSKI
WARREN E. SOLODUK
DAVID H. SULOUFF
ROBERT C. LUDWICK
RICHARD A. REYNOLDS
DOUGLAS A. ASH
DAVID G. O'BRIEN
JOSEPH J. RIORDAN
NEEDHAM E. WARD
ROBERT Q. AMMON
BRIAN D. MURPHY
VIRGIL F. BATEMAN
SALVATORE BRILLANTE
NANCY A. MAZUR
MICHAEL A. CICALESE
SIDNEY J. DUCK
PHILIP J. JORDAN
JOSEPH P. CAIN

THE FOLLOWING REGULAR OFFICERS OF THE U.S. COAST GUARD FOR PROMOTION TO THE GRADE OF COMMANDER:

GEORGE A. RUSSELL, JR.
Patrick J. Cunningham, Jr.
Dane S. Egli
Jeffrey S. Gorden
Bret K. Mc Gough
Jody B. Turner
Mark L. Mc Ewen
Mark A. Skordinski
Donald K. Strother
Francis X. Irr, Jr.
Robert a. Farmer
Richard M. Kaser
Kurtis J. Guth
Gary E. Felicetti
Daniel A. Laliberte
Kurt W. Devoe
Robert J. Legier
Robert E. Korroch
Thomas P. Ostebo
Mark A. Prescott
Kenneth H. Sherwood
Mark S. Guillory
Preston d. Gibson
David L. Hill
Michael P. Farrell
Richard A. Stanchi
Scott S. Graham
Mark R. Devries
Kenneth R. Burgess, Jr.
Warren L. Haskovec
Jennifer L. Yount
Barry P. Smith
William D. Lee
John R. Lindley, Jr.
Robert R. O'Brien, Jr.
Scott G. Woolman
William W. Whitson, Jr.
Larry E. Smith
Mark A. Frost
Mitchell R. Forrester
Patrick J. Nemeth
Curtis A. Stock
Christopher K. Lockwood
Barry L. Dragon
Michael D. Brand
Bruce E. Grinnell
Brian K. Swanson
Robert J. Malkowski
Brian J. Goettler
Charles W. Ray
Stephen J. Minutolo
Virginia K. Holtzman-Bell
Matthew M. Blizard
Richard A. Rendon
Bryan D. Schroder
John W. Yager, Jr.
Marshall B. Lytle III
Thomas D. Criman
Stephen J. Ohnstad
Carol C. Bennett
Thomas E. Hobaica
David S. Stevenson
James T. Hubbard
George P. Vance, Jr.
Robert M. Atkin
Christine D. Balboni
Mark D. Rutherford
Patrick B. Trapp
Dennis D. Blackall
Bradley R. Mozee
Richard J. Ferraro
Richard L. Matters
Ekundayo G. Faux
David L. Lersch
Ricki G. Benson
Norman L. Custard, Jr.
Gregory B. Breithaupt
Frederick J. Kenney, Jr.
Thomas K. Richey
David M. Gundersen
James E. Tunstall
John R. Ochs
Timothy J. Dellot
Tomas Zapata
Peter V. Neffenger
Daniel R. MaCleod
Robert M. Wilkins
Timothy G. Jobe
Rickey W. George
Steven E. Vanderplas
Steven J. Boyle
Dennis A. Hoffman
Jeffrey N. Garden
Kevin G. Quigley
Ronald D. Hassler
Kenneth D. Forslund
Dennis M. Sens
Alvin M. Coyle
Melissa A. Wall
Curtis A. Springer
Christian Broxterman
ELMO L. ALEXANDER II

THE FOLLOWING REGULAR OFFICERS OF THE U.S. COAST GUARD FOR PROMOTION TO THE GRADE OF LIEUTENANT COMMANDER:

BRIAN C. CONROY
ARLYN R. MADSEN, JR.
KEITH F. CHRISTENSEN
TIMOTHY J. CUSTER
SCOTT A. KITCHEN
JACK W. NIEMIEC
RHONDA F. GADSDEN
GLEN B. FREEMAN
ROBERT C. LAFEAN
THOMAS J. CURLEY III
JEROME R. CROOKS, JR.
CHARLES A. HOWARD
MARK A. HERNANDEZ
ROBERT E. ASHTON
ABRAHAM L. BOUGHNER
GLENN F. GRAHL, JR.
ANNE L. BURKHARDT
THOMAS M. MIELE

ANTHONY T. FURST
DUANE R. SMITH
KEVIN K. KLECKNER
JAMES A. MAYORS
WYMAN W. BRIGGS
GWYN R. JOHNSON
GEOFFREY L. ROWE
JOHN M. SHOUEY
EDWARD R. WATKINS
WILLIAM S. STRONG
RICHARD C. JOHNSON
JAMES O. FITTON
TERRY D. CONVERSE
MARK C. RILEY
ERIC A. GUSTAFSON
CHRISTOPHER E. AUSTIN
RICHARD R. JACKSON, JR.
PETE V. ORTIZ, JR.
PAUL D. LANGE
RONALD J. MAGOON
CHRIS J. THORNTON
DOUGLAS W. ANDERSON
NATHALIE DREYFUS
KURT A. CLASON
GREGORY W. MARTIN
NONA M. SMITH
WILLIAM H. RYPKA
GERALD F. SHATINSKY
STEVEN M. HADLEY
JOHN F. EATON, JR.
DAVID H. DOLLOFF
STEPHEN E. MAXWELL
DAVID W. LUNT
WILLIAM J. MILNE
GREGORY W. BLANDFORD
DOUGLAS C. LOWE
EDDIE JACKSON III
MATTHEW T. BELL, JR.
MARC D. STEGMAN
WILLIAM G. HISHON
LARRY A. RAMIREZ
BENJAMIN A. EVANS
TRACY L. SLACK
THOMAS C. HASTING, JR.
WILLIAM H. OLIVER II
TALMADGE SEAMAN
MARK E. MATTA
JANIS E. NAGY
Salvatore G. Palmeri, Jr.
Mark D. Rizzo
Spencer L. Wood
Ricardo Rodriguez
Randall A. Perkins III
Timothy B. O'Neal
Robert P. Monarch
EDWARD J. HANSEN, JR.
DONALD J. MARINELLO
CHARLES A. MILHOLLIN
DENNIS D. DICKSON
TIMOTHY N. SCOGGINS
GENE W. ADGATE
BARRY J. WEST
JEFFREY W. JESSEE
GEORGE A. ELDREDGE
SCOTT E. DOUGLASS
JOHN K. LITTLE
SAMUEL WALKER VII
ROBERT R. DUBOIS
ROBERT J. HENNESSY
THOMAS E. CRABBS
STEVEN D. STILLEKE
JOHN S. KENYON
DOUGLAS J. CONDE
WILLIAM R. CLARK
DONNA A. KUEBLER
TIMOTHY A. FRAZIER
ROCKY S. LEE
RANDY C. TALLEY
ROBERT M. CAMILLUCCI
CHRISTOPHER B. ADAIR
ERIC C. JONES
JOHN R. LUSSIER
MELVIN W. BOUBOULIS
MELISSA BERT
ANITA K. ABBOTT
VERNE B. GIFFORD
SCOTT N. DECKER
PETER W. GAUTIER
MATTHEW T. RUCKERT
CHRISTOPHER M. SMITH
ANTHONY J. VOGT
JAMES A. CULLINAN
DONALD R. SCOPEL
GWEN L. KEENAN
RICHARD J. RAKSNIS
MARC A. GRAY
GRAHAM S. STOWE
CHRISTOPHER P. CALHOUN
KYLE G. ANDERSON
JONATHAN P. MILKEY
MATTHEW J. SZIGETY
RUSSEL C. LABODA
ANDEW P. KIMOS
JOHN T. DAVIS
ANTHONY R. GENTILELLA
JOHN G. TURNER
RAMONCITO R. MARIANO
LEIGH A. ARCHBOLD
DANA G. DOHERTY
PAUL E. FRANKLIN
STEVEN A. SEIBERLING
SCOTTIE R. WOMACK
RONALD H. NELSON
HENRY M. HUDSON, JR.
FRANK D. GARDNER
RALPH MALCOLM, JR.
DONALD N. MYERS
RICHARD A. PAGLIALONGA
JAMES E. HAWTHORNE, JR.
JAY A. ALLEN
GORDON A. LOEBL
GARY T. CROOT
SAMUEL L. HART
WEBSTER D. BALDING
CHRISTOPHER N. HOGAN
THOMAS D. COMBS III
BEVERLY A. HAVLIK
THOMAS H. FARRIS, JR.
TIMOTHY E. KARGES
DAVID SELF
JOHN D. GALLAGHER
ROBERT G. GARROTT
GREGORY W. JOHNSON
SCOTT A. MEMMOTT
GREGORY P. HITCHEN
RICHARD W. SANDERS
JASON B. JOHNSON
RAYMOND W. PULVER
STUART M. MERRILL
JOSEPH E. VORBACH
KEVIN E. LUNDAY
BRIAN R. BEZIO
CHRISTINE L. MACMILLIAN
JOANNA M. NUNAN
JOSEPH SEGALLA
JOHN J. PLUNKETT
Christopher M. Rodriguez
Patrick P. O'Shaughnessy
Anthony Popiel
Matthew L. Murtha
James M. Cash
Dwight T. Mathers
Pauline F. Cook
Robert J. Tarantino
John E. Harding
Craig S. Swirbliss
John J. Arenstam
John M. Fitzgerald
Kirk D. Johnson
David R. Bird
William B. Brewer
WILLIAM G. KELLY

I NOMINATE THE FOLLOWING RESERVE OFFICERS OF THE U.S. COAST GUARD FOR PROMOTION TO THE GRADE OF LIEUTENANT COMMANDER:

MONICA L. LOMBARDI
LATICIA J. ARGENTI
SLOAN A. TYLER
KAREN E. LLOYD
MICHAEL E. TOUSLEY
THOMAS F. LENNON
DONALD A. LACHANCE II

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL IN THE U.S. AIR FORCE WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. LLOYD W. NEWTON, 0000

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE REGULAR AIR FORCE OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be major general

BRIG. GEN. MAXWELL C. BAILEY, 0000
BRIG. GEN. WILLIAM J. DENDINGER, 0000
BRIG. GEN. DENNIS G. HAINES, 0000
BRIG. GEN. CHARLES R. HENDERSON, 0000
BRIG. GEN. CHARLES R. HOLLAND, 0000
BRIG. GEN. SILAS R. JOHNSON, JR., 0000
BRIG. GEN. THOMAS J. KECK, 0000
BRIG. GEN. RODNEY P. KELLY, 0000
BRIG. GEN. RONALD E. KEYS, 0000
BRIG. GEN. DAVID R. LOVE, 0000
BRIG. GEN. EARL W. MABRY II, 0000
BRIG. GEN. RICHARD C. MARR, 0000
BRIG. GEN. WILLIAM F. MOORE, 0000
BRIG. GEN. THOMAS H. NEARY, 0000
BRIG. GEN. SUSAN L. PAMERLEAU, 0000
BRIG. GEN. ANDREW J. PELAK, JR., 0000
BRIG. GEN. GERALD F. PERRYMAN, JR., 0000
BRIG. GEN. ROGER R. RADCLIFF, 0000
BRIG. GEN. RICHARD H. ROELLIG, 0000
BRIG. GEN. LANSFORD E. TRAPP, JR., 0000
BRIG. GEN. THOMAS C. WASKOW, 0000
BRIG. GEN. CHARLES J. WAX, 0000
BRIG. GEN. JOHN L. WOODWARD, JR., 0000
BRIG. GEN. MICHAEL K. WYRICK, 0000

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE REGULAR AIR FORCE OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be brigadier general

COL. GARY A. AMBROSE, 0000
COL. FRANK J. ANDERSON, JR., 0000
COL. THOMAS L. BAPTISTE, 0000
COL. BARRY W. BARKSDALE, 0000
COL. LEROY BARNIDGE, JR., 0000
COL. RANDALL K. BIGUM, 0000
COL. RICHARD B. BUNDY, 0000
COL. SHARLA J. COOK, 0000
COL. TOMMY F. CRAWFORD, 0000
COL. CHARLES E. CROOM, JR., 0000
COL. RICHARD W. DAVIS, 0000
COL. ROBERT R. DIERKER, 0000
COL. JERRY M. DRENNEN, 0000
COL. CAROL C. ELLIOT, 0000
COL. PAUL W. ESSEX, 0000
COL. MICHAEL N. FARAGE, 0000
COL. RANDALL C. GELWIX, 0000
COL. JAMES A. HAWKINS, 0000
COL. GARY W. HECKMAN, 0000
COL. HIRAM L. JONES, 0000
COL. JOSEPH E. KELLEY, 0000
COL. CHRISTOPHER A. KELLY, 0000
COL. JEFFREY B. KOHLER, 0000
COL. EDWARD L. LA FOUNTAINE, 0000
COL. WILLIAM J. LAKE, 0000
COL. DAN L. LOCKER, 0000
COL. TEDDIE M. MCFARLAND, 0000
COL. MICHAEL C. MCMAHAN, 0000
COL. DUNCAN J. MCNABB, 0000
COL. RICHARD A. MENTEMEYER, 0000
COL. JAMES W. MOREHOUSE, 0000
COL. PAUL D. NIELSEN, 0000
COL. THOMAS A. ORIORDAN, 0000
COL. BENTLEY B. RAYBURN, 0000
COL. REGNER C. RIDER, 0000
COL. GARY L. SALISBURY, 0000
COL. KLAUS O. SCHAFER, 0000
COL. CHARLES N. SIMPSON, 0000
COL. ANDREW W. SMOAK, 0000
COL. JOHN M. SPEIGEL, 0000
COL. RANDALL F. STARBUCK, 0000
COL. SCOTT P. VANCLEEF, 0000
COL. GLENN C. WALTMAN, 0000
COL. CRAIG P. WESTON, 0000
COL. MICHAEL P. WIEDEMER, 0000
COL. MICHAEL W. WOOLEY, 0000
COL. BRUCE A. WRIGHT, 0000

IN THE ARMY

THE FOLLOWING-NAMED ARMY COMPETITIVE CATEGORY OFFICER FOR PROMOTION IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE OF MAJOR GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624(C):

To be major general

BRIG. GEN. LARRY G. SMITH, 0000

THE FOLLOWING U.S. ARMY RESERVE OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10 UNITED STATES CODE, 14101, 14315, AND 12203(A):

To be major general

BRIG. GEN. WILLIAM F. ALLEN, 0000
BRIG. GEN. CRAIG BAMBROUGH, 0000
BRIG. GEN. PETER A. GANNON, 0000
BRIG. GEN. FRANCIS R. JORDAN, JR., 0000

To be brigadier general

COL. HERBERT L. ALTSHULER, 0000
COL. MICHAEL W. BEASLEY, 0000
COL. JAMES P. COLLINS, 0000
COL. JAMES W. COMSTOCK, 0000
COL. WILLIAM S. CRUPE, 0000
COL. ALAN V. DAVIS, 0000
COL. JOHN F. DEPUE, 0000
COL. BERTIE S. BUEITT, 0000
COL. CALVIN D. JAEGER, 0000
COL. JOHN S. KASPER, 0000
COL. RICHARD M. O'MEARA, 0000
COL. JAMES C. PRICE, 0000
COL. RICHARD O. WIGHTMAN, JR., 0000

THE FOLLOWING-NAMED ARMY COMPETITIVE CATEGORY OFFICER FOR PROMOTION IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE OF BRIGADIER GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624(C):

To be brigadier general

COL. MITCHELL M. ZAIS, 0000

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE U.S. MARINE CORPS TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be major general

BRIG. GEN. JOSEPH T. ANDERSON, 0000
BRIG. GEN. RAYMOND P. AYRES, JR., 0000
BRIG. GEN. EMIL R. BEDARD, 0000
BRIG. GEN. CHARLES F. BOLDEN, JR., 0000
BRIG. GEN. EARL B. HAILSTON, 0000
BRIG. GEN. BRUCE B. KNUTSON, JR., 0000
BRIG. GEN. GARY S. MCKISSOCK, 0000
BRIG. GEN. WILLIAM L. NYLAND, 0000
BRIG. GEN. RONALD G. RICHARD, 0000

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. AIR FORCE IN ACCORDANCE WITH SECTIONS 618, 624, AND 628 TITLE 10, UNITED STATES CODE:

LINE OF THE AIR FORCE

To be major

SAMUEL R. BAKALIAN, JR., 0000
KEITH P. FEAGA, 0000
BRAD L. SABO, 0000
PETER L. VAN VLECK, 0000
JAMES M. WALSH, 0000
JAMES E. WALTRIP, 0000

MEDICAL CORPS

To be lieutenant colonel

CARL G. SIMPSON, 0000

To be major

MARTIN L. ABBINANTI, 0000
THOMAS S. HOFFMAN, 0000
JEROME J. SCHULTE, 0000
MARIO A. SILVA, 0000

THE FOLLOWING-NAMED OFFICER FOR REGULAR APPOINTMENT IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

LINE OF THE AIR FORCE

To be captain

JERRY A. WEIHE, 0000

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624 AND 628, TITLE 10, UNITED STATES CODE:

To be major

MEDICAL CORPS

ROBERT J. METZ, 0000
GEORGINA L. MURRAY, 0000
MICHAEL R. NELSON, 0000

MEDICAL SERVICE CORPS

To be major

DANIEL V. CHAPA, JR., 0000

VETERINARY CORPS

To be major

KATHLEEN W. CARR, 0000

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 OF TITLE 10, UNITED STATES CODE:

JUDGE ADVOCATE GENERAL'S CORPS

To be colonel

OWEN, H. BLACK, 0000
SCOTT C. BLACK, 0000
DONALD H. DUBIA, 0000
VICTOR L. HORTON, 0000
CALVIN L. LEWIS, 0000
ROBERT MCFETRIDGE, 0000
SARAH P. MERCK, 0000
KENT R. MEYER, 0000
ROBERT L. MINOR, 0000
PATRICK J. PARRISH, 0000
JAMES D. SCHMIDLI, 0000
ROBERT L. SWANN, 0000
DENISE K. VOWELL, 0000
KARL K. WARNER, 0000
RONALD W. WHITE, 0000
DALE N. WOODLING, 0000

THE FOLLOWING-NAMED OFFICER, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE:

ARMY COMPETITIVE

To be major

RANDEL D. MATNEY, 0000

THE FOLLOWING-NAMED OFFICERS ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADES INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICERS MARKED BY AN ASTERISK (*) ARE ALSO NOMINATED FOR REGULAR APPOINTMENT IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE:

MEDICAL CORPS

To be colonel

*RONALD P. TURNICKY, 0000

ARMY COMPETITIVE

To be lieutenant colonel

ROBERT E. KEMPFE, 0000
JARVIS NEWSOME, 0000

JUDGE ADVOCATE GENERAL'S CORPS

To be lieutenant colonel

LINDA S. BURGAN, 0000
STEPHEN D. HARVEY, 0000

MEDICAL CORPS

To be lieutenant colonel

*MATTHEW W. RAYMOND, 0000

THE FOLLOWING-NAMED OFFICERS ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624A AND 628, TITLE 10, UNITED STATES CODE:

ARMY COMPETITIVE

To be lieutenant colonel

JOHN E. RUETH, 0000
DOUGLAS R. YATES, 0000

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. ARMY UNDER TITLE 10, UNITED STATES CODE, SECTIONS 624 AND 628:

To be colonel

PHILLIP J. TODD, 0000

THE FOLLOWING-NAMED OFFICERS ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE.

JUDGE ADVOCATE GENERAL'S CORPS

To be lieutenant colonel

EMMANUEL M. CHIAPARAS, 0000

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADES INDICATED IN THE U.S. ARMY AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, UNITED STATES CODE, SECTIONS 624, 628, AND 531:

To be lieutenant colonel

*BENJE H. BOEDEKER, 0000
*BEVERLY I. MALINER, 0000

To be major

BRUCE F. BROWN, 0000
THADDEUS J. KROLICKI, 0000
MARTHA K. LENHART, 0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. ARMY AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, UNITED STATES CODE, SECTIONS 624 AND 531:

To be major

*RUPERT H. PEETE, 0000

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADES INDICATED IN THE U.S. ARMY AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERICK(*)) UNDER TITLE 10, UNITED STATES CODE, SECTIONS 624 AND 531:

To be lieutenant colonel

0000X, 0001
VIRGINIA P. PRUGH, 0000

To be major

*SCOTT A. SVABEK, 0000

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE:

JUDGE ADVOCATE GENERAL'S CORPS

To be lieutenant colonel

MARK S. ACKERMAN, 0000
RICHARD J. ANDERSON, 0000
ROBERT J. BARHAM, 0000
WILLIAM T. BARTO, 0000
GARY J. BROCKINGTON, 0000
JEFFREY L. CADDELL, 0000
JANET W. CHARVAT, 0000
MARK CREMIN, 0000
ALLEN R. GOSHI, 0000
ANNE EHRSAMHOLLAND, 0000
MICHAEL J. FUCCI, 0000
JILL M. GRANT, 0000
MARK E. HENDERSON, 0000
STEPHEN R. HENLEY, 0000
ANDY K. HUGHES, 0000
MUSETTA T. JOHNSON, 0000
KAREN L. JUDKINS, 0000
JOHN KASTENBAUER, 0000
LAUREN B. LEEKER, 0000
JAMES K. LOVEJOY, 0000
REYNOLD MASTERTON, 0000
EVERETT MAYNARD, JR., 0000
HOWARD O. MCGILLIN, 0000
RICHARD B. O'KEEFFE, 0000
FRANCES E. OLMSTED, 0000
TIMOTHY PENDOLINO, 0000
EDITH M. ROB, 0000
MARK P. SPOSATO, 0000
DONNA L. WILKINS, 0000

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE. THE OFFICERS MARKED BY AN ASTERISK (*) ARE ALSO NOMINATED FOR REGULAR APPOINTMENT IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE:

CHAPLAIN CORPS

To be major

*WILLIAM M. AUSTIN, 0000
*SHERMAN W. BAKER, 0000
*WILLIAM T. BARBEE, 0000
*ORMAN W. BOYD, 0000
*KAREN D. BRANDON, 0000
*BRENT V. CAUSEY, 0000
*PHILLIP C. CONNER, 0000
*STEPHEN P. DEMIEN, 0000
*THOMAS G. EVANS, 0000
*PETER J. FREDERICH, 0000
*WILBERT C. HARRISON, 0000
*STEVEN L. JORDAN, 0000
*SCOTT H. KAMINSKY, 0000
*PAUL R. KERR, 0000
*YOUN H. KIM, 0000
*DENNIS S. KRUMLAUF, 0000
*WILLIAM H. LIPTROT, 0000
*MARTIN E. MATTHIS, 0000
*ROBERT J. MEYER, 0000
*GLENN R. MOSTELLER, 0000
*DAVID A. NEETZ, 0000
*MARSHALL PETERSON, 0000
*JIM L. PITTMAN, 0000
*PAUL A. RODGERS, 0000
*STEPHEN M. RUSS, 0000
*DAVID H. SCHARFF, 0000
*PEARLEAN SCOTT, 0000
*WILLIAM D. SMITH, 0000
*ALLEN M. STAHL, 0000
*KENNETH W. STICE, 0000

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER, ON THE ACTIVE-DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. MARINE CORPS IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE:

To be lieutenant colonel

JAMES W. BROWN, 0000

THE FOLLOWING-NAMED OFFICER, ON THE ACTIVE-DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. MARINE CORPS IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE:

To be colonel

CHRIS J. GUNTHER, 0000

THE FOLLOWING-NAMED OFFICER, ON THE ACTIVE-DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. MARINE CORPS IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE:

To be major

DOUGLAS S. KURTH, 0000

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. MARINE CORPS UNDER TITLE 10, UNITED STATES CODE, SECTIONS 624 AND 628:

To be lieutenant colonel

RANDALL N. MILLER, 0000
MICHAEL B. SAGASER, 0000
GARY W. SCHENKEL, 0000

IN THE NAVY

THE FOLLOWING-NAMED OFFICER, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. NAVY IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CONGRESS:

SUPPLY CORPS

To be captain

BRUCE G. LALONDE, 0000

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE NAVY UNDER 12203 OF TITLE 10, UNITED STATES CONGRESS:

To be captain

GARY D. BUMGARNER, 0000
WALTER E. MARDIK, 0000
REYNALDO RESENDEZ, 0000

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. NAVY IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CONGRESS:

UNRESTRICTED LINE

To be captain

THOMAS J. CAMPBELL, 0000
STEVENS K. SHEGRUD, 0000

To be commander

VITO M. MENZELLA, 0000

MEDICAL SERVICE CORPS

To be commander

JOHN A. D'ALESSANDRO, 0000

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. NAVY IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE:

MEDICAL CORPS

To be commander

TIMOTHY F. ARCHER 0000
DAVID B. MORGAN 0000

MEDICAL SERVICE CORPS

To be commander

PATRICK J. KELLY 0000

MEDICAL CORPS

To be lieutenant commander

KENNETH M. LANKIN 0000

DENTAL CORPS

To be lieutenant commander

KIMBROUGH M. HORNSBY 0000
MELANIE J. LARSON 0000

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. NAVY IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE:

UNRESTRICTED LINE

To be commander

DONALD L. BEEM 0000

UNRESTRICTED LINE

To be lieutenant commander

JAMES E. REED 0000

MEDICAL CORPS

To be lieutenant colonel

PETER A. KHAMVONGSA 0000
NELSON A. NIEVES 0000

MEDICAL SERVICE CORPS

To be lieutenant colonel

EDGARDO PEREZ–LUGO 0000

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE. THE OFFICER MARKED BY AN ASTERISK (*) IS ALSO NOMINATED FOR REGULAR APPOINTMENT IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE.

MEDICAL SERVICE CORPS

To be colonel

RICHARD H. AGOSTA, 0000
PRISCILLA M. ALSTON, 0000
MICHAEL D. BERNDT, 0000
LEE W. BRIGGS, 0000
JOHN H. BROWN, 0000
BRUCE W. BURNEY, 0000
DAVID C. BURNS, 0000
CLYDE D. BYRNE, 0000
LYLE W. CARLSON, 0000
LARRY J. CLARK, 0000
EDWARD O. CRANDELL, 0000
MELINDA E. DEFFER, 0000
ROBERT R. ENG, 0000
RONALD D. FANCHER, 0000
JACK C. FARRIS, 0000
ROGER W. FOXHALL, 0000
JEFFREY A. GERE, 0000
HARRY R. GOOD, 0000
JOSEPH M. HARMON, 0000
MONTIE S. JOHNSON, 0000
TERRY A. KLEIN, 0000
MORRIS R. LATTIMORE, 0000
DAVID B. MCCRADY, 0000
ROBERT J. MYERS, 0000
VIRGIL J. PATTERSON, 0000
DAVID M. PENETAR, 0000
RANDY PERRY, 0000
KOTU K. PHULL, 0000
TERRY M. RAUCH, 0000
DANIEL D. REMUND, 0000
RENE J. ROBICHAUX, 0000
JAMES A. ROMANO, 0000
HARVEY G. SOEFER, 0000
PHILLIP W. SWINNEY, 0000
BRUCE F. SYLVIA, 0000
ALAN K. THOMPSON, 0000
RANDAL L. TREIBER, 0000
DAVID W. WILLIAMS, 0000

ARMY MEDICAL SPECIALIST CORPS

To be colonel

ANN P. AMOROSO, 0000

MARGARE APPLEWHITE, 0000
GAIL D. DEYLE, 0000
REBECCA S. STOREY, 0000

VETERINARY CORPS

To be colonel

CHARLES KELSEY, JR., 0000
GEORGE E. MOORE, 0000
ROBERT R. SMITH, 0000
DEWAYNE G. TAYLOR, 0000

NURSE CORPS

To be colonel

SANDRA L. BRUNKEN, 0000
ANDREA B. CALDWELL, 0000
ANNIE M. CAYLOR, 0000
LOIS J. DICKINSON, 0000
JOAN P. EITZEN, 0000
LENORE S. ENZEL, 0000
SUZANNE S. EVANS, 0000
LARK A. FORD, 0000
MELISSA A. FORSYTHE, 0000
ANN E. HALLIDAY, 0000
ROY A. HARRIS, 0000
DANIEL J. JERGENS, 0000
CATHY J. JOHNSON, 0000
*SUSAN A. KAPLAN, 0000
CHERY KILIANHOFFER, 0000
EILEEN B. MALONE, 0000
MARYANN MONTEITH, 0000
CAROL J. PIERCE, 0000
CATHERINE K. ROCCO, 0000
KATHLEEN L. SIMPSON, 0000
CHRISTIE A. SMITH, 0000
REID M. STEVENSON, 0000
MICHAEL V. WALSH, 0000

IN THE NAVY

THE FOLLOWING-NAMED SUPPLY CORPS OFFICERS, TO BE REAPPOINTED IN THE LINE OF THE U.S. NAVY IN ACCORDANCE WITH SECTIONS 531 AND 5582(A) OF TITLE 10, UNITED STATES CODE.

LINE

To be lieutenant commander

MARCIAL B. DUMLAO, 0000

To be lieutenant

GREGORY D. GJURICH, 0000
STEVEN B. HEMMRICH, 0000
EDWARD S. HUNTER, 0000
MATTHEW K. LINCE, 0000
JUDITH E. MANFULL, 0000
RODNEY O. MATTHEWS, 0000
BRUCE J. WEIDNER, 0000
SCOTT E. WHITMORE, 0000

To be lieutenant (junior grade)

CHRIS D. AGAR, 0000
MICHAEL G. EARL, 0000

Ensign

SHELLEY ANDERSON, 0000
MARK E. NIETO, 0000

THE FOLLOWING-NAMED CIVIL ENGINEER CORPS OFFICER, TO BE REAPPOINTED IN THE LINE OF THE U. S. NAVY IN ACCORDANCE WITH SECTIONS 531 AND 5582(A) OF TITLE 10, UNITED STATES CODE.

To be lieutenant (junior grade)

ERIC C. CAHILL, 0000

THE FOLLOWING-NAMED MEDICAL SERVICE CORPS OFFICERS, TO BE REAPPOINTED IN THE LINE OF THE U.S. NAVY IN ACCORDANCE WITH SECTIONS 531 AND 5582(A) OF TITLE 10, UNITED STATES CODE.

To be lieutenant

TRACIE L. CRAWSHAW, 0000
BRYANT W. KNOX, 0000

THE FOLLOWING-NAMED U. S. NAVAL RESERVE OFFICERS, TO BE APPOINTED IN THE LINE OF THE U.S. NAVY IN ACCORDANCE WITH SECTIONS 531 OF TITLE 10, UNITED STATES CODE.

To be lieutenant

NADIM ABUHAIDAR, 0000
CLETE D. ANSELM, 0000
RICKY D. BALCOM, 0000
DAVID L. BECK, 0000
LAURA L. BELLOS, 0000
WILLIAM L. BLACKER, 0000
BRADFORD J. BOGARD, 0000
DANIEL F. BOSCOLA, 0000
PATRICK C. CAREY, 0000
TIMOTHY M. CLESEN, 0000
JAMES CLUXTON, 0000
DAVID J. DEMERS, 0000
TRENT R. DEMOSS, 0000
THAD J. DOBBERT, 0000
KEVIN T. DOUPE, 0000
ALAN R. DUNSTON, 0000
JASON C. EHRET, 0000
JAMES M. ELLIS, 0000
JUAN M. ENTENZA, 0000
ROLANDO ESTRUGO, 0000
JAMES J. FALCONE, 0000
GERARD R. FEAGLES, 0000
JAMES M. FILIPSKI, 0000
MERL W. FUCHS, 0000
JEFFREY B. GRIGGS, 0000
JEFFREY L. HAMMER, 0000
SCOTT V. HANNA, 0000
JON J. HANSON, 0000
LINDA M. HASCHART, 0000
RICHARD W. HAUPT, 0000
THOMAS H. HAWLEY, 0000
ERIC J. HEITMAN, 0000
GERALD R. HERMANN, 0000
KIM D. HILL, 0000
MICHAEL J. HOLDER, 0000
PETER S. JONES, 0000
THOMAS P. JUHL, 0000
MATTHEW S. JUTTE, 0000
TRACI A. KEEGAN, 0000
ANDREW L. KESSLER, 0000
GREGORY S. KIRKWOOD, 0000
GREGORY A. KISER, 0000
RICHARD D. LEONARD, 0000
REGINALD D. LEUTHEN, 0000
JONATHAN A. LEWIS, 0000
ROGER J. LUCAS, 0000
MICHAEL C. MABEE, 0000
MARK M. MARTY, 0000
CHAD A. MC CAIN, 2753
PETER P. MC DONOUGH, JR., 0000
MICHAEL G. MC FERREN, 0000
WALTER L. MEARES, 0000
ERNST MENGELBERG, 0000
ERIC B. MICHAELSON, 0000
JEROME T. MORICK 0000
LAURA J. MOTLEY, 0000
JOEL M. MULLEN, 0000
ARJAY J. NELSON, 0000
CHRISTOPHER M. NERNEY, 0000
JOHN R. NOLTING, 0000
WILLIAM W. OLMSTEAD, 0000
SUSAN E. PAPP, 0000
OSCAR J. PATINO, 0000
WANDA G. POMPEY, 0000
MARY P. POWERS, 0000
JASON R. PRICKETT, 0000
TODD W. RADER, 0000
RUSS C. RAINES, 0000
JOHN H. RAMSEY, 0000
JOSEPH W. REEVES, 0000
ANNE M. ROPER, 0000
ROBERT L. RUBINO, JR., 0000
EDWARD F. SCHMITT, 0000
KEITH L. SELBY, 0000
THOMAS J. SIU, 0000
JEFFREY E. SMITH, 0000
JOSEPH M. SNOWBERGER, 0000
SHELBY STRATTON, 0000
JOHN C. SWEDBERG, 0000
JOHN N. TURNIPSEED, 0000
PETER J. WALLIS, 0000
KENNETH L. WEEKS III, 0000
DONALD L. WILBURN, JR., 0000
PAUL J. WILSON, 0000
DARSHAN M. WOODS, 0000
GREGORY A. YANOK, 0000

To be lieutenant (junior grade)

COLLEEN M. BARIBEAU, 0000
CHRISTOPHER J. BASHAM, 0000
RODNEY T. BEHREND, 0000
TANIA M. BISHOP, 0000
LISA C. BRAUN, 0000
PAUL G. BROTZE, 0000
STEVE K. BRUNO, 0000
ANTHONY T. BUTERA, 0000
ROSETTA BUTLER, 0000
SANDRA Y. CONNER, 0000
LAUREL P. FALLS, 0000
STEPHEN T. FAUST, 0000
RAY A. FRANKLIN II, 0000
MICHAEL G. FRANTZ, 0000
ERIC H. FRITZ, 0000
GREGORY J. GAHLINGER, 0000
MICHAEL L. GALES, 0000
NOAH J. GENGLER, 0000
GEOFFREY L. GERBER, 0000
STEVEN J. HALL, 0000
JASON R. HAMMONS, 0000
JOHN P. HIBBS, 0000
EDGARD T. HIGGINS III, 0000
JONATHAN L. JACKSON, 0000
DONALD R. JONES, JR., 0000
COREY J. KENISTON, 0000
MICHAEL J. KOEN, 0000
LUKE A. KOLBECK, 0000
JEFFREY J. KUGELE, 0000
GEORGE M. LANDIS III, 0000
JONATHAN D. LIPPS, 0000
CHRISTOPHER B. LOUNDERMON, 0000
JAY J. MATTHEWS, 0000
RICHARD C. MC DANIEL, 0000
PATRICK W. MC NALLY, 0000
PATRICK E. MONDOR, 0000
INGRID M. MUELLER, 0000
JAMES M. MUSE, 0000
COLEY R. MYERS III, 0000
NEAL M. NOTTROTT, 0000
CURTIS E. OELRICHS, 0000
RONALD J. O'GRADY, 0000
INGRID M. RADER, 0000
STEPHEN C. RANCOURT, 0000
PAUL C. RAWLEY, 0000
DAVID R. ROSETTER, 0000
KORY L. SCHROEDER, 0000
FRANK A. SCRIVENER III, 0000
SHANTI R. SETHI, 0000
BILL T. SHEETS, 0000
THEODORE J. STARINSHAK, 0000
KENNETH A. STRONG, 0000
KARL R. TENNEY, 0000
JEFFREY S. TIPPIE, 0000
ERIC D. WEBSTER, 0000
CHRIS F. WHITE, 0000

To be ensign

MICHAEL S. ANSLEY, 0000
JEFFREY M. BIERLEY, 0000
DWIGHT A. BLAHA, 0000
MANUEL BRITO, 0000
ROBERT B. BRYANT, 0000
MICHAEL W. BYERS, 0000
DANIEL B. CALDWELL, 0000
JOHN M. CAPUANO, 0000
ADAM R. CAUDILL, 0000
TODMUND E. COLE, 0000
CHRISTOPHER R. COX, 0000
MARVIN W. CUNNINGHAM, 0000
STEVEN M. DUPONT, 0000
JAMES A. DUTTON, 0000
DANIEL W. ETTLICH, 0000
KEVIN L. ETZKORN, 0000
JAMES R. FELTS, 0000
JAMES R. FINK, 0000
KYLE P. FREEMAN, 0000
DAVID C. GARCIA, 0000
ROBERT C. GETTY, 0000
NOEL D. GONZALEZ, 0000
PETER F. HECK, 0000
RYAN J. HEILMAN, 0000
CHAD F. HENNINGS, 0000
TRENTON D. HESSLINK, 0000
DOUGLAS M. JARRARD, 0000
LEE R., JOHNSON, JR., 0000
CHRISTOPHER K. KETE, 0000
TODD M. KNAPP, 0000
JACK R. MASIH, 0000
ANDREW T. MILLER, 0000
MICHAEL R. MORELAND, 0000
CONSTANTIN C. MOWRY, 0000
KEVIN S. MOYER, 0000
MICHAEL P. MULCARE, 0000
ANDREW G. PETERSON, 0000
TODD M. PICHE, 0000
DAVID A. PRATHER, 0000
TIMOTHY M. RAGLIN, 0000
JON M. RICCITELLO, 0000
BARRY F. RODRIGUES, 0000
STEVEN E. RUMPH, 0000
ROBERT D. SANDERS, 0000
JOHN M. SANDIDGE, 0000
JASON E. SMALL, 0000
MICHAEL R. SOWA, 0000
KEVIN J. SUH, 0000
CHUONG N. THAI, 0000
ANDREW W. VELO, 0000
ANTHONY D. VENA, 0000
STEVEN R. VONHEEDER, 0000
WAYNE C. WALL, 0000
MARK C. WEBSTER, 0000
BRYAN D. WHITCOMB, 0000
MICHAEL L. WOODS, 0000

THE FOLLOWING NAMED U.S. NAVAL RESERVE OFFICERS, TO BE APPOINTED IN THE MEDICAL CORPS OF THE U.S. NAVY IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE.

MEDICAL CORPS

To be captain

WILLIAM A. LISTON, 0000

To be commander

FRANK A. CHAPMAN, 0000
DAVID W. FERGUSON, 0000
WARREN P. KLAM, 0000
ALAN R. ROWLEY, 0000

To be lieutenant commander

TIMOTHY P. COLLINS, 0000
ASHA S. V. DEVEREAUX, 0000
MICHAEL E. HOFFER, 0000
RANDALL N. HYER, 0000
DAVID M. LARSON, 0000
MICHAEL LEE, 0000
LYNN L. LEVENTIS, 0000
CRAIG T. MALLAK, 0000
MARTIN MC CAFFREY, 0000
TERENCE M. MC GEE, 0000
GEORGE J. MC KENNA, 000
PATRICK T. NOONAN, 0000
WILLIAM B. POSS, 0000
ROBERT J. ROOKSTOOL, 0000
SCOTT SHAY, 0000
RICKY L. SNYDER, 0000
ANTOINE P. WASHINGTON, 0000
RICHARD B. WOLF, 0000
DANIEL J. ZINDER, 0000

To be lieutenant

ANTHONY G. BATTAGLIA, 0000
SHIUYUEH L. BAXTER, 0000
CHRISTOPHER E. DEVEREAUX, 0000
TIM B. HOPKINS, 0000
MICHAEL A. ILLOVSKY, 0000
LIONEL N. JACOB, 0000
CHRISTOPHER J. JANKOSKY, 0000
KATHLEEN C. LEONE, 0000
RICHARD D. QUATTRONE, 0000
KIRBY J. SCOTT, 0000
WILLIAM A. SRAY, 0000

THE FOLLOWING-NAMED LINE OFFICERS, TO BE REAPPOINTED IN THE SUPPLY CORPS OF THE U.S. NAVY IN ACCORDANCE WITH SECTIONS 531 AND 5582(B) OF TITLE 10, UNITED STATES CODE.

SUPPLY CORPS

To be lieutenant

KEITH A. HOPSON, 0000
MARK TUELL, 0000

To be lieutenant (junior grade)

WILLIAM T. HOOVER, 0000
SEAN A. SCIARA, 0000
ROBERT W. YAROSZ, 0000

THE FOLLOWING-NAMED U.S. NAVAL RESERVE OFFICERS, TO BE APPOINTED IN THE SUPPLY CORPS OF THE U.S. NAVY IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE.

SUPPLY CORPS

To be lieutenant

SETH T. BURGESS, 0000
GARY B. CLARK, 0000
ROBERT CSORBA, 0000
DANIEL F. CUMMINGS, 0000
KENNETH DIXON, 0000
JOHN W. HANKFORTH, 0000
PAUL D. HANSON, 0000
COREY D. KRAMER, 0000
RICKY A. KUSTURIN, 0000
BRIAN E. LOEFSTEDT, 0000
THOMAS R. MARSZALEK, 0000
MICHAEL L. PARKER, 0000
LISLE O. PICKFORD, 0000
JON H. STEEN, 0000
DAVID T. VEAL, 0000

To be lieutenant (junior grade)

EDWARD C. AGU, 0000
JARROD W. FLORES, 0000
OVELL HAMILTON, 0000
WILLIAM K. JAMES, 0000
DARRELL L. MATHIS, 0000
CLIFFORD R. SHEARER, 0000
RICARDO WILSON, 0000

THE FOLLOWING-NAMED LINE OFFICERS TO BE REAPPOINTED IN THE CIVIL ENGINEER CORPS OF THE U.S. NAVY IN ACCORDANCE WITH SECTIONS 531 AND 5582(B) OF TITLE 10, UNITED STATES CODE.

CIVIL ENGINEER CORPS

To be lieutenant

WILLIAM C. DUERDEN, 0000
MARTIN B. HARRISON, 0000
ROBERT S. HOUSE, 0000
CHAD H. LEE, 0000
SHAUGN E. OSTROWSKI, 0000
DARREN D. PETRO, 0000
STEPHEN K. REVELAS, 0000
SEREATHA Y. STERN, 0000
SCOTTY W. WALTERMIRE, 0000

To be lieutenant (junior grade)

TIMOTHY L. ALLEN, 0000
ERIC J. HAWN, 0000
WILLIAM B. SCALLY, 0000

To be ensign

COREY M. AVENS, 0000
JAMES L. HASAN, 0000
BRANNEN G. MC ELMURRAY, 0000

THE FOLLOWING-NAMED U.S. NAVAL RESERVE OFFICERS, TO BE APPOINTED IN THE CIVIL ENGINEER CORPS OF THE U.S. NAVY IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE.

CIVIL ENGINEER CORPS

To be lieutenant

STEVEN M. BECKER, 0000
DAVID A. BELL, 0000
JAMES J. BOUDO, 0000
ALTON M. BRADLEY, 0000
FERNANDO CHAVEZ, 0000
BRIAN L. ERICKSON, 0000
PHILIP M. GENT, 0000
DALE R. HARTMANN, 0000
CHARLES E. MENDOZA, 0000
TIMOTHY J. ROGERS, 0000
GREGORY A. SCOTT, 0000
MICHAEL R. SPAULDING, 0000
CRAIG B. SPRAY, 0000
CHARLES R. WILSON, 0000

To be lieutenant (junior grade)

BRANDIE S. HAYDEN, 0000
FRANCIS S. KURY, 0000
HEATH K. POPE, 0000
MICHAEL R. SAUM, 0000
RUSSELL V. SEIGNIOUS, 0000

THE FOLLOWING-NAMED U.S. NAVAL RESERVE OFFICERS, TO BE APPOINTED IN THE JUDGE ADVOCATE GENERAL'S CORPS OF THE U.S. NAVY IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE.

JUDGE ADVOCATE GENERAL'S CORPS

To be lieutenant

LESLIE K. BURNETT, 0000
JEFFREY A. FISCHER, 0000
GEORGE M. FRUCHTERMAN, 0000
ELIZABETH K. FUGLESTAD, 0000
HOLIDAY HANNA, 0000
DAVID M. HARRISON, 0000
ERROL D. HENRIQUES, 0000
MICHAEL R. HOGAN, 0000
MATTHEW R. HYDE, 0000
ANTHONY Z. KALAMS, 0000
ANN F. LAMB, 0000
JAMES M. RYAN, 0000
DARLENE S. SIMMONS, 0000
DAVID G. WILSON, 0000

THE FOLLOWING-NAMED U.S. NAVAL RESERVE OFFICERS, TO BE APPOINTED IN THE DENTAL CORPS OF THE U.S. NAVY IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE.

DENTAL CORPS

To be lieutenant commander

JOANNE R. ADAMSKI, 0000
SPIROS APOSTOLAKIS, 0000
JOY MEADE, 0000

To be lieutenant

SMITH C. E. BARONE, 0000
GLENDA M. CALEY, 0000
MICHELE A. CARTER, 0000
PETER C. COLELLA, 0000
GEORGE A. GROW, 0000
WILLIAM R. K. DAVIDSON, 0000
MASOUD EGHTEDARI, 0000
KIMBERLY K. ERICKSON, 0000
TIMOTHY M. FRENCH, 0000
GREGORY GANSER, 0000
KURT HUMMELDORF, 0000
KARLA A. IYONMAHAN, 0000
JONATHAN B. JUNKIN, 0000
JOSEPH P. LUKASIEWICZ, 0000
RODERICK M. MACINTYRE, 0000
WILLIAM W. MAK, 0000
KEVIN J. OTTE, 0000
CHARLES W. I. PADDOCK, 0000
VICTOR T. Y. PAK, 0000
CHARLES W. PATTERSON, 0000
PETER A. RUOCCO, 0000
SONIA Q. SCHEERER, 0000
HELEN N. SEMPIRA, 0000
ADAM P. STRIMER, 0000
TODD E. SUMNER, 0000
TIMOTHY B. TINKER, 0000
PAUL R. YETTER, 0000

THE FOLLOWING-NAMED LINE OFFICERS, TO BE REAPPOINTED IN THE MEDICAL SERVICE CORPS OF THE U.S. NAVY IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE.

MEDICAL SERVICE CORPS

To be lieutenant

JAMES R. CASSATA, 0000
TIMOTHY A. MEYER, 0000

THE FOLLOWING-NAMED U.S. NAVAL RESERVE OFFICERS, TO BE APPOINTED IN THE MEDICAL SERVICE CORPS OF THE U.S. NAVY IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE.

MEDICAL SERVICE CORPS

To be lieutenant

DAVID M. BARTHOLOMEW, 0000
SIMON J. BARTLETT, 0000
SEAN BIGGERSTAFF, 0000
CYNTHIA A. CHARGOIS, 0000
ANDREW M. DAVIDSON, 0000
DANNY W. DENTON, 0000
TODD S. GIBSON, 0000
DANA P. GLASER, 0000
VINCENT T. HILL, 0000
BARBARA R. IDONE, 0000
SUSAN E. JACKSON, 0000
CHRISTOPHER M. JACOBSON, 0000
KIMBERLY M. KAUFFMAN, 0000
LAURIE A. LEVY, 0000
JOHN D. NOGAN, 0000
SAMUEL T. OLAIYA, 0000
PAMELA A. O'LOUGHLIN, 0000
BYRON Y. OWENS, 0000
STEVEN D. PIGMAN, 0000
BRIAN D. POMIJE, 0000
GREGORY J. PRUNIER, 0000
JENNIFER S. RYDELL, 0000
MARY S. SEYMOUR, 0000
LILLIAN M. SHEPHERD, 0000
RUSSELL D. SHILLING, 0000
JOHN THOMAS, 0000
BRUCE A. THOMPSON, 0000
JEFFREY C. TROWBRIDGE, 0000
TIMOTHY H. WEBER, 0000

To be lieutenant (junior grade)

PAUL D. ALLEN, 0000
PAUL R. CAUCHON, 0000
VALENTIN E.H. CONDE, 0000
JOHN E. HANNON IV, 0000
JAMES HERBST, 0000
BRIAN E. HUTCHISON, 0000
TINA M. JANGEL, 0000
BARBARA S. KANNEWURF, 0000
MICHAEL G. LUTTE, 0000
SCOTT A. MC KENZIE, 0000
ANDREW B. SEAL, 0000
BRIAN G. TOLBERT, 0000

THE FOLLOWING-NAMED U.S. NAVAL RESERVE OFFICERS, TO BE APPOINTED IN THE NURSE CORPS OF THE U.S. NAVY IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE.

NURSE CORPS

To be lieutenant

JAMES E., BABCOCK II, 0000
LINDA M. BLANKENBIJL, 0000
CHERYL W. BLANZOLA, 0000
ELISABETH J. BUCK, 0000
PATRICIA CORLEY, 0000
NATALIE K.M. FRENKEN, 0000
ROBIN D. GIBBS, 0000
DEBORAH A. GRISSINGER, 0000
PATRICIA A. HETRICK, 0000
WILLIAM J. HILL, JR., 0000
CLARISSA L. HO, 0000
CONSTANCE E. HYMAS, 0000
MARGARET A. JACOBSEN, 0000
SHARON W. KINGSBERRY, 0000
DAVID P. LEVAN, 0000
REBECCA A. MALARA, 0000
KENDRA A.T. MANNING, 0000
JACQUELINE M. MENZIES, 0000
JULIE C. MOORE, 0000
JULIE Y. MOORE, 0000
LISA M. MORTENSEN, 0000
REBECCA A. OHLENBUSCH, 0000
CATHY J. OLSON, 0000
PAMELA J. PORTER, 0000
KAREN S. PRUETT, 0000
SABRINA L. PUTNEY, 0000
MARY A. SMITH, 0000
DIANNE STANTONSANCHEZ, 0000
AMY M. STEVENS, 0000
REGINA D. STMARK, 0000
DANA G. STUARTMAGDA, 0000
TRACY B. SWANSON, 0000
NELIDA R. TOLEDO, 0000
DICK W. TURNER, 0000
DAVID W. WEEKS, 0000
LAURA A. WOLFGANG, 0000
MARY A. YONK, 0000
MARIA A. YOUNG, 0000

To be lieutenant (junior grade)

JANINE D. ALLEN, 0000
PAUL B. ARP, 0000
JUSTIN M. BENNETT, 0000
MARK I. BISBEE, 0000
JEFFREY W. BLEDSOE, 0000
ANDREW M. CARTER, 0000
DANIEL J. CROSBY, 0000
EVE D. CURRIE, 0000
ERNEST E. DUNCAN, 0000
RHONDA R. DYER, 0000
DAVID C. FISHER, 0000
ANDREW A. GALVIN, 0000
JAMES E. GOSS, 0000
DERRICK HERNANDEZ, 0000
MERCED HERNANDEZ, 0000
KATHY A. HUEY, 0000
MARY E. JACOBS, 0000
JEAN L. P. LORD, 0000
KATHY L. MATTHES, 0000
CATHERINE M. MC NEAL, 0000
MICHAEL L. NICK, 0000
DEBBIE O'HARE, 0000
FRANCES C. PERDUE, 0000
FRANCES C. RYAN, 0000
ASSANATU I. SAVAGE, 0000
RENEE M. SIDLEY, 0000
MICHAEL D. SIMONS, 0000
PATRICIA M. TAYLOR, 0000
GENE D. TRUESDELL, 0000
DAVID J. WALKER, 0000
TERESA J. WATTERS, 0000
ALTON R. WIGGINS, 0000
SHARI D. WOHL, 0000
GEORGE A. ZANGARO, 0000

THE FOLLOWING NAMED TEMPORARY LIMITED DUTY OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT (JUNIOR GRADE) IN THE LINE AS LIMITED DUTY OFFICERS OF THE U.S. NAVY IN ACCORDANCE WITH SECTIONS 531 AND 5589(A) OF TITLE 10, UNITED STATES CODE.

LIMITED DUTY OFFICERS, LINE

To be lieutenant (junior grade)

RONALD E. FOUDRAY, 0000
REBECCA L. KIRK, 0000