United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, SECOND SESSION

Vol. 144 WASHINGTON, TUESDAY, OCTOBER 13, 1998 *No. 145*

Senate

(Legislative day of Friday, October 2, 1998)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Almighty God, You have all authority in heaven and on Earth. You are Sovereign Lord of our lives and of our Nation. We submit to Your authority. We seek to serve You in this Chamber and in the offices that work to help make the deliberations of the Senate run smoothly. We commit to You all that we do and say this day. Make it a productive day. Give us positive attitudes that exude hope. In each difficult impasse, help us seek Your guidance. Draw us closer to You in whose presence we rediscover that, in spite of differences in particulars, we are here to serve You and our beloved Nation together. In our Lord's Name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

Mr. DEWINE. Mr. President, I thank the Chair.

SCHEDULE

Mr. DEWINE. Mr. President, on behalf of the majority leader, let me make the following statement.

This morning the Senate will begin a period of morning business lasting until 12 noon. Following morning business, the Senate may consider any legislation that may be cleared by unanimous consent.

All Members should be aware that yesterday the Senate passed a 2-day continuing resolution that will keep the Government operating until midnight Wednesday, allowing the Congress to continue negotiations on the omnibus appropriations bill. If good progress can be made today, the spending bill may be ready for Senate action as early as Wednesday afternoon.

As a reminder to all Members, it is hoped that the remaining legislation of the 105th Congress can be cleared by unanimous consent. However, if a rollcall vote is needed on the omnibus bill, all Members will be given ample notice in order to plan their schedules accordingly.

NOTICE

If the 105th Congress adjourns sine die on or before October 14, 1998, a final issue of the Congressional Record for the 105th Congress will be published on October 28, 1998, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–60 or S–123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through October 27. The final issue will be dated October 28, 1998, and will be delivered on Thursday, October 29.

If the 105th Congress does not adjourn until a later date in 1998, the final issue will be printed at a date to be announced.

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

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

Members of the House of Representatives' statements may also be submitted electronically on a disk to accompany the signed statement and delivered to the Official Reporter's office in room HT–60.

Members of Congress desiring to purchase reprints of material submitted for inclusion in the Congressional Record may do so by contacting the Congressional Printing Management Division, at the Government Printing Office, on 512–0224, between the hours of 8:00 a.m. and 4:00 p.m. daily.

By order of the Joint Committee on Printing.

JOHN W. WARNER, *Chairman.*

● This ''bullet'' symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

I thank my colleagues for their attention.

Mr. KENNEDY addressed the Chair.

The PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I withhold my request because I understand the acting majority leader has some further business.

MIGRATORY BIRD TREATY REFORM ACT OF 1998

Mr. DEWINE. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 699, H.R. 2863.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2863) to amend the Migratory Bird Treaty Act to clarify restrictions under that Act on baiting, to facilitate acquisition of migratory bird habitat, and for other purposes.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works, with an amendment; as follows:

(The parts of the bill intended to be inserted are shown in italic)

H.R. 2863

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Migratory Bird Treaty Reform Act of 1998''.

SEC. 2. ELIMINATING STRICT LIABILITY FOR BAITING.

Section 3 of the Migratory Bird Treaty Act (16 U.S.C. 704) is amended—

(1) by inserting ''(a)'' after ''SEC. 3.''; and

(2) by adding at the end the following:

''(b) It shall be unlawful for any person to—

''(1) take any migratory game bird by the aid of baiting, or on or over any baited area, if the person knows or reasonably should know that the area is a baited area; or

''(2) place or direct the placement of bait on or adjacent to an area for the purpose of causing, inducing, or allowing any person to take or attempt to take any migratory game bird by the aid of baiting on or over the baited area.''.

SEC. 3. CRIMINAL PENALTIES.

Section 6(a) of the Migratory Bird Treaty Act (16 U.S.C. 707(a)) is amended—

(1) by striking ''thereof shall be fined not more than $500'' and inserting the following: ''thereof—

''(1) shall be fined not more than $10,000'';

(2) in paragraph (1) (as designated by paragraph (1)), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(2) in the case of a violation of paragraph (1) or (2) of section 3(b) that is committed in connection with guiding, outfitting, or providing any other service offered, provided, or obtained in exchange for money or other consideration, shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both.''.

SEC. 4. REPORT.

Not later than 5 years after the date of enactment of this Act, the Secretary of the Interior shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives a report analyzing the effect of the amendments made by section 2, and the general practice of baiting, on migratory bird conservation and law enforcement efforts under the Migratory Bird Treaty Act (16 U.S.C. 701 et seq.).

Mr. DEWINE. Mr. President, I ask unanimous consent that the committee amendment be agreed to. And Senator CHAFEE has two amendments at the desk. I ask that they be considered en bloc.

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

The committee amendment was agreed to.

AMENDMENT NO. 3819

(Purpose: To add other wildlife-related and water-related provisions to the bill)

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. DEWINE), for Mr. CHAFEE, proposes an amendment numbered 3819.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

AMENDMENT NO. 3820

(Purpose: To increase and change the application of the criminal penalty provisions)

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. DEWINE), for Mr. CHAFEE, proposes an amendment numbered 3820.

The amendment is as follows:

On page 2, line 21, strike ''$10,000'' and insert ''$15,000''.

On page 3, strike lines 1 through 7 and insert the following:

''(2) in the case of a violation of section 3(b)(2), shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both.''.

Mr. CHAFEE. Mr. President, I am pleased that this package of fish and wildlife bills is being considered by the Senate today. It is a package that combines some very popular bills with some wonderful conservation initiatives approved by the Committee on Environment and Public Works. It represents an effort on the part of both the Senate and the House to quickly move these bills in the waning days of the 105th Congress. I would like to enumerate the components of this package.

The first item is H.R. 2863, a bill that amends the Migratory Bird Treaty Act with respect to offenses relating to the baiting of migratory birds. This bill was reported by the Environment and Public Works Committee on Friday, October 2.

I am including an amendment that makes two changes to the bill, as it was reported out of the EPW Committee. The first change is to increase the penalty under section 6(a) of the Migratory Bird Treaty Act from $10,000 to $15,000. This change is not intended to affect the classification of the offense, which is currently a class B misdemeanor. Indeed, in *United States* v. *Clavette*, the ninth circuit held that the fine may be as much as $25,000 and still be considered a class B misdemeanor.

The second change is to eliminate the higher penalty for persons who violate section 3(b) of the Migratory Bird Treaty Act in connection with guiding, outfitting, or providing other service in exchange for money or other consideration. The intent of this provision was to discourage commercial operations from engaging in baiting in order to spur their business. However, the language in the reported bill was extremely broad. In addition, some existing laws, such as the Lacey Act, already provide that commercial operations may be subject to higher penalties.

In lieu of the higher penalty for commercial operations, the amendment that I offer today provides a higher penalty for persons who violate section 3(b)(2) of the Migratory Bird Treaty Act. Section 3(b)(2) prohibits the placement of bait on or adjacent to an area for the purpose of causing, inducing, or allowing any person to take or attempt to take any migratory game bird by the aid of baiting on or over the baited area. This penalty would entail fines under title 28 of the United States Code, or imprisonment of not more than one year, or both. Baiting would thus be a class A misdemeanor. The purpose of this higher penalty is to send a strong message to the public that baiting is a serious offense.

Mr. President, these changes have been discussed with Senator BREAUX's staff, House Resources Committee staff, the administration, and the International Association of Fish and Wildlife Agencies, and have met with the approval of all interested parties. I believe that this amendment improves the bill as passed by the committee.

The second item included in the package is S. 2317, which makes several changes to the National Wildlife Refuge System Administration Act of 1966. First, it removes three areas from the Refuge System that have lost the habitat value that led to their being incorporated into the Refuge System. Second, it changes the name of the Klamath Forest National Wildlife Refuge in Oregon to the Klamath Marsh National Wildlife Refuge. The current name leads visitors to believe that it is a national forest, causing confusion over what activities are permitted. Finally, it reduces the penalty for unintentional violations of the National Wildlife Refuge System Administration Act. Currently, all violations of the act are class A misdemeanors, regardless of whether or not it was an intentional violation. Unintentional violations will now be a class B misdemeanor.

The third item included in the package is S. 361, sponsored by Senator JEFFORDS and approved by the Committee on Environment and Public Works on July 22, 1998. This item prohibits the import, export and trade in products that contain, or that are labeled or advertised as containing, rhino and tiger parts, in an effort to reduce the supply

and demand of those products in the United States. It requires a public outreach program in the United States to complement the prohibitions. Lastly, it reauthorizes the Rhinoceros and Tiger Conservation Act through 2002.

As a related matter, I would like to note that even as Congress reaffirms and strengthens the laws for the conservation of rhinos and tigers, funding for implementation of these laws is woefully inadequate. This year—the Year of the Tiger—the administration requested only $400,000 for implementing the Rhinoceros and Tiger Conservation Act. The Act is authorized to be appropriated up to $10 million annually. I strongly urge the administration, for fiscal year 2000, to request funding commensurate with the dire situation facing rhinos, and particularly tigers, in the wild.

The fourth item included in the package is S. 1677, the Wetlands and Wildlife Enhancement Act of 1998. This bill reauthorizes the North American Wetlands Conservation Act (NAWCA)—a law that has played a central role in the conservation of wetlands habitat across the continent. I introduced the bill last February, and have been joined by 58 of my colleagues from 42 States in sponsoring S. 1677. There are 35 Republican cosponsors and 23 Democrat cosponsors. This tremendous showing of bipartisan support is a tribute to one of the great success stories in wildlife conservation.

The fifth item in the package includes provisions relating to protection of the Chesapeake Bay, and the research of pfiesteria.

Mr. President, this package contains some very popular bills and very worthwhile conservation programs. It represents the fruits of many months of work by both the House Resources Committee and the Senate Environment and Public Works Committee. In particular, I would like to thank Chairman DON YOUNG and his staff, Harry Burroughs, for their cooperation on these bills, and in putting together this package.

Mr. President, I also ask unanimous consent that the report by the Congressional Budget Office for the bill, H.R. 2863, as approved by the Committee on Environment and Public Works, be printed in the RECORD. When the Committee filed its report on the bill, CBO had not yet completed its analysis, so it was not included. I would now like it to be part of the public record.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 8, 1998.

Hon. JOHN F. CHAFEE,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2863, the Migratory Bird Treaty Reform Act of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Deborah Reis (for federal costs), who can be reached at 226–2860, and Hester Grippando (for revenues), who can be reached at 226–2720.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE, OCTOBER 8, 1998

H.R. 2863: MIGRATORY BIRD TREATY REFORM ACT OF 1998

(As reported by the Senate Committee on Environment and Public Works on October 5, 1998)

Assuming appropriation of the necessary amounts, CBO estimates that implementing H.R. 2863 would cost the U.S. Fish and Wildlife Service (USFWS) less than $200,000 over the next five years to prepare a report on migratory bird conservation issues. Because sections 2 and 3 of the legislation may affect receipts from criminal fines, pay-as-you-go procedures would apply. We estimate that any changes in receipts would be negligible, however, and would be largely offset by resulting changes in direct spending from the Crime Victims Fund (into which criminal fines are deposited). H.R. 2863 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

Section 2 of H.R. 2863 would codify a standard for determining when someone is guilty of hunting migratory birds over an area baited with bird feed. At present, there is no statutory rule for deciding the issue; thus, the standard is determined by the courts and differs from jurisdiction to jurisdiction. In most areas of the country, courts usually apply strict liability—anyone found hunting over a baited field is guilty of violating federal law whether the person knew that the area was baited or not. In contrast, H.R. 2863 would establish a national standard, presently applied in only a few states, that would make it unlawful for a person to hunt over a field only if that person knows or reasonably should know that the area is baited.

It is possible that applying a new standard regarding the hunting of migratory birds, as would be required by section 2, could make it more difficult for some prosecutors to prove that the law has been violated, resulting in fewer convictions in some states. CBO estimates, however, that the aggregate decrease in federal revenues from fines would be insignificant because the overall conviction rate would be unlikely to fall by much—these rates are already extremely high in all states, regardless of which standard is applied.

Similarly, CBO estimates that section 3 of this legislation, which would raise from $500 to $10,000 the maximum criminal penalty for certain violations of the Migratory Bird Treaty Act, would not cause any significant increase in revenues from fines because we expect that prosecutors would be very unlikely to ask for higher penalties than they currently seek. (The government rarely imposes the current $500 maximum fine in the more than 1,000 cases it prosecutes annually.) In any case, changes in revenues from enacting H.R. 2863 would result in offsetting changes in direct spending from the Crime Victims Fund.

This estimate is based on information provided by the USFWS, the Office of Management and Budget, and federal law enforcement officers.

On May 14, 1998, CBO prepared a cost estimate for H.R. 2863, as ordered reported by the House Committee on Resources on April 29, 1998. This estimate, for the Senate version of H.R. 2863, differs from the previous one because it includes the budgetary effects of two added provisions: the reporting requirement contained in section 4 and the increase in certain maximum penalties contained in section 3.

The CBO staff contacts for this estimate are Deborah Reis (for federal costs), who can be reached at 226–2860, and Hester Grippando (for revenues), who can be reached at 226–2720. This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

Mr. DEWINE. Mr. President, I ask unanimous consent that the amendments be agreed to en bloc and the bill be read a third time.

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

The amendments (Nos. 3819 and 3820) were agreed to.

The bill (H.R. 2863) was read the third time.

Mr. DEWINE. I further ask unanimous consent that the Environment Committee be immediately discharged from consideration of H.R. 2807, and the Senate proceed then to its consideration.

I further ask that all after the enacting clause be stricken and the text of H.R. 2863 be inserted in lieu thereof, the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

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

The bill (H.R. 2807), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 2807) entitled ''An Act to amend the Rhinoceros and Tiger Conservation Act of 1994 to prohibit the sale, importation, and exportation of products labeled as containing substances derived from rhinoceros or tiger.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

TITLE I—MIGRATORY BIRD TREATY REFORM

SEC. 101. SHORT TITLE.

This title may be cited as the ''Migratory Bird Treaty Reform Act of 1998''.

SEC. 102. ELIMINATING STRICT LIABILITY FOR BAITING.

Section 3 of the Migratory Bird Treaty Act (16 U.S.C. 704) is amended—

(1) by inserting ''(a)'' after ''SEC. 3.''; and

(2) by adding at the end the following:

''(b) It shall be unlawful for any person to—

''(1) take any migratory game bird by the aid of baiting, or on or over any baited area, if the person knows or reasonably should know that the area is a baited area; or

''(2) place or direct the placement of bait on or adjacent to an area for the purpose of causing, inducing, or allowing any person to take or attempt to take any migratory game bird by the aid of baiting on or over the baited area.''.

SEC. 103. CRIMINAL PENALTIES.

Section 6(a) of the Migratory Bird Treaty Act (16 U.S.C. 707(a)) is amended—

(1) by striking ''thereof shall be fined not more than $500'' and inserting the following: ''thereof—

''(1) shall be fined not more than $15,000'';

(2) in paragraph (1) (as designated by paragraph (1)), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(2) in the case of a violation of section 3(b)(2), shall be fined under title 18, United

States Code, imprisoned not more than 1 year, or both.''.

SEC. 104. REPORT.

Not later than 5 years after the date of enactment of this Act, the Secretary of the Interior shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives a report analyzing the effect of the amendments made by section 2, and the general practice of baiting, on migratory bird conservation and law enforcement efforts under the Migratory Bird Treaty Act (16 U.S.C. 701 et seq.).

TITLE II—NATIONAL WILDLIFE REFUGE SYSTEM IMPROVEMENT

SEC. 201. SHORT TITLE.

This title may be cited as the ''National Wildlife Refuge System Improvement Act of 1998''.

SEC. 202. UPPER MISSISSIPPI RIVER NATIONAL WILDLIFE AND FISH REFUGE.

(a) IN GENERAL.—In accordance with section 4(a)(5) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)(5)), there are transferred to the Corps of Engineers, without reimbursement, approximately 37.36 acres of land of the Upper Mississippi River Wildlife and Fish Refuge in the State of Minnesota, as designated on the map entitled ''Upper Mississippi National Wildlife and Fish Refuge lands transferred to Corps of Engineers'', dated January 1998, and available, with accompanying legal descriptions of the land, for inspection in appropriate offices of the United States Fish and Wildlife Service.

(b) CONFORMING AMENDMENTS.—The first section and section 2 of the Upper Mississippi River Wild Life and Fish Refuge Act (16 U.S.C. 721, 722) are amended by striking ''Upper Mississippi River Wild Life and Fish Refuge'' each place it appears and inserting ''Upper Mississippi River National Wildlife and Fish Refuge''.

SEC. 203. KILLCOHOOK COORDINATION AREA.

(a) IN GENERAL.—In accordance with section 4(a)(5) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)(5)), the jurisdiction of the United States Fish and Wildlife Service over approximately 1,439.26 acres of land in the States of New Jersey and Delaware, known as the ''Killcohook Coordination Area'', as established by Executive Order No. 6582, issued February 3, 1934, and Executive Order No. 8648, issued January 23, 1941, is terminated.

(b) EXECUTIVE ORDERS.—Executive Order No. 6582, issued February 3, 1934, and Executive Order No. 8648, issued January 23, 1941, are revoked.

SEC. 204. LAKE ELSIE NATIONAL WILDLIFE REFUGE.

(a) IN GENERAL.—In accordance with section 4(a)(5) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)(5)), the jurisdiction of the United States Fish and Wildlife Service over approximately 634.7 acres of land and water in Richland County, North Dakota, known as the ''Lake Elsie National Wildlife Refuge'', as established by Executive Order No. 8152, issued June 12, 1939, is terminated.

(b) EXECUTIVE ORDER.—Executive Order No. 8152, issued June 12, 1939, is revoked.

SEC. 205. KLAMATH FOREST NATIONAL WILDLIFE REFUGE.

Section 28 of the Act of August 13, 1954 (25 U.S.C. 564w–1), is amended in subsections (f) and (g) by striking ''Klamath Forest National Wildlife Refuge'' each place it appears and inserting ''Klamath Marsh National Wildlife Refuge''.

SEC. 206. VIOLATION OF NATIONAL WILDLIFE REFUGE SYSTEM ADMINISTRATION ACT.

Section 4 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd) is amended—

(1) in the first sentence of subsection (c), by striking ''knowingly''; and

(2) in subsection (f)—

(A) by striking ''(f) Any'' and inserting the following:

''(f) PENALTIES.—

''(1) KNOWING VIOLATIONS.—Any'';

(B) by inserting ''knowingly'' after ''who''; and

(C) by adding at the end the following:

''(2) OTHER VIOLATIONS.—Any person who otherwise violates or fails to comply with any of the provisions of this Act (including a regulation issued under this Act) shall be fined under title 18, United States Code, or imprisoned not more than 180 days, or both.''.

TITLE III—WETLANDS AND WILDLIFE ENHANCEMENT

SEC. 301. SHORT TITLE.

This title may be cited as the ''Wetlands and Wildlife Enhancement Act of 1998''.

SEC. 302. REAUTHORIZATION OF NORTH AMERICAN WETLANDS CONSERVATION ACT.

Section 7(c) of the North American Wetlands Conservation Act (16 U.S.C. 4406(c)) is amended by striking ''not to exceed'' and all that follows and inserting ''not to exceed $30,000,000 for each of fiscal years 1999 through 2003.''.

SEC. 303. REAUTHORIZATION OF PARTNERSHIPS FOR WILDLIFE ACT.

Section 7105(h) of the Partnerships for Wildlife Act (16 U.S.C. 3744(h)) is amended by striking ''for each of fiscal years'' and all that follows and inserting ''not to exceed $6,250,000 for each of fiscal years 1999 through 2003.''.

SEC. 304. MEMBERSHIP OF THE NORTH AMERICAN WETLANDS CONSERVATION COUNCIL.

(a) IN GENERAL.—Notwithstanding section 4(a)(1)(D) of the North American Wetlands Conservation Act (16 U.S.C. 4403(a)(1)(D)), during the period of 1999 through 2002, the membership of the North American Wetlands Conservation Council under section 4(a)(1)(D) of that Act shall consist of—

(1) 1 individual who shall be the Group Manager for Conservation Programs of Ducks Unlimited, Inc. and who shall serve for 1 term of 3 years beginning in 1999; and

(2) 2 individuals who shall be appointed by the Secretary of the Interior in accordance with section 4 of that Act and who shall each represent a different organization described in section 4(a)(1)(D) of that Act.

(b) PUBLICATION OF POLICY.—Not later than June 30, 1999, the Secretary of the Interior shall publish in the Federal Register, after notice and opportunity for public comment, a policy for making appointments under section 4(a)(1)(D) of the North American Wetlands Conservation Act (16 U.S.C. 4403(a)(1)(D)).

TITLE IV—RHINOCEROS AND TIGER CONSERVATION

SEC. 401. SHORT TITLE.

This title may be cited as the ''Rhinoceros and Tiger Conservation Act of 1998''.

SEC. 402. FINDINGS.

Congress finds that—

(1) the populations of all but 1 species of rhinoceros, and the tiger, have significantly declined in recent years and continue to decline;

(2) these species of rhinoceros and tiger are listed as endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and listed on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed on March 3, 1973 (27 UST 1087; TIAS 8249) (referred to in this title as ''CITES'');

(3) the Parties to CITES have adopted several resolutions—

(A) relating to the conservation of tigers (Conf. 9.13 (Rev.)) and rhinoceroses (Conf. 9.14), urging Parties to CITES to implement legislation to reduce illegal trade in parts and products of the species; and

(B) relating to trade in readily recognizable parts and products of the species (Conf. 9.6), and trade in traditional medicines (Conf. 10.19), recommending that Parties ensure that their legislation controls trade in those parts and derivatives, and in medicines purporting to contain them;

(4) a primary cause of the decline in the populations of tiger and most rhinoceros species is the poaching of the species for use of their parts and products in traditional medicines;

(5) there are insufficient legal mechanisms enabling the United States Fish and Wildlife Service to interdict products that are labeled or advertised as containing substances derived from rhinoceros or tiger species and prosecute the merchandisers for sale or display of those products; and

(6) legislation is required to ensure that—

(A) products containing, or labeled or advertised as containing, rhinoceros parts or tiger parts are prohibited from importation into, or exportation from, the United States; and

(B) efforts are made to educate persons regarding alternatives for traditional medicine products, the illegality of products containing, or labeled or advertised as containing, rhinoceros parts and tiger parts, and the need to conserve rhinoceros and tiger species generally.

SEC. 403. PURPOSES OF THE RHINOCEROS AND TIGER CONSERVATION ACT OF 1994.

Section 3 of the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5302) is amended by adding at the end the following:

''(3) To prohibit the sale, importation, and exportation of products intended for human consumption or application containing, or labeled or advertised as containing, any substance derived from any species of rhinoceros or tiger.''.

SEC. 404. DEFINITION OF PERSON.

Section 4 of the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5303) is amended—

(1) in paragraph (4), by striking ''and'' at the end;

(2) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(6) 'person' means—

''(A) an individual, corporation, partnership, trust, association, or other private entity;

''(B) an officer, employee, agent, department, or instrumentality of—

''(i) the Federal Government;

''(ii) any State, municipality, or political subdivision of a State; or

''(iii) any foreign government;

''(C) a State, municipality, or political subdivision of a State; or

''(D) any other entity subject to the jurisdiction of the United States.''.

SEC. 405. PROHIBITION ON SALE, IMPORTATION, OR EXPORTATION OF PRODUCTS LABELED OR ADVERTISED AS RHINOCEROS OR TIGER PRODUCTS.

The Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5301 et seq.) is amended—

(1) by redesignating section 7 as section 9; and

(2) by inserting after section 6 the following:

''SEC. 7. PROHIBITION ON SALE, IMPORTATION, OR EXPORTATION OF PRODUCTS LABELED OR ADVERTISED AS RHINOCEROS OR TIGER PRODUCTS.

''(a) PROHIBITION.—A person shall not sell, import, or export, or attempt to sell, import, or export, any product, item, or substance intended for human consumption or application containing, or labeled or advertised as containing, any substance derived from any species of rhinoceros or tiger.

''(b) PENALTIES.—

''(1) CRIMINAL PENALTY.—A person engaged in business as an importer, exporter, or distributor that knowingly violates subsection (a) shall be fined under title 18, United States Code, imprisoned not more than 6 months, or both.

''(2) CIVIL PENALTIES.—

''(A) IN GENERAL.—A person that knowingly violates subsection (a), and a person engaged in business as an importer, exporter, or distributor

that violates subsection (a), may be assessed a civil penalty by the Secretary of not more than $12,000 for each violation.

''(B) MANNER OF ASSESSMENT AND COLLECTION.—A civil penalty under this paragraph shall be assessed, and may be collected, in the manner in which a civil penalty under the Endangered Species Act of 1973 may be assessed and collected under section 11(a) of that Act (16 U.S.C. 1540(a)).

''(c) PRODUCTS, ITEMS, AND SUBSTANCES.—Any product, item, or substance sold, imported, or exported, or attempted to be sold, imported, or exported, in violation of this section or any regulation issued under this section shall be subject to seizure and forfeiture to the United States.

''(d) REGULATIONS.—After consultation with the Secretary of the Treasury, the Secretary of Health and Human Services, and the United States Trade Representative, the Secretary shall issue such regulations as are appropriate to carry out this section.

''(e) ENFORCEMENT.—The Secretary, the Secretary of the Treasury, and the Secretary of the department in which the Coast Guard is operating shall enforce this section in the manner in which the Secretaries carry out enforcement activities under section 11(e) of the Endangered Species Act of 1973 (16 U.S.C. 1540(e)).

''(f) USE OF PENALTY AMOUNTS.—Amounts received as penalties, fines, or forfeiture of property under this section shall be used in accordance with section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)).''.

SEC. 406. EDUCATIONAL OUTREACH PROGRAM.

The Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5301 et seq.) (as amended by section 405) is amended by inserting after section 7 the following:

''SEC. 8. EDUCATIONAL OUTREACH PROGRAM.

''(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary shall develop and implement an educational outreach program in the United States for the conservation of rhinoceros and tiger species.

''(b) GUIDELINES.—The Secretary shall publish in the Federal Register guidelines for the program.

''(c) CONTENTS.—Under the program, the Secretary shall publish and disseminate information regarding—

''(1) laws protecting rhinoceros and tiger species, in particular laws prohibiting trade in products containing, or labeled or advertised as containing, their parts;

''(2) use of traditional medicines that contain parts or products of rhinoceros and tiger species, health risks associated with their use, and available alternatives to the medicines; and

''(3) the status of rhinoceros and tiger species and the reasons for protecting the species.''.

SEC. 407. AUTHORIZATION OF APPROPRIATIONS.

Section 9 of the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5306) (as redesignated by section 405(1)) is amended by striking ''1996, 1997, 1998, 1999, and 2000'' and inserting ''1996 through 2002''.

TITLE V—CHESAPEAKE BAY INITIATIVES

SEC. 501. SHORT TITLE.

This title may be cited as the ''Chesapeake Bay Initiatives Act of 1998''.

SEC. 502. CHESAPEAKE BAY.

Section 117 of the Federal Water Pollution Control Act (33 U.S.C. 1267) is amended to read as follows:

''SEC. 117. CHESAPEAKE BAY.

''(a) DEFINITIONS.—In this section:

''(1) CHESAPEAKE BAY AGREEMENT.—The term 'Chesapeake Bay Agreement' means the formal, voluntary agreements, amendments, directives, and adoption statements executed to achieve the goal of restoring and protecting the Chesapeake Bay ecosystem and the living resources of the ecosystem and signed by the Chesapeake Executive Council.

''(2) CHESAPEAKE BAY PROGRAM.—The term 'Chesapeake Bay Program' means the program directed by the Chesapeake Executive Council in accordance with the Chesapeake Bay Agreement.

''(3) CHESAPEAKE BAY WATERSHED.—The term 'Chesapeake Bay watershed' shall have the meaning determined by the Administrator.

''(4) CHESAPEAKE EXECUTIVE COUNCIL.—The term 'Chesapeake Executive Council' means the signatories to the Chesapeake Bay Agreement.

''(5) SIGNATORY JURISDICTION.—The term 'signatory jurisdiction' means a jurisdiction of a signatory to the Chesapeake Bay Agreement.

''(b) CONTINUATION OF CHESAPEAKE BAY PROGRAM.—

''(1) IN GENERAL.—In cooperation with the Chesapeake Executive Council (and as a member of the Council), the Administrator shall continue the Chesapeake Bay Program.

''(2) PROGRAM OFFICE.—The Administrator shall maintain in the Environmental Protection Agency a Chesapeake Bay Program Office. The Chesapeake Bay Program Office shall provide support to the Chesapeake Executive Council by—

''(A) implementing and coordinating science, research, modeling, support services, monitoring, data collection, and other activities that support the Chesapeake Bay Program;

''(B) developing and making available, through publications, technical assistance, and other appropriate means, information pertaining to the environmental quality and living resources of the Chesapeake Bay;

''(C) assisting the signatories to the Chesapeake Bay Agreement, in cooperation with appropriate Federal, State, and local authorities, in developing and implementing specific action plans to carry out the responsibilities of the signatories to the Chesapeake Bay Agreement;

''(D) coordinating the actions of the Environmental Protection Agency with the actions of the appropriate officials of other Federal agencies and State and local authorities in developing strategies to—

''(i) improve the water quality and living resources of the Chesapeake Bay; and

''(ii) obtain the support of the appropriate officials of the agencies and authorities in achieving the objectives of the Chesapeake Bay Agreement; and

''(E) implementing outreach programs for public information, education, and participation to foster stewardship of the resources of the Chesapeake Bay.

''(c) INTERAGENCY AGREEMENTS.—The Administrator may enter into an interagency agreement with a Federal agency to carry out this section.

''(d) TECHNICAL ASSISTANCE AND ASSISTANCE GRANTS.—

''(1) IN GENERAL.—In consultation with other members of the Chesapeake Executive Council, the Administrator may provide technical assistance, and assistance grants, to nonprofit private organizations and individuals, State and local governments, colleges, universities, and interstate agencies to carry out this section, subject to such terms and conditions as the Administrator considers appropriate.

''(2) FEDERAL SHARE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of an assistance grant provided under paragraph (1) shall be determined by the Administrator in accordance with Environmental Protection Agency guidance.

''(B) SMALL WATERSHED GRANTS PROGRAM.—The Federal share of an assistance grant provided under paragraph (1) to carry out an implementing activity under subsection (g)(2) shall not exceed 75 percent of eligible project costs, as determined by the Administrator.

''(3) NON-FEDERAL SHARE.—An assistance grant under paragraph (1) shall be provided on the condition that non-Federal sources provide the remainder of eligible project costs, as determined by the Administrator.

''(4) ADMINISTRATIVE COSTS.—Administrative costs (including salaries, overhead, and indirect costs for services provided and charged against projects supported by funds made available under this subsection) incurred by a person described in paragraph (1) in carrying out a project under this subsection during a fiscal year shall not exceed 10 percent of the grant made to the person under this subsection for the fiscal year.

''(e) IMPLEMENTATION GRANTS.—

''(1) IN GENERAL.—If a signatory jurisdiction has approved and committed to implement all or substantially all aspects of the Chesapeake Bay Agreement, on the request of the chief executive of the jurisdiction, the Administrator shall make a grant to the jurisdiction for the purpose of implementing the management mechanisms established under the Chesapeake Bay Agreement, subject to such terms and conditions as the Administrator considers appropriate.

''(2) PROPOSALS.—A signatory jurisdiction described in paragraph (1) may apply for a grant under this subsection for a fiscal year by submitting to the Administrator a comprehensive proposal to implement management mechanisms established under the Chesapeake Bay Agreement. The proposal shall include—

''(A) a description of proposed management mechanisms that the jurisdiction commits to take within a specified time period, such as reducing or preventing pollution in the Chesapeake Bay and to meet applicable water quality standards; and

''(B) the estimated cost of the actions proposed to be taken during the fiscal year.

''(3) APPROVAL.—If the Administrator finds that the proposal is consistent with the Chesapeake Bay Agreement and the national goals established under section 101(a), the Administrator may approve the proposal for a fiscal year.

''(4) FEDERAL SHARE.—The Federal share of an implementation grant provided under this subsection shall not exceed 50 percent of the costs of implementing the management mechanisms during the fiscal year.

''(5) NON-FEDERAL SHARE.—An implementation grant under this subsection shall be made on the condition that non-Federal sources provide the remainder of the costs of implementing the management mechanisms during the fiscal year.

''(6) ADMINISTRATIVE COSTS.—Administrative costs (including salaries, overhead, and indirect costs for services provided and charged against projects supported by funds made available under this subsection) incurred by a signatory jurisdiction in carrying out a project under this subsection during a fiscal year shall not exceed 10 percent of the grant made to the jurisdiction under this subsection for the fiscal year.

''(f) COMPLIANCE OF FEDERAL FACILITIES.—

''(1) SUBWATERSHED PLANNING AND RESTORATION.—A Federal agency that owns or operates a facility (as defined by the Administrator) within the Chesapeake Bay watershed shall participate in regional and subwatershed planning and restoration programs.

''(2) COMPLIANCE WITH AGREEMENT.—The head of each Federal agency that owns or occupies real property in the Chesapeake Bay watershed shall ensure that the property, and actions taken by the agency with respect to the property, comply with the Chesapeake Bay Agreement.

''(g) CHESAPEAKE BAY WATERSHED, TRIBUTARY, AND RIVER BASIN PROGRAM.—

''(1) NUTRIENT AND WATER QUALITY MANAGEMENT STRATEGIES.—Not later than 1 year after the date of enactment of this subsection, the Administrator, in consultation with other members of the Chesapeake Executive Council, shall ensure that management plans are developed and implementation is begun by signatories to the Chesapeake Bay Agreement for the tributaries of the Chesapeake Bay to achieve and maintain—

''(A) the nutrient goals of the Chesapeake Bay Agreement for the quantity of nitrogen and phosphorus entering the main stem Chesapeake Bay;

''(B) the water quality requirements necessary to restore living resources in both the tributaries and the main stem of the Chesapeake Bay;

''(C) the Chesapeake Bay basinwide toxics reduction and prevention strategy goal of reducing or eliminating the input of chemical contaminants from all controllable sources to levels that result in no toxic or bioaccumulative impact on the living resources that inhabit the Bay or on human health; and

''(D) habitat restoration, protection, and enhancement goals established by Chesapeake Bay Agreement signatories for wetlands, forest riparian zones, and other types of habitat associated with the Chesapeake Bay and the tributaries of the Chesapeake Bay.

''(2) SMALL WATERSHED GRANTS PROGRAM.—The Administrator, in consultation with other members of the Chesapeake Executive Council, may offer the technical assistance and assistance grants authorized under subsection (d) to local governments and nonprofit private organizations and individuals in the Chesapeake Bay watershed to implement—

''(A) cooperative tributary basin strategies that address the Chesapeake Bay's water quality and living resource needs; or

''(B) locally based protection and restoration programs or projects within a watershed that complement the tributary basin strategies.

''(h) STUDY OF CHESAPEAKE BAY PROGRAM.—Not later than December 31, 2000, and every 3 years thereafter, the Administrator, in cooperation with other members of the Chesapeake Executive Council, shall complete a study and submit a comprehensive report to Congress on the results of the study. The study and report shall, at a minimum—

''(1) assess the commitments and goals of the management strategies established under the Chesapeake Bay Agreement and the extent to which the commitments and goals are being met;

''(2) assess the priority needs required by the management strategies and the extent to which the priority needs are being met;

''(3) assess the effects of air pollution deposition on water quality of the Chesapeake Bay;

''(4) assess the state of the Chesapeake Bay and its tributaries and related actions of the Chesapeake Bay Program;

''(5) make recommendations for the improved management of the Chesapeake Bay Program; and

''(6) provide the report in a format transferable to and usable by other watershed restoration programs.

''(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $30,000,000 for each of fiscal years 1999 through 2003.''.

SEC. 503. CHESAPEAKE BAY GATEWAYS AND WATERTRAILS.

(a) CHESAPEAKE BAY GATEWAYS AND WATERTRAILS NETWORK.—

(1) IN GENERAL.—The Secretary of the Interior (referred to in this section as the ''Secretary''), in cooperation with the Administrator of the Environmental Protection Agency (referred to in this section as the ''Administrator''), shall provide technical and financial assistance, in cooperation with other Federal agencies, State and local governments, nonprofit organizations, and the private sector—

(A) to identify, conserve, restore, and interpret natural, recreational, historical, and cultural resources within the Chesapeake Bay Watershed;

(B) to identify and utilize the collective resources as Chesapeake Bay Gateways sites for enhancing public education of and access to the Chesapeake Bay;

(C) to link the Chesapeake Bay Gateways sites with trails, tour roads, scenic byways, and other connections as determined by the Secretary;

(D) to develop and establish Chesapeake Bay Watertrails comprising water routes and connections to Chesapeake Bay Gateways sites and other land resources within the Chesapeake Bay Watershed; and

(E) to create a network of Chesapeake Bay Gateways sites and Chesapeake Bay Watertrails.

(2) COMPONENTS.—Components of the Chesapeake Bay Gateways and Watertrails Network may include—

(A) State or Federal parks or refuges;

(B) historic seaports;

(C) archaeological, cultural, historical, or recreational sites; or

(D) other public access and interpretive sites as selected by the Secretary.

(b) CHESAPEAKE BAY GATEWAYS GRANTS ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Secretary, in cooperation with the Administrator, shall establish a Chesapeake Bay Gateways Grants Assistance Program to aid State and local governments, local communities, nonprofit organizations, and the private sector in conserving, restoring, and interpreting important historic, cultural, recreational, and natural resources within the Chesapeake Bay Watershed.

(2) CRITERIA.—The Secretary, in cooperation with the Administrator, shall develop appropriate eligibility, prioritization, and review criteria for grants under this section.

(3) MATCHING FUNDS AND ADMINISTRATIVE EXPENSES.—A grant under this section—

(A) shall not exceed 50 percent of eligible project costs;

(B) shall be made on the condition that non-Federal sources, including in-kind contributions of services or materials, provide the remainder of eligible project costs; and

(C) shall be made on the condition that not more than 10 percent of all eligible project costs be used for administrative expenses.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $3,000,000 for each of fiscal years 1999 through 2003.

SEC. 504. PFIESTERIA AND OTHER AQUATIC TOXINS RESEARCH AND GRANT PROGRAM.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency, the Secretary of Commerce (acting through the Director of the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration), the Secretary of Health and Human Services (acting through the Director of the National Institute of Environmental Health Sciences and the Director of the Centers for Disease Control and Prevention), and the Secretary of Agriculture shall—

(1) establish a research program for the eradication or control of Pfiesteria piscicida and other aquatic toxins; and

(2) make grants to colleges, universities, and other entities in affected States for the eradication or control of Pfiesteria piscicida and other aquatic toxins.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 1999 and 2000.

Mr. DEWINE. I finally ask consent that H.R. 2863 be placed back on the calendar.

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

MORNING BUSINESS

The PRESIDING OFFICER (Mr. DEWINE). Under the previous order, there will now be a period of morning business until 12 noon.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, as I understand it, under the previous order I have 20 minutes. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. Will the Chair be kind enough to let me know when I have 2 minutes remaining?

The PRESIDING OFFICER. The Senator will be notified.

Mr. KENNEDY. I thank the Chair.

TRIBUTE TO PATRICK MURPHY, FOUNDER OF THE ''FOR THE LOVE OF LIFE'' FOUNDATION

Mr. KENNEDY. Mr. President, I rise today to pay tribute to a wonderful friend who has left us all too soon, Patrick Murphy of Provincetown, Massachusetts, who died last Friday from complication of AIDS.

The poet Yeats wrote about another young man who died too young, in lines that apply to Patrick Murphy, too—he was ''all life's epitome. What made us dream that he could comb grey hair?''

Patrick was a very special friend, and we grieve all the more today because his life was so tragically cut short. But he lived that life with great energy, passion and commitment. And these priceless qualities won him countless friends and enormous success throughout his lifetime. But even more important, they won him the enduring respect and genuine affection of the people whose lives he touched and helped.

Patrick succeeded where others failed because he would never allow himself to be distracted by the mean-spirited. He had a determination that could overcome any obstacle or criticism. He was seldom burdened by a sense of reality, which made him all the more endearing and all the more successful.

In the Patrick Murphy handbook on life, ''No you can't'' became ''Yes you can.'' You can fight the bureaucracy. You can make a difference. You can live with AIDS—and never let anyone tell you you can't.

All of us who knew Patrick knew that he never gave up and never gave in. He was the ''ever-ready bunny'' in the television commercial—the one who just keeps going and going—ever-ready to fight for all the causes we share.

I remember my own campaign in Massachusetts in 1994. Patrick had just left the hospital. But that didn't stop him for a second. Before we knew it, he had list after list of events and phone-banks and campaign stops he was planning—working skillfully and tirelessly until every last vote was counted and victory was won.

He did the same for Senator JOHN KERRY in his reelection campaign in 1996—and for President Clinton and Vice President GORE in their campaign that year too.

And he did it all over again for the impressive ''For the Love of Life'' Foundation that he founded in 1992 and that will be his lasting memorial.

In the years to come, the Foundation will remind us again and again of Patrick and the power of individuals to make a difference. Ever since Patrick created ''For the Love of Life'' in 1992, the Foundation has brought greater hope and a higher quality of life to countless people living with AIDS—in Massachusetts and across the country.

The Foundation was inspired by Patrick's extraordinary belief that people's dreams can come true. And, the Foundation's great mission has been to grant the wishes of individuals and families living with HIV and AIDS.

''For the Love of Life'' works closely with other AIDS organizations. It provides a special extra dimension that others can't.

For an HIV positive father who could not afford a funeral for his infant son who died of AIDS—''For the Love of Life'' made the difference.

For a person living in a hospice in Boston—''For the Love of Life'' enabled him to visit his mother in Pittsburgh for one last time, to share a birthday.

The Foundation has helped many others as well—a mother with AIDS to attend her daughter's wedding—a teenage girl with AIDS to have a Sweet 16 party for her family and friends. Because of Patrick's vision and leadership, the dreams of countless others will come true.

As many have said, life is best measures not by its length but by its depth—by those magical moments that make life special. Patrick made life special for himself and everyone he touched. And in the years to come, ''For the Love of Life'' will continue Patrick's great work by helping people with AIDS to live life and love life. And for that great gift and lesson to all of us—we thank Patrick with all our heart.

Patrick, for the light you brought to dark hours and for the dignity you gave to the human spirit—God bless you and sustain you. Patrick said he was always happier and healthier when he had a project. So I say now, to Patrick in heaven, may you always have a project!

EDUCATION FUNDING

Mr. KENNEDY. Mr. President, I want to address the Senate for a few moments today to call attention to some progress that has been made, as I understand it, in budget negotiations in the areas of education, but also to indicate why I think the resolution of the President of the United States in identifying the importance of the help and assistance of the Federal Government for local communities and the States is extremely important, and why it has been very important in these last few days, that these negotiations reflect the President's strong commitment to education policy, and to put into some perspective why this battle has been necessary over the period of recent years and why it is necessary now. I will mention in just a few moments some of the areas where I understand progress has been made. Nothing will be achieved until everything is settled, but, nonetheless, the areas that I will mention here, I think, have been generally recognized as having been fairly well agreed to, and I think it is relevant to mention those because they are important and will be important when the final omnibus legislation has been achieved.

If you look over the recent years to see what has happened in terms of the education budget, you will see why this battle has been so important. If you look at the amount of the Federal budget that is devoted to education, it represents only 2 percent of the total budget. We are talking now of a budget of $1.7 billion. Only 2 percent of that budget is education. I think most Americans would believe that it should be a good deal higher.

What we are trying to do is to make sure that even this 2 percent is going to be preserved. If there is an opportunity, we are going to see some expansion of it. We understand that we have a tight fiscal situation. We are grateful for the economic policies that have brought us to some surplus, and we expect that to continue, although the surplus for the first 5 years is reflected really in the cumulative savings in our Social Security. And that is why the President is wise to say it is not appropriate now to have a tax cut because those funds which have been paid in and reflect themselves in the form of a surplus are really the hard-earned wages of workers and employers paying into the Social Security trust fund, and until we resolve the challenges of the Social Security trust fund, we should not, and we must not, see a tax cut.

But what we are trying to do is give education more of a priority within the total budget. That is certainly the desire of the American people. What we have been faced with over the period of recent years is the following: In 1996, the Republicans attempted to cut $3.7 billion below the previous year, 1995, in terms of what had actually been appropriated. Do we understand? In the education budget—that was in 1996, that was resisted by the President—all those budget cuts were not achieved but there were some budget cuts.

In 1997, the Republican proposal was to cut $1.5 billion below the previous year—not add on, Mr. President, not try to find out how we could possibly squeeze other aspects of our national budget in order to increase our commitment to education. No. We saw the request for $1.5 billion less in 1997 over the previous year; in 1998, a $2 billion cut below the President's request, and this year $2 billion below the President's request.

These are the facts. And so it is understandable that in the final wrap-up of these budget negotiations, the President of the United States is going to do everything he possibly can to resist that kind of cut in terms of education funding.

Now we know, as I have said before, the amounts of money do not necessarily indicate the solution to all of our problems. That is true in education as well. But what it does reflect is a nation's priorities—a nation's priorities. When you look over the record, for 1996, $3.7 billion; 1997, $1.5 billion; 1998, $2 billion; this year, 1999, $2 billion. That is reflected in the $420 million cut for title I, cutting back on the Eisenhower Teaching Program, cutting back on teacher technology, cutting back on the Afterschool Program, cutting back on the Year 2000 Program, zeroing out the Summer Jobs Program.

We can understand why the President and many of us—the Democratic leader, Senator DASCHLE, the Democratic leader in the House, DICK GEPHARDT—are saying we are not going to have an omnibus budget unless it protects education. In effect, that is what is happening in Washington. Surely, there are other priorities, but this is one identified by the President and the leaders, and the one which I believe is the overriding and overarching issue that those families across our country care most about.

Now, we have heard that in the past few days the Reading Excellence Act, which is basically the Literacy Program that passed in the Senate virtually unanimously, was tied up over in the House of Representatives, and when they effectively halted other kinds of action, that legislation was still hanging out there and would not have been approved unless put into this omnibus legislation.

When we understand that 40 percent of our children who are in the third and fourth grades cannot read properly, and when we understand that this is increasingly a problem, we are not going to be able to solve it all with our Reading Excellence Act, but we are going to be able to help and assist teachers who are attempting to set up literacy programs, who are tying into the Head Start Program, who are working with volunteers who reflect the interests of many of our young people who are working as volunteer teachers in the areas of literacy in our schools and colleges, with the Work-Study Program, which has been expanded significantly in the last couple of years.

I am proud that Massachusetts is ranked as the second State in the country in the number of volunteers in the Work-Study Program who are working with children in their communities on literacy. California is first; we are second. California better look out because we are increasing the number of our colleges that will be doing it. Close to 60 percent of all of our colleges scattered around our State of Massachusetts now are doing that. I believe every college ought to be involved. We ought to be challenging the young people in all of our colleges to give something back to the community. This program will provide that little seed

money to help assist those kinds of efforts in our States. That is an important program, and I understand has been agreed to.

We have the Afterschool Program which last year had been a $40 million program; this year, now, some $200 million. We have 5 million American children who are under 14 years of age who are left alone every afternoon in this country—5 million of them. And we wonder what happens when we see these kinds of charts that reflect the spiking up in indexes of violent crime right after school, at 3 o'clock in the afternoon; 3 o'clock to about 6 o'clock in the afternoon have the highest incidents. These people should be involved in afterschool programs. They are working. They are working in my own city of Boston. Not all the city of Boston has it, but Mayor Menino is working to improve these programs. This is a good $200 million program.

But that would not be there unless we had been battling—as in the past few days the President has—to have a modest program to try to help, to work through the nonprofit organizations, even some of those church-related groups, so children in this category can complete their homework in the afternoon. That way, when they go back home they can spend some quality time with their parents rather than come home and have the parents say, ''Jimmy, go upstairs and finish your homework.'' This happens. This is a family issue. These are two very, very modest but important programs.

But we have more to do, Mr. President. This important program reflects what has been happening in our schools across this country in terms of the total number of students going to the schools. We have seen, now, the escalation in the number of students; 53 million now are going. This number is increasing. The demography, the number of children going in, is putting additional burdens on local communities and States. All we are saying is let's be a partner with them. Let's be a partner with them.

We have listened on the floor to those saying, ''This is not a role for the Federal Government.'' You ask the parents. They want their child educated. They want a well trained teacher in a modern classroom with modern equipment so their child can learn. They want a partnership. With all due respect to our colleagues on the floor yesterday, talking about local control, saying, ''We ought to let the local communities make those judgments,'' the fact is, the local community has control, now, over 93 cents of every dollar that is spent at the present time. Only 7 cents out of that dollar is related to expenditures that are made by the Federal Government. That reflects a very narrow, targeted area of child needs like the title I programs for those children that come from economically deprived communities across this country, whether they are urban or rural communities.

It has been worked out with bipartisan support, that program and the programs that are related to the needs of disabled children and the other limited, targeted programs here. What we are saying, and what the President is saying, is this: With this escalation, we are going to need more teachers. Let us develop the help and assistance so we will have more teachers so these children, particularly in the most formative time of their lives, are going to be in smaller classes so the children will have 16, 17, 18—hopefully, 17 children in the first three grades. That is when the children coming out—perhaps the children coming from a Head Start Program, maybe others who are not, who are coming from some kindergarten, entering first grade—that is when they are making their decisions in terms of developing their confidence, developing their interests in academics. As we have heard from virtually every teacher across the country, the advantage of having that number of students is that a teacher can spend individual moments every single day with that child. That is enormously important.

The PRESIDING OFFICER. The Chair advises the Senator he now has 2 minutes remaining.

Mr. KENNEDY. Mr. President, this is the issue that still remains: Increasing the funding for teachers and also helping, assisting to try to do something about what the General Accounting Office has pointed out is the condition of schools all across this country. They say, to try to address the old schools, to modernize the old schools, nationwide, it would cost $110 billion. The President's program is only $22 billion. Listen to the conclusion, not of Democrats, not of Republicans, listen to the General Accounting Office that says:

> Virtually all communities, even some of the wealthiest, are wondering how to address school infrastructure needs while balancing them with other community priorities.

This is a national problem. We want to make sure our children are in the best classrooms with the best teachers and that they have the best opportunity to learn. This afternoon I will be going out with the President to the Forrest Knoll Elementary School just out in suburban Maryland. We are going to an event. The whole sixth grade is housed in trailers. The Forrest Knoll Elementary School was originally built to hold 450 students. It now teaches over 700 students.

We could find these kinds of conditions in communities, not only in urban, but in rural areas. We need the best local and State efforts, and also Federal help and assistance. That is what we are talking about in terms of modernization. That is what we are talking about in terms of enhanced teachers. These are priorities for American families. We ought to be able to work out a process, Republicans and Democrats alike, to try to address those very, very important and special needs. They are the No. 1 priorities for families in this country and we ought to, even in these final hours, we ought to be able to work through this process to make sure we are going to give our best efforts to the protection of children in our society, for their own interests and for our national interest.

It is in our national interest clearly, so America is going to be able to compete in a global economy and we are going to have the best trained and best educated children and young people in this world. We can do no less. We owe that to our country. That is a great deal of what this debate is about here in the Nation's Capitol, over the time we are meeting here today.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

SECURITIES LITIGATION UNIFORM STANDARDS ACT OF 1998—CONFERENCE REPORT

Mr. THOMAS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of the conference report to accompany S. 1260.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1260), have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 9, 1998.)

Mr. D'AMATO. Mr. President, I would like to encourage my Senate colleagues to support the conference report on S. 1260, the Securities Litigation Uniform Standards Act of 1998. The conference report is closely modeled on the bill that the Senate passed by an overwhelming bipartisan vote this spring, and that the Banking Committee reported by a vote of 14 to 4.

Mr. President, I believe that the conference report will also enjoy strong bipartisan support. The conference report is the result of a lot hard work and thoughtful consideration. The House and Senate committee staffs worked closely with the staff of the Securities and Exchange Commission to ensure the Commission's continued support for the legislation. Mr. President, I ask unanimous consent that the letter from the S.E.C. be printed in the RECORD.

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

SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, October 9, 1998.

Hon. ALFONSE M. D'AMATO,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

Hon. PAUL S. SARBANES,
Ranking Minority Member, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN D'AMATO AND SENATOR SARBANES: You have requested our views on S. 1260, the Securities Litigation Uniform Standards Act of 1998. We support this bill based on important assurances in the Statement of Managers that investors will be protected.[1]

The purpose of the bill is to help ensure that securities fraud class actions involving certain securities traded on national markets are governed by a single set of uniform standards. While preserving the right of individual investors to bring securities lawsuits wherever they choose, the bill generally provides that class actions can be brought only in federal court where they will be governed by federal law. In addition, the bill contains important legislative history that will eliminate confusion in the courts about the proper interpretation of the pleading standard found in the Private Securities Litigation Reform Act of 1995 and make clear that the uniform national standards contained in this bill will permit investors to continue to recover losses attributable to reckless misconduct.

We commend the Committee for its careful efforts to strike an appropriate balance between the rights of injured investors to bring class action lawsuits and those of our capital market participants who must defend against such suits.

As you know, we expressed various concerns over earlier drafts of the legislation. In particular, we stated that a uniform standard for securities fraud class actions that did not permit investors to recover losses for reckless misconduct would jeopardize the integrity of the securities markets. We appreciate your receptivity to our concerns and believe that as a result of our mutual efforts and constructive dialogue, this bill and the Statement of Managers address our concerns. The strong statement in the Statement of Managers that neither this bill nor the Reform Act was intended to alter existing liability standards under the Securities Exchange Act of 1934 will provide important assurances for investors that the uniform national standards created by this bill will continue to allow them to recover losses caused by reckless misconduct. The additional statement clarifying that the uniform pleading requirement in the Reform Act is the standard applied by the Second Circuit Court of Appeals will likewise benefit investors by helping to end confusion in the courts about the proper interpretation of that Act. Together, these statements will operate to assure that investors' rights will not be compromised in the pursuit of uniformity.

We are grateful to you and your staffs, as well as the other Members and their staffs, for working with us to improve this legislation and safeguard vital investor protections. We believe this bill and its Statement of Managers fairly address the concerns we have raised with you and will contribute to responsible and balanced reform of securities class action litigation.

Sincerely,

ARTHUR LEVITT,
Chairman.
ISAAC C. HUNT, Jr.,
Commissioner.
PAUL R. CAREY,
Commissioner.
LAURA S. UNGER,
Commissioner.

[1]Commissioner Norman S. Johnson continues to believe that this legislation is premature, at the least, for the reasons stated in his May 1998 prepared statement before the House Subcommittee on Finance and Hazardous Materials.

Mr. D'AMATO. Mr. President, the broadbased support that this bill enjoys is a tribute to Senators DOMENICI, GRAMM, and DODD, the chief cosponsors of its legislation. This bill provides a case study on how to get legislation done. They focused on solving a specific serious problem, and built a wide base of support for the bill. The problem to which I referred is a loophole that strike lawyers have found in the 1995 private securities litigation reform bill.

Mr. President, the 1995 act was enacted in the last Congress in response to a wave of harassment litigation that threatened the efficiency and integrity of our national stock markets, as well as the value of stock portfolios of individual investors. This threat was particularly debilitating to so-called high-tech companies who desperately need access to our capital markets for research, development and production of cutting-edge technology. These companies not only help to create jobs and drive our economic growth, they create substantial wealth for their shareholders. As one witness before the Securities Subcommittee testified:

The continuing specter of frivolous strike suits poses still another threat to investors: the inordinate costs these suits impose on corporations—and ultimately on their shareholders.

Mr. President, that is a statement that bears repeating: that ultimately the cost of strike suits are borne by shareholders, including ordinary people saving for their children's education or retirement. It is these people, the ordinary investor, who foot the bill for high-price settlements of harassment litigation.

Now, let me make one thing clear—we are not talking about preventing legitimate litigation. Real plaintiffs with legitimate claims deserve their day in court. But we should not condone little more than a judicially sanctioned shakedown that only benefits strike lawyers. Companies that engage in fraudulent conduct should be held fully liable for their actions; however, companies should not be forced to settle cases that have no merit just to minimize their loses.

Mr. President, I want to express my gratitude to our colleagues in the House, particularly Commerce Committee Chairman BLILEY and Subcommittee Chairman OXLEY, for their continued cooperation and good will in a truly bicameral partnership to protect investors.

Mr. DODD. Mr. President. I rise today to offer my strong support for Senate passage of the conference report on S. 1260, the Securities Litigation Uniform Standards Act of 1998. This important bill will help to close a loophole that allows for the continuation of frivolous and abusive securities class action lawsuits, while ensuring that investors will still be able to bring suits when defendants have acted recklessly.

In 1995, the Congress enacted legislation, the Private Securities Litigation Reform Act, that was designed to curb the many abuses that had cropped up in that system over the years. Ironically, it was the very success of the 1995 act in shutting down avenues of abuse on the Federal level that created a new home for that abusive and frivolous litigation in state courts.

Prior to the enactment of the 1995 Reform Act, it was extremely unusual for a securities fraud class action suit to be brought in a state court. But by the end of 1996, it became clear from both the number of cases filed in state court and the nature of those claims, that a significant shift was underfoot as some lawyers sought to evade those provisions of the Reform Act that made it much more difficult to coerce a settlement.

John Olson, the noted securities law expert, testified in February before the Subcommittee on Securities that:

In the years 1992 through 1994, only *six* issuers of publicly traded securities were sued for fraud in state class actions. In contrast, at least *seventy-seven* publicly traded issuers were sued in state court class actions between January 1, 1996 and June 30, 1997. Indeed, the increase in state court filings may be even greater than indicated by these dramatic statistics. Obtaining an accurate count of state court class actions is extraordinarily difficult, because there is no central repository of such data and plaintiffs are under no obligation to provide notice of the filing of such suits.

In April, 1997, the Securities and Exchange Commission staff report to Congress and the President found that:

Many of the state cases are filed parallel to a federal court case in an apparent attempt to avoid some of the procedures imposed by the reform act, particularly the stay of discovery pending a motion to dismiss. This may be the most significant development in securities litigation post-reform act.

Even though the number of state class actions filed in 1997 was down from the high of 1996 it was still 50 percent higher than the average number filed in the 5 years prior to the Reform Act and it represented a significant jump in the number of parallel cases filed. 1998 looks to maintain those historically high levels.

This change in the number and nature of cases filed in State court has had two measurable, negative impacts. First, for those companies hit with potentially frivolous or abusive state court class actions, all of the cost and expense that the 1995 Reform Act sought to prevent are once again incurred.

Some might question whether a state class action can carry with it the same type of incentives that existed on the Federal level prior to 1995 to settle

even frivolous suits. In fact, they can and let me provide just one example of how this is so.

Adobe Systems, Inc., wrote to the Senate Banking Committee on April 23, 1998, about its experience with state class action lawsuits. As many of my colleagues know, one of the key components of the 1995 Reform Act was to allow judges to rule on a motion to dismiss prior to the commencement of the discovery process. Under the old system, Adobe had won a motion for summary dismissal but only after months of discovery by the plaintiff that cost the company more than $2.3 million in legal expenses and untold time and energy by company officials to produce tens of thousands of documents and numerous depositions. With the 1995 act in place, those kinds of expenses are far less likely to occur on the federal level.

But in an ongoing securities class action suit filed in California state court after passage of the 1995 act, Adobe has had to spend more than $1 million in legal expenses and has had to produce more than 44,000 pages of documents, all before the State judge is even able to entertain a motion for summary dismissal. In fact, in that April 23 letter to Banking Committee Chairman D'AMATO, Colleen Pouliot, Adobe's general counsel, noted that ''There are a number of California judicial decisions which permit a plaintiff to obtain discovery for the very purpose of amending a complaint to cure its legal insufficiencies.''

This one example makes clear that while Adobe, which has the resources for a costly and lengthy legal battle, might fight a meritless suit, these litigation costs provide a powerful incentive for most companies to settle these suits rather than incur such expenses.

The second clear impact of the migration of class action suits to state court is that it has caused companies to avoid using the safe harbor for forward looking statements that was a critical component of the 1995 Reform Act.

In this increasingly competitive market, investors are demanding more and more information from company officials about where it thinkgs that the company is heading.

The California Public Employees Pension System, one of the biggest institutional investors, in the nation stated that ''forward-looking statements provide extremely valuable and relevant information to investors.'' SEC Chairman Arthur Levitt also noted in 1995, the importance of such information in the marketplace:

> Our capital markets are built on the foundation of full and fair disclosure. . . . The more investors know and understand management's future plans and views, the sounder the valuation is of the company's securities and the more efficient the capital allocation process.

In recent years, the Securities and Exchange Commission, in recognition of this fact, sought to find ways to encourage companies to put such forward-looking into the marketplace. Congress, too, sought to encourage this and this effort ultimately culminated in the creation of a statutory safe harbor, so that companies need not fear a lawsuit if they did not meet their good-faith projections about future performance.

Unfortunately, the simple fact is that the fear of state court litigation is preventing companies from effectively using the safe harbor.

Again, the SEC's April 1997 study found that ''companies have been reluctant to provide significantly more forward looking disclosure than they had prior to enactment of the safe harbor.'' The report went on to cite the fear of state court litigation as one of the principal reasons for this failure.

Stanford Law School lecturer Michael Perino stated the case very well in a recent law review article:

> If one or more states do not have similar safe harbors, then issuers face potential state court lawsuits and liability for actions that do not violate federal standards. . . . for disclosures that are . . . released to market participants nationwide, the state with the most plaintiff-favorable rules for forward looking disclosures, rather than the federal government, is likely to set the standard to which corporations will conform.

If the migration of cases to state court were just a temporary phenomenon, then perhaps it would be appropriate for Congress to tell these companies and their millions of investors to simply grin and bear it, that it will all be over soon. But the SEC report contains the warning that this is no temporary trend: ''if state law provides advantages to plaintiffs in a particular case, it is reasonable to expect that plaintiffs' counsel will file suit in state court.''

The plain English translation of that is that any plaintiffs' lawyer worth his salt is going to file in state court if he feels it advantageous for his case; since most state courts do not provide the stay of discovery or a safe harbor, we're confronted with a likelihood of continued state court class actions.

While the frustration of the objectives of the 1995 Reform Act provide compelling reasons for congressional action, it is equally important to consider whether the proposition of creating a national standard of liability for nationally-traded securities makes sense in its own right.

I certainly believe it does.

In 1996, Congress passed the National Securities Markets Improvement Act which established a precedent of national treatment for securities that are nationally traded. In that act, Congress clearly and explicitly recognized that our securities markets were national in scope and that requiring that the securities that trade on those national markets comply with 52 separate jurisdictional requirements afforded little extra protection to investors and while imposing unnecessarily steep costs on raising capital.

Last July, then-SEC Commissioner Steven Wallman submitted testimony to the Securities Subcommittee in which he said:

> . . . disparate, and shifting, state litigation procedures may expose issuers to the potential for significant liability that cannot be easily evaluated in advance, or assessed when a statement is made. At a time when we are increasingly experiencing and encouraging national and international securities offerings and listing, and expending great effort to rationalize and streamline our securities markets, this fragmentation of investor remedies potentially imposes costs that outweigh the benefits. Rather than permit or foster fragmentation of our national system of securities litigation, we should give due consideration to the benefits flowing to investors from a uniform national approach.

At the same hearing, Keith Paul Bishop, then-California's top state securities regulator testified that:

> California believes in the federal system and the primary role of the states within that system. However, California does not believe that federal standards are improper when dealing with truly national markets. California businesses, their stockholders and their employees are all hurt by inordinate burdens on national markets. Our businesses must compete in a world market and they will be disadvantaged if they must continue to contend with 51 or more litigation standards.

SEC Chairman Arthur Levitt, at his reconfirmation hearing before the banking committee on March 26, 1998, said that the legislation we are debating today:

> [a]ddresses an issue that . . . deals with a certain level of irrationality. That to have two separate standards is not unlike if you had, in the state of Virginia, two speed limits, one for 60 miles an hour and one for 40 miles an hour. I think the havoc that would create with drivers is not dissimilar from the kind of disruption created by two separate standards [of litigation] and I have long felt that in some areas a single standard is desirable.

The message from all of these sources is clear and unequivocal: a uniform national standard of litigation is both sensible and appropriate.

The conference report under consideration today accomplishes that goal in the narrowest, most balanced way possible.

Before I discuss what the legislation will do, let me point out a few things that it won't do: it will not affect the ability of any state agency to bring any kind of enforcement action against any player in the securities markets; it will not affect the ability of any individual, or even a small group of individuals, to bring a suit in state court against the issuer of any security, nationally traded or not; it will not affect any suit, class action or otherwise, against penny stocks or any stock that is not traded on a national exchange; it will not affect any suits based upon corporate disclosure to existing shareholders required by state fiduciary duty laws; and, it will not alter the national scienter requirement to prevent shareholders from bringing suits against issuers or others who act recklessly.

There has been a lot of talk about this last point, so let me address it head-on.

It is true that in 1995, Congress wrestled with the idea of trying to establish a uniform definition of recklessness; but ultimately, the 1995 private securities litigation reform act was silent on the question of recklessness. While the act requires that plaintiffs plead ''facts giving rise to a strong inference that the defendant acted with the requisite state of mind * * *,'' the 1995 act at no point attempts to define that state of mind. Congress left that to courts to apply, just as they had been applying their definition of state of mind prior to 1995.

Unfortunately, a minority of district courts have tried to read into some of the legislative history of the reform act an intent to do away with recklessness as an actionable standard. I believe that these decisions are erroneous and cannot be supported by either the black letter of the statute nor by any meaningful examination of the legislative history.

There are several definitions of recklessness that operate in our courts today, and some of them are looser than others. But I agree with those who believe that reckless behavior is an extreme departure from the standards of ordinary care; a departure that is so blatant that the danger it presents to investors is either known to the defendant or is so obvious that he or she must have been aware of it.

The notion that Congress would condone such behavior by closing off private lawsuits against those who fall within that definition is just ludicrous.

And if, by some process of mischance and misunderstanding, investors lost their ability to bring suits based on that kind of scienter standard, I would be the first, though certainly not the last, Senator to introduce legislation to restore that standard.

The Statement of Managers that accompanies the conference report on S. 1260 clarifies any misconception that may exist on the part of some courts about congressional intent with unambiguous language:

> It is the clear understanding of the Managers that Congress did not, in adopting the Private Securities Litigation Reform Act of 1995 [PL 104–67], intend to alter the standards of liability under the Exchange Act.

Let me also address another issue that has been raised about recklessness. Some have suggested that while the PSLRA did not remove recklessness as a basis for liability, it was removed as a basis for pleading a securities fraud class action. This is just plain wrong.

Again, the Statement of Managers accompanying this legislation is instructive on this point:

> It was the intent of Congress, as was expressly stated during the legislative debate on the PSLRA, and particularly during the debate on overriding the President's veto, that the PSLRA establish a heightened uniform federal standard based upon the pleading standard applied by the Second Circuit Court of Appeals

The 1995 act clearly adopted the second circuit's pleading standards. The Statement of Managers accompanying this conference report definitively shows that it was also our intent that the application of that standard was also based upon the second circuit's application. While I agree that both this act and the 1995 act envision other courts following the most stringent of the second circuit's cases applying the pleading standard, we do expect other courts to look to the second circuit for guidance. Under the second circuit's most stringent application, the strong inference of the required state of mind may be pled by either alleging circumstantial evidence of scienter, or by alleging a rational economic motive and an opportunity to achieve concrete benefits through the fraud. Where motive is not apparent, the strength of the circumstantial allegations must be correspondingly greater.

Anyone who claims that either the 1995 act or S. 1260 raises the pleading standard beyond that point is engaged in wishful thinking—that kind of statement simply cannot be borne out by even the most cursory examination of either the statute or of the legislative history.

As I mentioned a moment ago, Mr. President, S. 1260 is a moderate, balanced and common sense approach to establishing a uniform national standard of litigation that will end the practice of meritless class action suits being brought in state court. This conference report keeps a very tight definition of class action and applies its standards only to those securities that have been previously defined in law as trading on a national exchange.

That is why, on March 15, the Securities and Exchange Commission stated that ''we support enactment of S. 1260''; and that is why again on October 8, the Commission again voiced its support by stating: ''we believe this bill and its Statement of Managers . . . will contribute to responsible and balanced reform of securities class action litigation.'' And that is why the Clinton administration has also expressed its support for the legislation.

In the final analysis, it is the millions of Americans who have invested their hard-earned dollars in these nationally traded companies and the men and women who will hold the new jobs that will be created as a result of newly available resources, whom we hope will be the real beneficiaries of the action that we take here today.

I strongly urge my colleagues to join the Securities and Exchange Commission, dozens of our colleagues, the Clinton administration, dozens of Governors, State legislators, and State securities regulators in supporting passage of the Securities Litigation Uniform Standards Act of 1998.

Mr. DOMENICI. Mr. President, I rise today in strong support of the conference report to S.1260, the ''Securities Litigation Reform Uniform Standards Act of 1998'' and I want to commend the Majority Leader for bringing this conference report to the floor for a vote prior to the Senate's adjournment. Few issues are more important to the high-tech community and the efficient operation of our capital markets than securities fraud lawsuit reform.

So today, I want to congratulate Senators D'AMATO, DODD, and GRAMM for all of their hard work on this legislation to provide one set of rules to govern securities fraud class actions.

This conference report completes the work I began more than six years ago with Senator Sanford of North Carolina. Back in the early 1990's, Senator Sanford and I noticed that a small group of entrepreneurial plaintiffs' lawyers were abusing our securities laws and the federal rules related to class action lawsuits to file frivolous claims against high-technology companies in federal courts.

Often these lawsuits were based simply on the fact that a company's stock price had fallen, without any real evidence of wrongdoing by the company. Senator Sanford and I realized a long time ago that stock price volatility-common in high tech stocks- simply is not stock fraud.

But, because it was so expensive and time consuming to fight these lawsuits, many companies settled even when they knew they were innocent of the charges leveled against them. The money used to pay for these frivolous lawsuits could have been used for research and development or to create new, high-paying jobs.

So, we introduced a bill to make some changes to the securities fraud class action system. Of course, the powerful plaintiffs' bar opposed our efforts, and the bill did not move very far along in the legislative process.

After Senator Sanford left the Senate, I found a new partner—the senior Senator from Connecticut, Senator DODD. Senator DODD and I continued to work hard on this issue and in 1995, with tremendous help from Chairman D'AMATO and Senator GRAMM, we succeeded in passing a law. The Private Securities Litigation Reform Act of 1995 passed Congress in an overwhelmingly bi-partisan way—over President Clinton's initial veto of the bill.

And since enactment of the 1995 law, we have seen great changes in the conduct of plaintiffs' class action lawyers in federal court. Because of more stringent pleading requirements, plaintiffs' lawyers no longer ''race to the courthouse'' to be the first to file securities class actions. Because of the new rules, we no longer have ''professional plaintiffs''—investors who buy a few shares of stock and then serve as sham named plaintiffs in multiple securities class actions. Other rules make it difficult for plaintiffs' lawyers to file lawsuits to force companies into settlement rather than face the expensive and time consuming ''fishing expedition'' discovery process.

From my perspective, it has begun to look like our new law has worked too well. Entrepreneurial trial lawyers

have begun filing similar claims in state court to avoid the new law's safeguards against frivolous and abusive lawsuits. Instead of one set of rules, we now have 51—one for the federal system and 50 different ones in the states.

According to the Securities and Exchange Commission, this migration of claims from federal court to state court ''may be the most significant development in securities litigation'' since the passage of the new law in 1995.

In fact, prior to passage of the new law in 1995, state courts rarely served as the forum for securities fraud lawsuits. Now, more than 25 percent of all securities class actions are brought in state court. A recent Price Waterhouse study found that the average number of state court class actions filed in 1996 (the first year after the new law) grew 335 percent over the 1991–1995 average. In 1997, state court filings were 150 percent greater than the 1991–1995 average.

So, there has been a tremendous increase in state securities fraud class actions. In fact, trial lawyers have testified to Congress that they have an obligation to file securities fraud lawsuits in state court if it provides a more attractive forum for their clients. Believe it or not, plaintiffs' lawyers actually admit that they are attempting to avoid federal law.

The increase in state court lawsuits also has prevented high-tech companies from taking advantage of one of the most significant reforms in the 1995 law—the safe harbor for forward-looking statements. Under the 1995 law, companies which make predictive statements are exempt from lawsuits based on those statements if they meet certain requirements. Companies are reluctant to use the safe harbor and make predictive statements because they fear that such statements could be used against them in state court. This fear stifles the free flow of important information to investors—certainly not a result we intended when we passed the new law.

So today, the Senate will vote to send to the President one set of rules for securities fraud cases. One uniform set of rules is critical for our high-technology community and our capital markets.

Without this legislation, the productivity of the high-tech industry—the fastest growing segment of our economy—will continue to be hamstrung by abusive, lawyer-driven lawsuits. Rather than spend their resources on R&D or creating new jobs, high-tech companies will continue to be forced to spend massive sums fending off frivolous lawsuits. That is unacceptable to this Senator.

When I first worked on this issue, executives at Intel Corporation told me that if they had been hit with a frivolous securities lawsuit early in the company's history, they likely never would have invented the microchip. We should not let that happen to the next generation of Intels.

This new law also will be important to our markets. Our capital markets are the envy of the world, and by definition are national in scope. Information provided by companies to the markets is directed to investors across the United States and throughout the world.

Under the Commerce Clause of the U.S. Constitution, Congress has the authority to regulate in areas affecting ''interstate commerce.'' I cannot imagine a more classic example of what constitutes ''interstate commerce'' than the purchase and sale of securities over a national exchange.

Not only does Congress have the authority to regulate in this area, it clearly is necessary and appropriate. Right now, in an environment where there are 50 different sets of rules, companies must take into account the most onerous state liability rules and tailor their conduct to those rules. If the liability rules in one state make it easier for entrepreneurial lawyers to bring frivolous lawsuits, that affects companies and the information available to investors in all other states. One uniform set of rules will eliminate that problem.

Mr. President, I again want to commend my colleagues for their work on this important bill. I understand that this is a bi-partisan effort, which has the support of the SEC and the Clinton Administration. I also want to thank my colleagues over in the House—Chairman BLILEY, Representative COX, and others who have worked so hard on this issue. This is the culmination of a tremendous amount of work, and I think that our capital markets, high-tech companies and our litigation system will be better served because of it.

Mr. DODD. Mr. President, S. 1260, the Securities Litigation Uniform Standards Act of 1998, is intended to create a uniform national standard for securities fraud class actions involving nationally-traded securities. In advocating enactment of uniform national standards for such actions, I firmly believe that the national standards must be fair ones that adequately protect investors. I hope that Senator D'AMATO, one of the architects of the Banking Committee's substitute, would engage in a colloquy with me on this point.

Mr. D'AMATO. I would be happy to.

Mr. DODD. At a hearing on S. 1260 last October, the Securities and Exchange Commission (SEC) voiced concern over some recent federal district court decisions on the state of mind—or scienter—requirement for pleading fraud that was adopted in the Private Securities Litigation Reform Act of 1995 ('95 Reform Act or PSLRA). According to the SEC, some federal district courts have concluded that the 1995 Reform Act adopted a pleading standard that was more rigorous than the second circuit's, which, at the time of enactment of the PSLRA, had the toughest pleading standards in the nation. Some of these courts have also suggested that the '95 Reform Act changed not only the pleading standard but also the standard for proving the scienter requirement. At the time we enacted the PSLRA, every federal court of appeals in the nation—ten in number—concluded that the scienter requirement could be met by proof of recklessness.

Mr. D'AMATO. I am sympathetic to the SEC's concerns. In acting now to establish uniform national standards, it is important that we make clear our understanding of the standards created by the '95 Reform Act because those are the standards that will apply if S. 1260 is enacted into law. My clear intent in 1995, and my understanding today, is that the PSLRA did not in any way alter the scienter standard in federal securities fraud lawsuits. The '95 Reform Act requires plaintiffs, and I quote, ''to state with particularity facts giving rise to a strong inference that the defendant acted with the required state of mind.'' The '95 Reform Act makes no attempt to alter or define that state of mind. In addition, it was my intent in 1995, and it is my understanding today, that the 1995 Reform Act adopted the pleading standard applied in the second circuit.

Mr. DODD. I agree with the comments of my colleague from New York. I, too, did not intend for the PSLRA to alter the state of mind requirement in securities fraud lawsuits or to adopt a pleading standard more stringent than that of the second circuit. In fact, I specifically stated during the legislative debates preceding and following the President's veto that the 1995 Reform Act adopted the second circuit's pleading standard. This continues to be my understanding and intent today. Ensuring that the scienter standard includes reckless misconduct is critical to investor protection. Creating a higher scienter standard would lessen the incentives for issuers of securities to conduct a full inquiry into potentially troublesome areas and could therefore damage the disclosure process that has made our markets a model for other nations. The U.S. securities markets are the envy of the world precisely because investors at home and abroad have enormous confidence in the way our markets operate. Altering the scienter standard in the way envisioned by some of these district court decisions could be very damaging to that confidence.

Mr. D'AMATO. My friend from Connecticut is correct. The federal securities laws must include a scienter requirement that adequately protects investors. I was surprised and dismayed to learn that some district court decisions had not followed the clear language of the 1995 Reform Act, which is the basis upon which the uniform national standard in today's legislation will be created.

Mr. DODD. It appears that these district courts have misread the language of the 1995 Reform Act's ''Statement of

Managers.'' As I made clear in the legislative debate following the President's veto, however, the disputed language in the Statement of Managers was simply meant to explain that the conference committee omitted the Specter amendment because that amendment did not adequately reflect existing second circuit caselaw on the pleading standard. I can only hope that when the issue reaches the federal courts of appeals, these courts will undertake a more thorough review of the legislative history and correct these decisions. While I trust that the courts will ultimately honor Congress' clear intent, should the Supreme Court eventually find that recklessness no longer suffices to meet the scienter standard, it is my intent to introduce legislation that would explicitly restore recklessness as the pleading and liability standard for federal securities fraud lawsuits. I imagine that I would not be alone in this endeavor, and I ask my good friend from New York whether he would join me in introducing such legislation?

Mr. D'AMATO. I say to the Senator from Connecticut that I would be pleased to work with him to introduce such legislation under those circumstances. I agree that investors must be allowed a means to recover losses caused by reckless misconduct. Should the courts deprive investors of this important protection, such legislation would be in order.

Mr. DODD. I thank the Senator from New York, the chairman of the Banking Committee, for his leadership on this bill and for engaging in this colloquy with me. In proceeding to create uniform national standards while some issues concerning the 1995 Reform Act are still being decided by the courts, we must act based on what we intended and understand the 1995 Reform Act to mean. As a sponsor of both the Senate bill that became the 1995 Reform Act and the bill, S. 1260, that we are debating today, I am glad that we have had this opportunity to clarify how the PSLRA's pleading standards will function as the uniform national standards to be created in S. 1260, the Securities Litigation Uniform Standards Act of 1998.

Mr. SARBANES. Mr. President, I opposed the securities litigation preemption bill when it was before the Senate. I am sorry to see that the conference report now before us is no better. I continue to believe that this bill is a solution in search of a problem, and that it will do more harm than good.

Why do I call this bill a solution in search of a problem? Because there has been no explosion in frivolous lawsuits filed in State court. The supporters of this bill allege that class action lawsuits alleging securities fraud have migrated from Federal court to State court since 1995. In fact, as I have pointed out previously, every study indicates that the number of securities fraud class actions brought in State court increased in 1996 but then declined in 1997.

Why do I say this bill will do more harm than good? Because this bill likely will deprive individual investors of their opportunities to bring their own actions in State court, separate and apart from class actions. Although the bill's supporters suggest that it deals only with class actions, in fact the scope of the bill is much broader. The bill's definition of ''class action'' will pick up, against their will, individuals who choose to file their own lawsuits under State law.

These shortcomings were not remedied in conference. Indeed, the one improvement made to the bill on the Senate floor was weakened in conference. Senators will remember that the Senate adopted an amendment to this bill, offered by Senators BRYAN, JOHNSON, BIDEN, and myself. The amendment exempted State and local governments and their pension funds from the coverage of the bill. The conference report now before us weakens this provision. The conference report contains the House-passed version, which requires that State and local governments be named plaintiffs and authorize participation in the specific suit. This version offers scant protection to State and local officials. The Government Finance Officers Association, Municipal Treasurers Association, National Association of Counties, National League of Cities wrote to us concerning this provision on September 28, 1998. Their letter states, ''many smaller governments and small pension plans are unable to keep abreast of pending actions. Thus, any affirmative steps on their part may not occur simply because they are unaware of the existence of such a case.'' These organizations expressed their strong support for the Senate version of this provision, only to be ignored by the conference committee.

On a positive note, I am pleased that the Statement of the Conference Committee makes clear that neither this bill nor the Litigation Reform Act of 1995 alter the scienter standard applied by the courts under the Securities Exchange Act of 1934. Courts in every Federal circuit in the country hold that reckless conduct constitutes scienter sufficient to establish a violation of section 10(b) and rule 10b–5, the principal antifraud provision of the 1934 act. Chairman Levitt of the SEC has described the recklessness standard as ''critically important'' to ''the integrity of the securities markets.''

For the reasons I have described, a broad coalition of State and local officials, senior citizen groups, labor unions, academics, and consumer groups oppose this bill. They oppose it because it may deprive defrauded investors of remedies. The headline of a column by Ben Stein in the USA Today newspaper of April 28, 1998, summarizes this opposition: ''Investors, beware: Last door to fight fraud could close.'' He wrote of this bill, ''state remedies . . . would simply vanish, and anyone who wanted to sue would have to go into federal court, where . . . impossible standards exist.'' He warned, ''this is serious business for the whole investing public.'' the associations of public officials I have cited are concerned about this bill because they invest taxpayers' funds and public employees' pension funds in securities, and fear they will be left without remedies if they are defrauded. Over two dozen law professors, including such nationally recognized securities law experts as John Coffee, Joel Seligman, and Marc Steinberg, expressed their opposition in a letter earlier this year. They oppose any legislation ''that would deny investors their right to sue for securities fraud under state law.'' Similarly, the New York State Bar Association opposes this bill. A report prepared by the bar association's section on commercial and Federal litigation concluded, ''the existing data does not establish a need for the legislation'' and ''the proposed solution far exceeds any appropriate level of remedy for the perceived problem.'' I would also like to point out the opposition of the American Association of Retired Persons, the Consumer Federation of America, the AFL–CIO, the American Federation of State, County and Municipal Employees, and the United Mine Workers.

I urge Senators, out of caution, to vote against this conference report. The recent bull market was the longest in history, and bull markets tend to conceal investment frauds. Should the decline in stock market values continue, it is likely that frauds will be uncovered. The level of participation in the stock market by America's families is at a record level, both directly through ownership of stocks and indirectly through pension funds and mutual funds. Should this bill be enacted, investors will find their State court remedies eliminated. In too many cases, investors will be left without any effective remedies at all. Such a result can only harm innocent investors, undermine public confidence in the securities markets, and ultimately raise the cost of capital for deserving American businesses.

Mr. President, I ask that an exchange of correspondence between Chairman Levitt and Senators D'AMATO, GRAMM, and DODD be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, March 24, 1998.

HON. ARTHUR LEVITT,
Chairman, Securities and Exchange Commission, Washington, DC.

DEAR CHAIRMAN LEVITT AND MEMBERS OF THE COMMISSION: We are writing to request your views on S.1260, the Securities Litigation Uniform Standards Act of 1997. As you know, our staff has been working closely with the Commission to resolve a number of technical issues that more properly focus the scope of the legislation as introduced. We attach for your review the amendments to the

legislation that we intend to incorporate into the bill at the Banking Committee mark-up.

On a separate but related issue, we are aware of the Commission's long-standing concern with respect to the potential scienter requirements under a national standard for litigation. We understand that this concern arises out of certain district courts' interpretation of the Private Securities Litigation Reform Act of 1995. In that regard, we emphasize that our clear intent in 1995—and our understanding today—was that the PSLRA did not in any way alter the scienter standard in federal securities fraud suits. It was our intent, as we expressly stated during the legislative debate in 1995, particularly during the debate on overriding the President's veto, that the PSLRA adopt the pleading standard applied in the Second Circuit. Indeed, the express language of the statute itself carefully provides that plaintiffs must ''state with particularity facts giving rise to a strong inference that the defendant acted with the required state of mind''; the law makes no attempt to define that state of mind. We intend to restate these facts about the '95 Act in both the legislative history and the floor debate that will accompany S. 1260, should it be favorably reported by the Banking Committee.

Sincerely,

ALFONSE M. D'AMATO,
Chairman, Committee on Banking, Housing & Urban Affairs.
PHIL GRAMM,
Chairman, Subcommittee on Securities.
CHRISTOPHER J. DODD,
Ranking Member, Subcommittee on Securities.

SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, March 24, 1998.

Hon. ALFONSE M. D'AMATO,
Chairman, Committee on Banking, Housing, and Urban Affairs,
U.S. Senate, Washington, DC.
Hon. PHIL GRAMM,
Chairman, Subcommittee on Securities,
U.S. Senate, Washington, DC.
Hon. CHRISTOPHER J. DODD,
Ranking Member, Subcommittee on Securities,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN D'AMATO, CHAIRMAN GRAMM, AND SENATOR DODD: You have requested our views on S. 1260, the Securities Litigation Uniform Standards Act of 1997, and amendments to the legislation which you intend to offer when the bill is marked-up by the Banking Committee. This letter will present the Commission's position on the bill and proposed amendment.*

The purpose of the bill is to help ensure that securities fraud class actions involving certain securities traded on national markets are governed by a single set of uniform standards. While preserving the right of individual investors to bring securities lawsuits wherever they choose, the bill generally provides that class actions can be brought only in federal court where they will be governed by federal law.

As you know, when the Commission testified before the Securities Subcommittee of the Senate Banking Committee in October 1997, we identified several concerns about S. 1260. In particular, we stated that a uniform standard for securities fraud class actions that did not permit investors to recover losses attributable to reckless misconduct would jeopardize the integrity of the securities markets. In light of this profound concern, we were gratified by the language in your letter of today agreeing to restate in S. 1260's legislative history, and in the expected debate on the Senate floor, that the Private Securities Litigation Reform Act of 1995 did not, and was not intended to, alter the well-recognized and critically important scienter standard.

Our October 1997 testimony also pointed out that S. 1260 could be interpreted to preempt certain state corporate governance claims, a consequence that we believed was neither intended nor desirable. In addition, we expressed concern that S. 1260's definition of class action appeared to be unnecessarily broad. We are grateful for your responsiveness to these concerns and believe that the amendments you propose to offer at the Banking Committee mark-up, as attached to your letter, will successfully resolve these issues.

The ongoing dialogue between our staffs has been constructive. The result of this dialogue, we believe, is an improved bill with legislative history that makes clear, by reference to the legislative debate in 1995, that Congress did not alter in any way the recklessness standard when it enacted the Reform Act. This will help to diminish confusion in the courts about the proper interpretation of that Act and add important assurances that the uniform standards provided by S. 1260 will contain this vital investor protection.

We support enactment of S. 1260 with these changes and with this important legislative history.

We appreciate the opportunity to comment on the legislation, and of course remain committed to working with the Committee as S. 1260 moves through the legislative process.

Sincerely,

ARTHUR LEVITT,
Chairman,
ISAAC C. HUNT, Jr.,
Commissioner.
LAURA S. UNGER,
Commissioner.

Mr. THOMAS. Mr. President, I ask unanimous consent that the conference report be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the conference report appear at this point in the RECORD.

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

The conference report was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. 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.

Mr. DASCHLE. Mr. President, I want to congratulate the Presiding Officer for his work in disposing of the conference report on S. 1260, the securities litigation legislation. I appreciate very much that at long last this legislation is now going to become law. This is a bill that is widely supported on both sides of the aisle.

A number of Senators have had a lot of opportunities to take some responsibility for the fact that this passed. I want to cite one Senator, in particular, who deserves great credit. That is the Senator from California, Senator BOXER. She has been a persistent advocate and one who has been extraordinarily engaged in this matter now for some time. I talked with her again this morning because she was calling about the status of the legislation. I was able to report that it was my expectation we would be able to finish our consideration of the bill today, and thanks to the agreement we have been able to reach on both sides of the aisle with Senators who have been as involved as the Senator from Wyoming has, we have now reached this point.

I congratulate all who have had a part to play in our success, and particularly the Senator from California, for her persistence, for her leadership, and the effort she has made to bring us to this point.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

HONORING WALTER SELLERS

Mr. DEWINE. Mr. President, I rise today to pay tribute to the distinguished career of Walter G. Sellers of Wilberforce, Ohio—who has recently completed his term as president of Kiwanis International.

Mr. Sellers is the first African-American to serve as Kiwanis International President. For 32 years, he was a member of the Kiwanis Club in Xenia, Ohio. In 1990, he was elected to the Kiwanis International Board of Trustees. He served as Vice President and Treasurer before becoming President.

All Ohioans are proud of Mr. Sellers' outstanding stewardship of one of the largest service clubs in the world. But we also know that his service to our community extends beyond his work with the Kiwanis organization. He has served as President of the Xenia Board of Education and President of the Ohio School Boards Association. And he has done great work on many other public-service boards in Ohio.

Walter Sellers has dedicated his life to improving the lives of the people of Ohio, especially in the field of education. We are all extremely grateful for his efforts—and I ask my colleagues to join me in wishing him all the best in his next endeavors.

Mr. President, on a personal note, I have known Walt Sellers for many, many years as a community leader in my home county of Greene County. I also have known Walt for the great work he has done at Central State. I know when I served on the Board of Trustees at Central State in the late

*We understand that Commissioner Johnson will write separately to express his differing views. Commissioner Carey is not participating.

1970s, Walter was there to help guide. So he has been a great asset to that wonderful institution as well.

STAFF TRIBUTE TO SENATOR JOHN GLENN

Mr. DEWINE. Mr. President, as my colleagues well know, my distinguished colleague from Ohio, JOHN GLENN, is busily preparing for his extraordinary and inspirational return to space. As our best wishes are with him and his wife Annie as they begin the next chapter in their wonderful lives, I would like to take a moment to read a fine tribute to Senator GLENN by those who also dedicated their lives to public service—as members of JOHN GLENN's staff. I am honored to read the following letter addressed to him:

OCTOBER 9, 1998.

The Hon. JOHN GLENN,
U.S. Senator, Washington, DC.

DEAR SENATOR: As your four terms in the United States Senate come to a close and as you prepare to return to space for the first time since your historic 1962 orbital flight, those who have had the honor and the privilege to serve as members of your Senate staff would like to express our gratitude to you.

Although there have been many staff changes over the years, you have allowed us to pursue extraordinary careers in government and experience opportunities that few can ever know. Some of us have been on your staff since 1975 and many more have served well beyond the average tenure. Beyond our professional careers, you and Annie have made us feel welcome. You generously shared your time with us as our families and children have grown. Your commitment to family is evident in your 55 years of marriage to Annie and that example must have contributed to the eight office marriages in which both spouses first met as staff members.

We have always been proud to assist a public servant who is held in such high regard. We witnessed that admiration and respect firsthand as we accompanied you in your travels throughout the country and around the world and when we see the many people who come to your offices to conduct business.

Your patriotic service in war and peace, in space and in the Senate is an inspiration to us. While you remind us that there may be no cure for the common birthday, you have proven time and again that with determination and hard work dreams do come true.

Thank you for helping our dreams come true, too. Godspeed John Glenn.

Mary Jane Veno, 1975; Christine S. McCreary, 1975; Patricia J. Buckheit, 1975; Ernestine J. Hunter, 1975; Barbara Perry, 1975; Diane Lifsey, 1975; Kathy Connolly, 1975; Linda K. Dillon, 1977; Dale Butland, 1980; Peggy McCauley, 1980.

Ron Grimes, 1984; Kathleen Long, 1984; Don Mitchell, 1984; Michael Slater, 1985; Rosemary Matthews, 1985; Peter McAlister, 1987; Jack Sparks, 1989; Micole C. Dauray, 1989; Shannon L. Watson, 1989; Tonya McKirgan, 1990.

Suzanne McKenna, 1990; Sebastian O'Kelly, 1990; Vicki Butland, 1991; Nathan Coffman, 1992; Holly Koerber, 1993; Mike Entinghe, 1993; Vickie Eckard, 1993; Bryce Level, 1993; J.P. Stevens, 1994.

Kevin Cooper, 1995; Alberta Easter, 1995; Holly Kinnamon, 1996; Jan Papez, 1995; Ayris Price, 1996; David McCain, 1997; Yolanda Brock, 1997; Jill Jacobs, 1997; Dan Emerine, 1997.

Marc Saint Louis, 1997; Coleen Mason, 1997; Rochelle Sturtevant, 1997; Elizabeth Stein, 1997; John Hoctor, 1997; Rob Mosher, 1997; Mary Goldberg, 1998; Maggie Diaz, 1998; Christopher Davis, 1998.

Mr. President, all of us share the sentiments expressed in this heart-warming tribute. It is a reminder of how fortunate we are to have the opportunity to work with dedicated staff who share our pride in representing our fellow citizens in the United States Senate.

ASTHMA

Mr. DEWINE. Mr. President, I rise today to talk about a landmark report released a week ago about asthma, and about how well we as a Nation are dealing with it. The report, called ''Asthma in America'', frankly concludes that we are doing a poor job. Asthma is a disease that we know how to treat and that we know how to manage. But every year, thousands of Americans die from asthma—and millions more have to be rushed to hospitals to treat emergency asthma symptoms. Let me repeat—we have people dying from asthma—even though we know how to treat this disease. This really is something that we as a nation must address.

Mr. President, there's been enough public attention about asthma that I would hope we all know the basics by now. But let me restate some basic facts. Asthma is a chronic lung disease caused by inflammation of the lower airways. During an asthma attack, these airways narrow—making it difficult and sometimes impossible to breathe.

Nearly 15 million Americans have asthma—and 5 million of them are children. for some reason, the prevalence of asthma is rising—in the last two decades, the number of asthma cases have doubled.

The good news for the 15 million Americans with asthma is that we know a lot about how to treat and manage the disease. We know how to handle asthma attacks once they occur. The most common way, of course, is to use one of the types of asthma inhalers, inhalers such as the one I carry with me just about every day. Millions of Americans use this type of inhaler. Importantly, we now know a lot about how to prevent asthma attacks. Through drug therapy and through avoiding many well-known triggers that cause asthma attacks, we know enough to make sure these attacks and other complications from asthma are rare indeed. In fact, our knowledge is comprehensive enough that the National Institutes of Health have set some ambitious—but reachable—goals for asthma treatment. For example, one of the NIH goals is zero missed days of school or work. Given what we know, we should be able to reach this and the other goals NIH has set. At a minimum, we should be able to come close.

But the bad news for Americans with asthma is that we are not managing this disease well—and we are not coming anywhere close to meeting the NIH goals. This is the bad news that was spelled out very clearly in the Asthma in America report. Let me go over a few of the findings from the report.

The NIH goal is that Americans with asthma miss zero days of work or school. But the report tells us that 49 percent of children with asthma and 25 percent of adults with asthma missed school or work because of the disease last year.

The NIH goal is that the sleep of people with asthma should not be disrupted by difficulty to breathe. But the report tells us that almost one in three asthma patients awaken with breathing problems at least once a week.

The NIH goal is that we have only a small need for emergency room visits or hospitalizations due to asthma attacks. But the report tells us that nearly six million Americans were hospitalized, treated in emergency rooms, or required other urgent care for asthma in the last year. One out of every three children with asthma—about 1.5 million of them—had to go to an emergency room because of asthma.

The NIH goal is that individuals with asthma should be able to maintain normal activity levels. But the Asthma in America survey shows that 48 percent of asthma patients say that asthma limits their ability to participate in sports and recreational activities, and 36 percent have difficulty maintaining their usual levels of physical activity.

Mr. President, all of this is simply unacceptable. If we know how to do better, we must do better. As a nation, we need to seriously evaluate why these shortcomings in the treatment of asthma remain—despite the fact that we do know better. All of us—policymakers; doctors; health insurance companies and HMOs; people with asthma and parents of children with asthma—all of us need to look at this report and try to figure out what's going wrong.

The report released Tuesday should be viewed as a wake-up call. We knew there were some problems with how well we deal with asthma, but I don't think anybody realized it was this bad. We must and can do better.

For example, Asthma in America suggests that one of the reasons we are not meeting the national goals for asthma is lack of knowledge among patients. Many of the survey participants were not able to state what the underlying cause of asthma is, how asthma medication should be used, and how to prevent asthma attacks from occurring. It is clear that we should be doing a better job of educating patients, their families and health care providers about the importance of properly managing asthma.

As a United States Senator, as an American with asthma, and as the father whose children have had asthma, I intend to look at this issue to see what I can do personally and what the federal government can do to address the shortcomings in asthma treatment this

report reveals. We only have a day or two left in the 105th Congress. But if we need legislation—if we need greater resources to deal with this problem—I will do everything I can to make sure the 106th Congress addresses this issue and does what is necessary.

STRENGTHENING ABUSE AND NEGLECT COURTS ACT OF 1998

Mr. DEWINE. Mr. President, I rise today to introduce a bill that will help protect America's abused children. The bill is called the Strengthening Abuse and Neglect Courts Act of 1998. I am very proud to be joined in this effort by Senators ROCKEFELLER, LANDRIEU, and CHAFEE. I realize that time is running very short in this Congress, so my cosponsors and I will look to move this legislation during the next Congress.

Mr. President, last year Congress passed a historic piece of legislation called the Adoption and Safe Families Act. The purpose of that bill was to encourage safe and permanent family placements for abused and neglected children—and to decrease the amount of time they have to stay in the foster care system.

One of the requirements of that new law is more timely decisionmaking by the courts with regard to adoption and other permanent placements for children. The time-lines instituted by the Adoption and Safe Families Act, however, have increased the pressure on already overburdened courts that deal with abused and neglected children.

If we provide assistance to the courts—so that administrative efficiency and effectiveness are improved—the goals of last year's important legislation will be more readily achieved. Improved courts will help more children find permanent homes more quickly.

That is the purpose of the bill I am introducing today. While acknowledging that abuse and neglect courts are already committed to quality administration of justice, this bill would further strengthen the efficiency and effectiveness of the courts in the following five areas:

(1) Grants to State courts and local courts to automate data collection and tracking of proceedings in abuse and neglect courts. This would improve administrative efficiency and help evaluate overall performance—and it would also develop computer systems that can be replicated in other jurisdictions.

(2) Grants to reduce pending backlogs of abuse and neglect cases. These grants will go to courts in order to reduce and hopefully eliminate the backlog of cases awaiting disposition. The courts are given the flexibility to determine what method to use to reduce their backlog, but suggestions include establishing night court sessions, hiring additional court personnel or extending the courts operating hours.

(3) Development of ''good practice'' standards for agency attorneys. This would improve the quality of representation for children in the abuse and neglect system to ensure that their best interests are considered.

(4) Improved training (and cross-trainings) for judges, abuse and neglect attorneys, and court personnel. In this, as in so many areas, it's crucial that people with a special task receive special training. This bill would partially reimburse States for training of judges, judicial personnel, agency attorney's and attorneys representing children and parents in abuse and neglect proceedings. It would also help fund cross-training between court and agency.

(5) Technical assistance for the development of and education on ''good practice'' standards for attorneys practicing in abuse and neglect proceedings. The bill authorizes technical assistance funding to support abuse and neglect courts in the implementation of the Adoption and Safe Families Act.

(5) Expansion of the Court Appointed Special Advocate (CASA) Program into underserved areas. The CASA Program has proven to be effective in ensuring that children in the foster care system are protected and receive appropriate services. This bill would help CASA expand its programs in the 15 largest urban areas and develop multi-jurisdictional programs in under-served rural areas, so that more children receive the benefit of their services.

When we passed the Adoption and Safe Families Act last year, I said that the bill is a good start, but that Congress will have to do more to make sure that every child has the opportunity to live in a safe, stable, loving and permanent home. One of the essential ingredients in this process is an efficiently operating court system. After all, that's where a lot of delays occur—for children who need permanent homes. The courts have been neglected throughout the years and while other areas of child welfare have been emphasized and funded, the courts have been left out of the process almost entirely.

It is my hope that with the introduction of this bill, we will start to change that syndrome—and make sure that courts will finally receive the funding and training they need to make a positive difference in the lives of some of America's most at-risk young people.

The PRESIDING OFFICER. The Senator is reminded of the 5-minute rule.

Mr. DEWINE. I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

RETIREMENT OF DAN COATS

Mr. GORTON. Mr. President, at this desk on the floor of the Senate, I am surrounded by Indiana—the senior Senator from Indiana on my left, the junior Senator from Indiana on my right. Together, they have come to reflect the character of their sober, peaceful, and productive section of middle America. So close are the two Senators to one another, almost alone among Members of this body, they share offices in the State of Indiana, they share a strong and calm temperament, and they share a commitment to the people they represent and to the people of the United States.

When this Congress adjourns in a few short hours, however, we will be losing one of those Senators, DAN COATS. DAN COATS has grown in wisdom and in the respect that his fellow Senators have for him in each of the 10 years during which he has served in the Senate—10 years that seem to me, in retrospect, to be all too short. With DAN COATS, what you see is what you get, a man who lives and defends and projects solid American values, a love of family, a love of country, a love of God, a man who works hard, a man whose convictions are strong and unshakeable but who combines with those convictions a willingness to listen to views different from his own and to reach accommodations on matters of policy when those accommodations do not shake his solid philosophical foundation.

During the course of his 10 years in the Senate, DAN COATS has become a good friend. I do not believe I can say that he is my closest friend in the Senate, nor I his. I can say, however, that I will greatly miss his calm good humor, his ability to get to the central point of any debate over policy or political philosophy, his rich dedication to the Constitution of the United States, to this body, and to the friends he has made in this body.

We are only 100 men and women in the Senate, Mr. President. We see a great deal of one another, and we see ourselves and our colleagues under great stress and under high pressures. As a consequence, it is very difficult for any of us to hide the vital features of our character or our personality from one another. DAN COATS, I must say, has never attempted to hide anything about his character or about his personality, and with me and with all of us it has worn well. He is the kind of individual whom you like and respect more and more with each passing day, and it is for just that reason that even if this Congress ends up by accomplishing many of the purposes that each of us as individuals set out to accomplish at the beginning of this Congress, we will still go home with an empty heart, knowing that those of us who return in January will return without the daily advice, counsel, and friendship of a magnificent U.S. Senator, DAN COATS of Indiana.

CHILD NUTRITION REAUTHORIZATION

Mr. LEAHY. Mr. President, there is an old saying that ''where there is a will, there is a way.'' That is very true of this Congress.

Congress can work together when it wants to get a job done, when Members focus on resolving issues rather than sound bites for the nightly news. I was pleased for example, to have worked with Senators BENNETT, HATCH, DODD,

and many other on complex computer issues in the Y2K readiness bill, which we were able to pass without objection in the Senate.

It is unfortunate that sometimes when Congress quietly and effectively gets its job done, there is little press interest. So, for a moment I want to draw attention to the child nutrition bill, which Congress passed by working together.

I want to pull everyone's attention away from the maelstrom to thank Members of Congress on both sides of the aisle and their staffs for a job well done on the child nutrition bill.

At conference with the House, I asked that this child nutrition bill be named in honor of Congressman BILL GOODLING. The motion was immediately and unanimously accepted. For years he has worked to improve these programs. This will be his last reauthorization effort and we will miss his touch and his leadership the next time around.

I want to also thank Lynn Selmser who has been Chairman GOODLING's chief nutrition advisor for years. She has worked hard on these issues and deserves a great deal of credit.

The Democratic conferees, Congressman MARTINEZ of California and Congressman BILL CLAY of Missouri, and their staffs, greatly contributed to this effort and kept the interests of children front and center.

On the Senate side we worked together as a team. That is an even greater compliment than normal considering all the other issues facing the country.

Of course, Chairman LUGAR set the bipartisan course and carefully included all of us in the process. He has extended to me every courtesy and is a great chairman who is tough but fair to all Members. His chief counsel, Dave Johnson, has done, as he has always done in the past, an outstanding job from a legal and policy standpoint.

I switched places with my good friend Senator HARKIN a couple years ago. I took his job as ranking member on the nutrition subcommittee and he took mine as ranking member on the full Agriculture Committee. Senator HARKIN is a fighter for children and these programs and Iowa should be proud of his accomplishments.

Mark Halverson, his chief counsel on the committee, has been his nutrition advisor for years and handles these matter with great skill.

Senator MCCONNELL is chairman of the nutrition subcommittee and we have worked together for years to help improve and strengthen these programs. I was pleased that the Kentucky and Iowa child care pilot projects were made permanent by this bill. Dave Hovermale has done a superb job on these issues.

The third Republican Conferee, Senator COCHRAN, is also the Chairman of the Agriculture Subcommittee of the Appropriations Committee. That is a lot of clout and it was well used to strengthen these child nutrition programs. I want to compliment Senator COCHRAN's agriculture staff person, Hunt Shipman, who has worked on these issues for years and has done a tremendous job. Senator COCHRAN, with my full support when I was chairman, helped to create the School Food Service Management Institute. I am pleased that this bill increases funding for that Institute and makes it permanent.

I want to also thank Ed Barron of my staff who has advised me on nutrition issues and legislation for almost twelve years. I know that Senators on both sides of the aisle seek his advice on nutrition legislation.

I also want to thank Michelle Barrett, who is on my staff, for helping out regarding these nutrition issues.

USDA Food, Nutrition and Consumer Services Under Secretary Shirley Watkins has done a marvelous job in promoting child nutrition and getting these programs and Department of Agriculture moving forward. The President made a marvelous choice in sending her name to the Senate. I greatly appreciate her leadership and dedication. Her deputy, Julie Paradis, distinguished herself for years as a lead nutrition staff person for the House Agriculture Committee. She has done a wonderful job at USDA and I greatly enjoy working with her. USDA's ''Chairman's Hunger Initiative for Learning and Development'' contains important recommendations to the Congress and the country and was helpful in this legislative process.

Also, I have appreciated the valuable input provided by the American School Food Service Association and their counsel Marshall Matz. Their Legislative Issue Papers and careful analysis of these matters makes our job easier.

The Food Research and Action Center helps galvanize grassroots supports for these nutrition efforts. Their excellent report, ''Schools Out, Let's Eat,'' on the Child and Adult Care Food Program presented excellent examples and information.

I appreciate the efforts of my fellow Vermonter Dr. Dick Narkewitz who was chair of a major WIC advisory panel this year. I have always valued his advice and counsel on WIC and other infant health issues.

I also want to mention the valuable assistance of the National Association of WIC Directors and their executive director Doug Greenaway. They have always made solid recommendations to the Congress.

The Food and Nutrition Service is an extremely well run agency and has very dedicated, professional and intelligent staff who do an outstanding job for this nation. Simple stated, FNS is top-notch.

Also, Joe Richardson and Jean Jones of the CRS have provided Congress with extremely helpful information and advice over the year—24 hours a day if needed. I know that Members on both sides of the aisle have the highest regard for them.

Also, working with Chairman LUGAR on nutrition issues is Danny Spellacy who is a rising star within the ranks.

Every four or five years the Congress takes a very careful look at its child nutrition programs. These programs are important to America's children and thus are important to America's future. Many teachers tell me they were surprised to learn how many children come to school hungry. There could be many reasons for this: extreme poverty, a dysfunctional family, child abuse or other nightmares heaped on young children.

Ed Barron's mother, Dorothy Barron, works for the Florida City Elementary School in Florida City, Florida. This school is in the last town before you hit Key Largo. She advises that many of the students come to school hungry. The school meals programs are essential for these children to be able to concentrate on learning.

Without school breakfast and lunch programs, many children would never stand a chance because they would just get hungrier during the school day. This bill will improve these programs and make it easier for school food services to provide lunches and breakfasts. The bill also includes a provision from a bill introduced by Senator JOHNSON which would authorize a study of the benefits of providing ''universal'' breakfasts to grade school children.

The idea, and it is a good one, is to test how offering breakfasts to all children affects academic performance, test scores, truancy, tardiness and other matters. Preliminary studies have shown positive effects. While this bill does not provide mandatory funding for this study as was in the Senate bill, it does authorize such funding.

The WIC program is another great idea and program which is continued by the bill. Congress has rallied behind this program for a very good reason. Research shows that enhanced nutritional assistance for pregnant women greatly increases the health of newborn children. Indeed, participation in WIC was shown to greatly reduce the incidence of newborns placed in neonatal intensive care.

WIC not only improves the health of those children but greatly reduces federal costs associated with Medicaid payments for that intensive care. The Congress has worked together to fund the WIC program and to improve its operation. Chairman COCHRAN and the ranking Member, Senator BUMPERS, of the Agriculture Appropriations subcommittee are to be commended for their continuous support for these programs.

I am very proud to have worked with my colleagues to use cost containment to put well over one million additional pregnant women, infants and children on the program each year at no extra cost to taxpayers. We did this through an extremely simple idea—the government was required to buy infant formula at the lowest cost possible, not at retail cost. This saves over $1.5 billion

per year. This reauthorization bill continues and strengthens that cost containment language.

The WIC Farmers' Market Program is also continued and expanded in this bill. Mary Carlson was president of the National Association of Farmers' Market Nutrition Programs this year and helped me on this reauthorization effort. I appreciate that she flew down from Vermont to Washington to help with some of the discussions with staff. We were able to include some of her suggestions in this bill. Also, on the appropriations front, it does appear that Congress will provide $15 million for the WIC Farmers' Market program this year. On the national level, this new funding level will allow more states to participate in this highly successful program.

I am very proud that the WIC Farmers' Market Program, called Farm-to-Family in Vermont, got its start in legislation that I introduced in the late 1980s. The program promotes consumption of fresh produce among low income families participating in WIC, helps farmers, helps communities set up farmers' markets, and helps teach families how to best use fresh fruits and vegetables. Fruits, vegetables, and other farm products provide a healthy supplement to the dairy products, juices, and fortified cereals included in the WIC package.

In addition to being strongly liked by participating families, farmers also like this program. A USDA study showed that WIC recipients continue to buy at farmer's markets long after they stopped getting WIC benefits. In Vermont, more than 200 farmers currently participate in the WIC Farmers' Market Program.

A participating farmer in New Hampshire said that ''the program enabled us to keep farming. Without it we would have been forced to stop.'' A Massachusetts farmer said: ''it made it possible for our small town farmers' market to get off the ground during its first year.''

Mary Carlson has advised me that this program has had a significant role in helping Vermont communities set up farmers' markets. In Vermont, nearly 5,000 families participate in the program at over 30 farmers' markets. This program leverages a very modest federal investment and helps farmers, farmers' markets and families throughout the nation.

This bill also expands the reach of a nutrition program that is very important for homeless children living in emergency shelters. I hosted a hearing on this matter in 1994 and His Eminence Anthony Cardinal Bevilaqua of Philadelphia testified about the need for this program. It provides food for young children living in homeless shelters and has been of great help to agencies and communities facing homelessness among children. The bill blends the food program for homeless children into the child care food program. I anticipate that this will mean that all current shelters will be able to continue to participate and that additional children could be served.

I take a great personal interest in this program and urge the Department to provide its benefits to as many needy children as possible. His Eminence sent me a letter and survey results regarding this program late last year.

I will request a report from USDA on how this provision is implemented during the next year and will contact sponsors including the Archdiocese of Philadelphia to make sure the program continues to operate effectively. I appreciate the interest of USDA in this program.

The reauthorization bill also expands after-school child care programs allowing parents to find and keep jobs. These programs are becoming more and more important in Vermont and around the nation and I am very pleased that this bill provides additional funding and makes significant improvements in this area.

The bill also expands the summer food service program by making it easier for sponsors to serve more children. Robert Dostis, with the Vermont Campaign to End Childhood Hunger, has done a wonderful job in Vermont promoting this program as well as the school breakfast program. Their ''Report on Childhood Hunger in Vermont'' brought these child nutrition issues to life. The bill expands the ability of churches and other nonprofit organizations to offer summer food service program meals to more children.

Jo Busha, head of Vermont's child nutrition programs, has been recognized for her tremendous efforts in getting more schools to offer a breakfast program. I salute her and Robert Dostis for their work on behalf of Vermont's children.

I know that the Vermont School Food Service Association will be pleased that this bill will reduce red tape and burdensome school lunch rules. The bill lets them get their job done.

The bill continues a WIC breast feeding promotion program to encourage breast feeding instead of the use of infant formula. Working with Senator HARKIN, we were able to include the program in the 1989 reauthorization of child nutrition programs.

The bill also continues a program requested by former Majority Leader Robert Dole. This program helps assist children with disabilities to participate in the school lunch program and is a very good idea. I always appreciated Senator Dole's counsel on these issues.

The reauthorization bill also continues funding for the national information clearinghouse which provides local communities and states with information about gleaning, food sources, and programs that help communities and families help themselves. This clearinghouse has worked out very well and I want to commend World Hunger Year for the tremendous job they have done with this program. I know that my good friend Chairman BEN GILMAN has been a long time friend of World Hunger Year and that he, and many others, appreciate what they have done over the years.

The bill also extends federal funding for local programs which integrate nutrition and farming education into the regular school curricula. This program is scored as a mandatory program and I certainly hope that USDA actually funds it. I have suggested more than once that USDA consider the Foodworks: Common Roots program in New York and Vermont. They have been commended in newspaper accounts and by the local principals as a great example of schools integrating the teaching of nutrition and farming into the regular school curricula. For example, students would design and plant a garden with seeds for food grown in colonial days. Young children would use simple math to plot out where to place seeds while advanced classes might mathematically describe the spiral of corn kernels on the cob.

Children could be taught about historic farming techniques and how they are relevant today. The hands on gardening experience brings learning to life an helps make math, science and history more interesting.

I introduced a child nutrition bill last year—the Child Nutrition Initiatives Act, S. 1556—that contained a number of proposals that are included in this bill. Most important—in light of recent efforts to encourage work—are the after-school, and the child care, food programs. Adequate after-school care for school-age children is critical to permit parents to work. More schools should be able to offer after-school food programs.

I also cosponsored Senator LUGAR's child nutrition reauthorization bill. I hope that some time in the future we can provide assured, mandatory funding for the WIC farmers' market program as I proposed in my bill. By specifying exact annual caps we could assure funding for years while, at the same time, exercise complete control over the size of the program. This approach follows a recommendation of the National Association of Farmers' Market Nutrition Programs.

I had also hoped that this reauthorization would provide additional financial support to help cover transportation costs for every rural areas—75 cents per child, per day—for the summer food service program. S. 1556 also would have helped create more summer food service programs, by providing grants to cover one-time costs associated with setting up a summer food service program.

I will work in the future to include some of these ideas into the next reauthorization bill. I now look forward to the President signing this important bill into law.

RETIREMENT OF SENATOR DALE BUMPERS

Mr. SESSIONS. Mr. President, I have been honored to have the opportunity to hear Senator BUMPERS share his perspective on public service and his personal odyssey. His story is the story of the South—depression, hardship, tough economic times, small businesses, and the son of a shopkeeper. I, too, am the son of a storekeeper and can understand and identify the qualities that have shaped Senator BUMPERS' life.

I have had the opportunity to personally observe his service in this body for just 2 years, but in that short time I have been able to appreciate his many excellent qualities. He does indeed reflect the character of the people of Arkansas. He is part of that State; he comes from its people; and, he shares its values. As an attorney who has tried many cases, I have had the pleasure to see him work on the floor of the Senate. He is articulate, able, well prepared, logical, and persuasive. He states his case very effectively. I can just imagine him before a jury in Arkansas as he boils down complex issues to their essence and appeals to their sense of values. I can see just why people refer to him as an outstanding lawyer. Many denigrate that profession, and I have been a strong critic of some of the abuses of the legal profession, but the skills possessed by the Senator from Arkansas are those skills that make a lawyer most valuable. He cuts straight to the heart of the matter in words that are comprehensible by all.

Again, I am pleased to have served with the distinguished senior Senator from Arkansas and I wish him well in his future service. He has conducted himself with high standards and has not done anything to bring discredit on this body. He has stood courageously, alone if necessary, for the values that he believed in. There is no doubt, I say to the children and grandchildren of the distinguished Senator from Arkansas, that your father and grandfather has been an able and noble practitioner in this great deliberative body of the greatest nation in the history of the world.

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.

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

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

MESSAGES FROM THE HOUSE

At 12:22 p.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate.

H.R. 2349. An act to redesignate the Federal building located at 10301 South Compton Avenue, in Los Angeles, California, and known as the Watts Finance Office, as the ''August F. Hawkins Post Office Building.''

H.R. 3055. An act to deem the activities of the Miccosukee Tribe on the Miccosukee Reserved Area to be consistent with the purposes of the Everglades National park, and for other purposes.

H.R. 3461. An act to approve a governing international fishery agreement between the United States and the Republic of Poland, and for other purposes.

H.R. 3888. An act to amend the Communications Act of 1934 to improve the protection of consumers against ''slamming'' by telecommunications carriers, and for other purposes.

H.R. 4326. An act to transfer administrative jurisdiction over certain Federal lands located within or adjacent to the Rogue River National Forest and to clarify the authority of the Bureau of Land Management to sell and exchange other Federal lands in Oregon.

H.R. 4757. An act to designate the North/Sea Center as the Dante B. Fascell North-South Center.

The message also announced that the House has passed the following bills, without amendment:

S. 538. An act to authorize the Secretary of the Interior to convey certain facilities of the Minidoka project to the Burley Irrigation District, and for other purposes.

S. 744. An act to authorize the construction of the Fall River Water Users District Rural Water System and authorize financial assistance to the Fall River Water Users District, a nonprofit corporation, in the planning and construction of water supply system, and for other purposes.

S. 2524. An act to codify without substantive change laws related to Patriotic and National Observances, Ceremonies, and Organizations and to improve the United States Code.

The message further announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 2117. An act to authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System, Inc., non-profit corporation, in the planning and construction of the water supply system, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 3494) to amend title 18, United States Code, with respect to violent sex crimes against children, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2281) to amend title 17, United States Code, to implement the World Intellectual Property Organization Copyright Treaty and Performances and Phonograms Treaty, and for other purposes.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 1659. An act to provide for the expeditious completion of the acquisition of private mineral interests with the Mount St. Helens National Volcanic Monument mandated by the 1982 Act that established the Monument, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. THURMOND).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

H.R. 1903. A bill to amend the National Institute of Standards and Technology Act to enhance the ability of the National Institute of Standards and Technology to improve computer security, and for other purposes (Rept. No. 105–412).

ADDITIONAL COSPONSORS

S. 2222

At the request of Mr. GRASSLEY, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 2222, a bill to amend title XVIII of the Social Security Act to repeal the financial limitation on rehabilitation services under part B of the Medicare Program.

S. 2610

At the request of Mr. LIEBERMAN, the names of the Senator from New York [Mr. MOYNIHAN], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 2610, a bill to amend the Clean Air to repeal the grandfather status for electric utility units.

AMENDMENTS SUBMITTED

MIGRATORY BIRD TREATY REFORM ACT OF 1998

CHAFEE AMENDMENT NO. 3819

Mr. DEWINE (for Mr. CHAFEE) proposed an amendment to the bill (H.R. 2863) to amend the Migratory Bird Treaty Act to clarify restrictions under that act on baiting, to facilitate acquisition of migratory bird habitat, and for other purposes; as follows:

On page 1, strike line 3 and insert the following:

TITLE I—MIGRATORY BIRD TREATY REFORM

SEC. 101. SHORT TITLE.

On page 1, line 4, strike ''Act'' and insert ''title''.

On page 2, line 1, strike ''**sec. 2.**'' and insert ''**sec. 102.**''.

On page 2, line 16, strike ''**sec. 3.**'' and insert ''**sec. 103.**''.

On page 3, line 8, strike ''**sec. 4.**'' and insert ''**sec. 104.**''.

At the end of the bill, add the following:

TITLE II—NATIONAL WILDLIFE REFUGE SYSTEM IMPROVEMENT

SEC. 201. SHORT TITLE.

This title may be cited as the ''National Wildlife Refuge System Improvement Act of 1998''.

SEC. 202. UPPER MISSISSIPPI RIVER NATIONAL WILDLIFE AND FISH REFUGE.

(a) IN GENERAL.—In accordance with section 4(a)(5) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)(5)), there are transferred to the Corps of Engineers, without reimbursement, approximately 37.36 acres of land of the Upper Mississippi River Wildlife and Fish Refuge in the State of Minnesota, as designated on the map entitled ''Upper Mississippi National Wildlife and Fish Refuge lands transferred to Corps of Engineers'', dated January 1998, and available, with accompanying legal descriptions of the land, for inspection in appropriate offices of the United States Fish and Wildlife Service.

(b) CONFORMING AMENDMENTS.—The first section and section 2 of the Upper Mississippi River Wild Life and Fish Refuge Act (16 U.S.C. 721, 722) are amended by striking ''Upper Mississippi River Wild Life and Fish Refuge'' each place it appears and inserting ''Upper Mississippi River National Wildlife and Fish Refuge''.

SEC. 203. KILLCOHOOK COORDINATION AREA.

(a) IN GENERAL.—In accordance with section 4(a)(5) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)(5)), the jurisdiction of the United States Fish and Wildlife Service over approximately 1,439.26 acres of land in the States of New Jersey and Delaware, known as the ''Killcohook Coordination Area'', as established by Executive Order No. 6582, issued February 3, 1934, and Executive Order No. 8648, issued January 23, 1941, is terminated.

(b) EXECUTIVE ORDERS.—Executive Order No. 6582, issued February 3, 1934, and Executive Order No. 8648, issued January 23, 1941, are revoked.

SEC. 204. LAKE ELSIE NATIONAL WILDLIFE REFUGE.

(a) IN GENERAL.—In accordance with section 4(a)(5) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)(5)), the jurisdiction of the United States Fish and Wildlife Service over approximately 634.7 acres of land and water in Richland County, North Dakota, known as the ''Lake Elsie National Wildlife Refuge'', as established by Executive Order No. 8152, issued June 12, 1939, is terminated.

(b) EXECUTIVE ORDER.—Executive Order No. 8152, issued June 12, 1939, is revoked.

SEC. 205. KLAMATH FOREST NATIONAL WILDLIFE REFUGE.

Section 28 of the Act of August 13, 1954 (25 U.S.C. 564w–1), is amended in subsections (f) and (g) by striking ''Klamath Forest National Wildlife Refuge'' each place it appears and inserting ''Klamath Marsh National Wildlife Refuge''.

SEC. 206. VIOLATION OF NATIONAL WILDLIFE REFUGE SYSTEM ADMINISTRATION ACT.

Section 4 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd) is amended—

(1) in the first sentence of subsection (c), by striking ''knowingly''; and

(2) in subsection (f)—

(A) by striking ''(f) Any'' and inserting the following:

''(f) PENALTIES.—

''(1) KNOWING VIOLATIONS.—Any'';

(B) by inserting ''knowingly'' after ''who''; and

(C) by adding at the end the following:

''(2) OTHER VIOLATIONS.—Any person who otherwise violates or fails to comply with any of the provisions of this Act (including a regulation issued under this Act) shall be fined under title 18, United States Code, or imprisoned not more than 180 days, or both.''.

TITLE III—WETLANDS AND WILDLIFE ENHANCEMENT

SEC. 301. SHORT TITLE.

This title may be cited as the ''Wetlands and Wildlife Enhancement Act of 1998''.

SEC. 302. REAUTHORIZATION OF NORTH AMERICAN WETLANDS CONSERVATION ACT.

Section 7(c) of the North American Wetlands Conservation Act (16 U.S.C. 4406(c)) is amended by striking ''not to exceed'' and all that follows and inserting ''not to exceed $30,000,000 for each of fiscal years 1999 through 2003.''.

SEC. 303. REAUTHORIZATION OF PARTNERSHIPS FOR WILDLIFE ACT.

Section 7105(h) of the Partnerships for Wildlife Act (16 U.S.C. 3744(h)) is amended by striking ''for each of fiscal years'' and all that follows and inserting ''not to exceed $6,250,000 for each of fiscal years 1999 through 2003.''.

SEC. 304. MEMBERSHIP OF THE NORTH AMERICAN WETLANDS CONSERVATION COUNCIL.

(a) IN GENERAL.—Notwithstanding section 4(a)(1)(D) of the North American Wetlands Conservation Act (16 U.S.C. 4403(a)(1)(D)), during the period of 1999 through 2002, the membership of the North American Wetlands Conservation Council under section 4(a)(1)(D) of that Act shall consist of—

(1) 1 individual who shall be the Group Manager for Conservation Programs of Ducks Unlimited, Inc. and who shall serve for 1 term of 3 years beginning in 1999; and

(2) 2 individuals who shall be appointed by the Secretary of the Interior in accordance with section 4 of that Act and who shall each represent a different organization described in section 4(a)(1)(D) of that Act.

(b) PUBLICATION OF POLICY.—Not later than June 30, 1999, the Secretary of the Interior shall publish in the Federal Register, after notice and opportunity for public comment, a policy for making appointments under section 4(a)(1)(D) of the North American Wetlands Conservation Act (16 U.S.C. 4403(a)(1)(D)).

TITLE IV—RHINOCEROS AND TIGER CONSERVATION

SEC. 401. SHORT TITLE.

This title may be cited as the ''Rhinoceros and Tiger Conservation Act of 1998''.

SEC. 402. FINDINGS.

Congress finds that—

(1) the populations of all but 1 species of rhinoceros, and the tiger, have significantly declined in recent years and continue to decline;

(2) these species of rhinoceros and tiger are listed as endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and listed on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed on March 3, 1973 (27 UST 1087; TIAS 8249) (referred to in this title as ''CITES'');

(3) the Parties to CITES have adopted several resolutions—

(A) relating to the conservation of tigers (Conf. 9.13 (Rev.)) and rhinoceroses (Conf. 9.14), urging Parties to CITES to implement legislation to reduce illegal trade in parts and products of the species; and

(B) relating to trade in readily recognizable parts and products of the species (Conf. 9.6), and trade in traditional medicines (Conf. 10.19), recommending that Parties ensure that their legislation controls trade in those parts and derivatives, and in medicines purporting to contain them;

(4) a primary cause of the decline in the populations of tiger and most rhinoceros species is the poaching of the species for use of their parts and products in traditional medicines;

(5) there are insufficient legal mechanisms enabling the United States Fish and Wildlife Service to interdict products that are labeled or advertised as containing substances derived from rhinoceros or tiger species and prosecute the merchandisers for sale or display of those products; and

(6) legislation is required to ensure that—

(A) products containing, or labeled or advertised as containing, rhinoceros parts or tiger parts are prohibited from importation into, or exportation from, the United States; and

(B) efforts are made to educate persons regarding alternatives for traditional medicine products, the illegality of products containing, or labeled or advertised as containing, rhinoceros parts and tiger parts, and the need to conserve rhinoceros and tiger species generally.

SEC. 403. PURPOSES OF THE RHINOCEROS AND TIGER CONSERVATION ACT OF 1994.

Section 3 of the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5302) is amended by adding at the end the following:

''(3) To prohibit the sale, importation, and exportation of products intended for human consumption or application containing, or labeled or advertised as containing, any substance derived from any species of rhinoceros or tiger.''.

SEC. 404. DEFINITION OF PERSON.

Section 4 of the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5303) is amended—

(1) in paragraph (4), by striking ''and'' at the end;

(2) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(6) 'person' means—

''(A) an individual, corporation, partnership, trust, association, or other private entity;

''(B) an officer, employee, agent, department, or instrumentality of—

''(i) the Federal Government;

''(ii) any State, municipality, or political subdivision of a State; or

''(iii) any foreign government;

''(C) a State, municipality, or political subdivision of a State; or

''(D) any other entity subject to the jurisdiction of the United States.''.

SEC. 405. PROHIBITION ON SALE, IMPORTATION, OR EXPORTATION OF PRODUCTS LABELED OR ADVERTISED AS RHINOCEROS OR TIGER PRODUCTS.

The Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5301 et seq.) is amended—

(1) by redesignating section 7 as section 9; and

(2) by inserting after section 6 the following:

''SEC. 7. PROHIBITION ON SALE, IMPORTATION, OR EXPORTATION OF PRODUCTS LABELED OR ADVERTISED AS RHINOCEROS OR TIGER PRODUCTS.

''(a) PROHIBITION.—A person shall not sell, import, or export, or attempt to sell, import, or export, any product, item, or substance intended for human consumption or application containing, or labeled or advertised as containing, any substance derived from any species of rhinoceros or tiger.

''(b) PENALTIES.—

''(1) CRIMINAL PENALTY.—A person engaged in business as an importer, exporter, or distributor that knowingly violates subsection (a) shall be fined under title 18, United States Code, imprisoned not more than 6 months, or both.

''(2) CIVIL PENALTIES.—

''(A) IN GENERAL.—A person that knowingly violates subsection (a), and a person engaged in business as an importer, exporter, or distributor that violates subsection (a), may be assessed a civil penalty by the Secretary of not more than $12,000 for each violation.

''(B) MANNER OF ASSESSMENT AND COLLECTION.—A civil penalty under this paragraph shall be assessed, and may be collected, in the manner in which a civil penalty under the Endangered Species Act of 1973 may be assessed and collected under section 11(a) of that Act (16 U.S.C. 1540(a)).

''(c) PRODUCTS, ITEMS, AND SUBSTANCES.—Any product, item, or substance sold, imported, or exported, or attempted to be sold, imported, or exported, in violation of this section or any regulation issued under this section shall be subject to seizure and forfeiture to the United States.

''(d) REGULATIONS.—After consultation with the Secretary of the Treasury, the Secretary of Health and Human Services, and the United States Trade Representative, the Secretary shall issue such regulations as are appropriate to carry out this section.

''(e) ENFORCEMENT.—The Secretary, the Secretary of the Treasury, and the Secretary of the department in which the Coast Guard is operating shall enforce this section in the manner in which the Secretaries carry out enforcement activities under section 11(e) of the Endangered Species Act of 1973 (16 U.S.C. 1540(e)).

''(f) USE OF PENALTY AMOUNTS.—Amounts received as penalties, fines, or forfeiture of property under this section shall be used in accordance with section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)).''.

SEC. 406. EDUCATIONAL OUTREACH PROGRAM.

The Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5301 et seq.) (as amended by section 405) is amended by inserting after section 7 the following:

''SEC. 8. EDUCATIONAL OUTREACH PROGRAM.

''(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary shall develop and implement an educational outreach program in the United States for the conservation of rhinoceros and tiger species.

''(b) GUIDELINES.—The Secretary shall publish in the Federal Register guidelines for the program.

''(c) CONTENTS.—Under the program, the Secretary shall publish and disseminate information regarding—

''(1) laws protecting rhinoceros and tiger species, in particular laws prohibiting trade in products containing, or labeled or advertised as containing, their parts;

''(2) use of traditional medicines that contain parts or products of rhinoceros and tiger species, health risks associated with their use, and available alternatives to the medicines; and

''(3) the status of rhinoceros and tiger species and the reasons for protecting the species.''.

SEC. 407. AUTHORIZATION OF APPROPRIATIONS.

Section 9 of the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5306) (as redesignated by section 405(1)) is amended by striking ''1996, 1997, 1998, 1999, and 2000'' and inserting ''1996 through 2002''.

TITLE V—CHESAPEAKE BAY INITIATIVES

SEC. 501. SHORT TITLE.

This title may be cited as the ''Chesapeake Bay Initiatives Act of 1998''.

SEC. 502. CHESAPEAKE BAY.

Section 117 of the Federal Water Pollution Control Act (33 U.S.C. 1267) is amended to read as follows:

''SEC. 117. CHESAPEAKE BAY.

''(a) DEFINITIONS.—In this section:

''(1) CHESAPEAKE BAY AGREEMENT.—The term 'Chesapeake Bay Agreement' means the formal, voluntary agreements, amendments, directives, and adoption statements executed to achieve the goal of restoring and protecting the Chesapeake Bay ecosystem and the living resources of the ecosystem and signed by the Chesapeake Executive Council.

''(2) CHESAPEAKE BAY PROGRAM.—The term 'Chesapeake Bay Program' means the program directed by the Chesapeake Executive Council in accordance with the Chesapeake Bay Agreement.

''(3) CHESAPEAKE BAY WATERSHED.—The term 'Chesapeake Bay watershed' shall have the meaning determined by the Administrator.

''(4) CHESAPEAKE EXECUTIVE COUNCIL.—The term 'Chesapeake Executive Council' means the signatories to the Chesapeake Bay Agreement.

''(5) SIGNATORY JURISDICTION.—The term 'signatory jurisdiction' means a jurisdiction of a signatory to the Chesapeake Bay Agreement.

''(b) CONTINUATION OF CHESAPEAKE BAY PROGRAM.—

''(1) IN GENERAL.—In cooperation with the Chesapeake Executive Council (and as a member of the Council), the Administrator shall continue the Chesapeake Bay Program.

''(2) PROGRAM OFFICE.—The Administrator shall maintain in the Environmental Protection Agency a Chesapeake Bay Program Office. The Chesapeake Bay Program Office shall provide support to the Chesapeake Executive Council by—

''(A) implementing and coordinating science, research, modeling, support services, monitoring, data collection, and other activities that support the Chesapeake Bay Program;

''(B) developing and making available, through publications, technical assistance, and other appropriate means, information pertaining to the environmental quality and living resources of the Chesapeake Bay;

''(C) assisting the signatories to the Chesapeake Bay Agreement, in cooperation with appropriate Federal, State, and local authorities, in developing and implementing specific action plans to carry out the responsibilities of the signatories to the Chesapeake Bay Agreement;

''(D) coordinating the actions of the Environmental Protection Agency with the actions of the appropriate officials of other Federal agencies and State and local authorities in developing strategies to—

''(i) improve the water quality and living resources of the Chesapeake Bay; and

''(ii) obtain the support of the appropriate officials of the agencies and authorities in achieving the objectives of the Chesapeake Bay Agreement; and

''(E) implementing outreach programs for public information, education, and participation to foster stewardship of the resources of the Chesapeake Bay.

''(c) INTERAGENCY AGREEMENTS.—The Administrator may enter into an interagency agreement with a Federal agency to carry out this section.

''(d) TECHNICAL ASSISTANCE AND ASSISTANCE GRANTS.—

''(1) IN GENERAL.—In consultation with other members of the Chesapeake Executive Council, the Administrator may provide technical assistance, and assistance grants, to nonprofit private organizations and individuals, State and local governments, colleges, universities, and interstate agencies to carry out this section, subject to such terms and conditions as the Administrator considers appropriate.

''(2) FEDERAL SHARE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of an assistance grant provided under paragraph (1) shall be determined by the Administrator in accordance with Environmental Protection Agency guidance.

''(B) SMALL WATERSHED GRANTS PROGRAM.—The Federal share of an assistance grant provided under paragraph (1) to carry out an implementing activity under subsection (g)(2) shall not exceed 75 percent of eligible project costs, as determined by the Administrator.

''(3) NON-FEDERAL SHARE.—An assistance grant under paragraph (1) shall be provided on the condition that non-Federal sources provide the remainder of eligible project costs, as determined by the Administrator.

''(4) ADMINISTRATIVE COSTS.—Administrative costs (including salaries, overhead, and indirect costs for services provided and charged against projects supported by funds made available under this subsection) incurred by a person described in paragraph (1) in carrying out a project under this subsection during a fiscal year shall not exceed 10 percent of the grant made to the person under this subsection for the fiscal year.

''(e) IMPLEMENTATION GRANTS.—

''(1) IN GENERAL.—If a signatory jurisdiction has approved and committed to implement all or substantially all aspects of the Chesapeake Bay Agreement, on the request of the chief executive of the jurisdiction, the Administrator shall make a grant to the jurisdiction for the purpose of implementing the management mechanisms established under the Chesapeake Bay Agreement, subject to such terms and conditions as the Administrator considers appropriate.

''(2) PROPOSALS.—A signatory jurisdiction described in paragraph (1) may apply for a grant under this subsection for a fiscal year by submitting to the Administrator a comprehensive proposal to implement management mechanisms established under the Chesapeake Bay Agreement. The proposal shall include—

''(A) a description of proposed management mechanisms that the jurisdiction commits to take within a specified time period, such as reducing or preventing pollution in the Chesapeake Bay and to meet applicable water quality standards; and

''(B) the estimated cost of the actions proposed to be taken during the fiscal year.

''(3) APPROVAL.—If the Administrator finds that the proposal is consistent with the Chesapeake Bay Agreement and the national goals established under section 101(a), the Administrator may approve the proposal for a fiscal year.

''(4) FEDERAL SHARE.—The Federal share of an implementation grant provided under this subsection shall not exceed 50 percent of the costs of implementing the management mechanisms during the fiscal year.

''(5) NON-FEDERAL SHARE.—An implementation grant under this subsection shall be made on the condition that non-Federal sources provide the remainder of the costs of implementing the management mechanisms during the fiscal year.

''(6) ADMINISTRATIVE COSTS.—Administrative costs (including salaries, overhead, and indirect costs for services provided and charged against projects supported by funds made available under this subsection) incurred by a signatory jurisdiction in carrying out a project under this subsection during a fiscal year shall not exceed 10 percent of the grant made to the jurisdiction under this subsection for the fiscal year.

''(f) COMPLIANCE OF FEDERAL FACILITIES.—

''(1) SUBWATERSHED PLANNING AND RESTORATION.—A Federal agency that owns or operates a facility (as defined by the Administrator) within the Chesapeake Bay watershed shall participate in regional and subwatershed planning and restoration programs.

''(2) COMPLIANCE WITH AGREEMENT.—The head of each Federal agency that owns or occupies real property in the Chesapeake Bay watershed shall ensure that the property, and actions taken by the agency with respect to the property, comply with the Chesapeake Bay Agreement.

''(g) CHESAPEAKE BAY WATERSHED, TRIBUTARY, AND RIVER BASIN PROGRAM.—

''(1) NUTRIENT AND WATER QUALITY MANAGEMENT STRATEGIES.—Not later than 1 year after the date of enactment of this subsection, the Administrator, in consultation with other members of the Chesapeake Executive Council, shall ensure that management plans are developed and implementation is begun by signatories to the Chesapeake Bay Agreement for the tributaries of the Chesapeake Bay to achieve and maintain—

''(A) the nutrient goals of the Chesapeake Bay Agreement for the quantity of nitrogen and phosphorus entering the main stem Chesapeake Bay;

''(B) the water quality requirements necessary to restore living resources in both the tributaries and the main stem of the Chesapeake Bay;

''(C) the Chesapeake Bay basinwide toxics reduction and prevention strategy goal of reducing or eliminating the input of chemical contaminants from all controllable sources to levels that result in no toxic or bioaccumulative impact on the living resources that inhabit the Bay or on human health; and

''(D) habitat restoration, protection, and enhancement goals established by Chesapeake Bay Agreement signatories for wetlands, forest riparian zones, and other types of habitat associated with the Chesapeake Bay and the tributaries of the Chesapeake Bay.

''(2) SMALL WATERSHED GRANTS PROGRAM.—The Administrator, in consultation with other members of the Chesapeake Executive Council, may offer the technical assistance and assistance grants authorized under subsection (d) to local governments and nonprofit private organizations and individuals in the Chesapeake Bay watershed to implement—

''(A) cooperative tributary basin strategies that address the Chesapeake Bay's water quality and living resource needs; or

''(B) locally based protection and restoration programs or projects within a watershed that complement the tributary basin strategies.

''(h) STUDY OF CHESAPEAKE BAY PROGRAM.—Not later than December 31, 2000, and every 3 years thereafter, the Administrator, in cooperation with other members of the Chesapeake Executive Council, shall complete a study and submit a comprehensive report to Congress on the results of the study. The study and report shall, at a minimum—

''(1) assess the commitments and goals of the management strategies established under the Chesapeake Bay Agreement and the extent to which the commitments and goals are being met;

''(2) assess the priority needs required by the management strategies and the extent to which the priority needs are being met;

''(3) assess the effects of air pollution deposition on water quality of the Chesapeake Bay;

''(4) assess the state of the Chesapeake Bay and its tributaries and related actions of the Chesapeake Bay Program;

''(5) make recommendations for the improved management of the Chesapeake Bay Program; and

''(6) provide the report in a format transferable to and usable by other watershed restoration programs.

''(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $30,000,000 for each of fiscal years 1999 through 2003.''.

SEC. 503. CHESAPEAKE BAY GATEWAYS AND WATERTRAILS.

(a) CHESAPEAKE BAY GATEWAYS AND WATERTRAILS NETWORK.—

(1) IN GENERAL.—The Secretary of the Interior (referred to in this section as the ''Secretary''), in cooperation with the Administrator of the Environmental Protection Agency (referred to in this section as the ''Administrator''), shall provide technical and financial assistance, in cooperation with other Federal agencies, State and local governments, nonprofit organizations, and the private sector—

(A) to identify, conserve, restore, and interpret natural, recreational, historical, and cultural resources within the Chesapeake Bay Watershed;

(B) to identify and utilize the collective resources as Chesapeake Bay Gateways sites for enhancing public education of and access to the Chesapeake Bay;

(C) to link the Chesapeake Bay Gateways sites with trails, tour roads, scenic byways, and other connections as determined by the Secretary;

(D) to develop and establish Chesapeake Bay Watertrails comprising water routes and connections to Chesapeake Bay Gateways sites and other land resources within the Chesapeake Bay Watershed; and

(E) to create a network of Chesapeake Bay Gateways sites and Chesapeake Bay Watertrails.

(2) COMPONENTS.—Components of the Chesapeake Bay Gateways and Watertrails Network may include—

(A) State or Federal parks or refuges;

(B) historic seaports;

(C) archaeological, cultural, historical, or recreational sites; or

(D) other public access and interpretive sites as selected by the Secretary.

(b) CHESAPEAKE BAY GATEWAYS GRANTS ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Secretary, in cooperation with the Administrator, shall establish a Chesapeake Bay Gateways Grants Assistance Program to aid State and local governments, local communities, nonprofit organizations, and the private sector in conserving, restoring, and interpreting important historic, cultural, recreational, and natural resources within the Chesapeake Bay Watershed.

(2) CRITERIA.—The Secretary, in cooperation with the Administrator, shall develop appropriate eligibility, prioritization, and review criteria for grants under this section.

(3) MATCHING FUNDS AND ADMINISTRATIVE EXPENSES.—A grant under this section—

(A) shall not exceed 50 percent of eligible project costs;

(B) shall be made on the condition that non-Federal sources, including in-kind contributions of services or materials, provide the remainder of eligible project costs; and

(C) shall be made on the condition that not more than 10 percent of all eligible project costs be used for administrative expenses.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $3,000,000 for each of fiscal years 1999 through 2003.

SEC. 504. PFIESTERIA AND OTHER AQUATIC TOXINS RESEARCH AND GRANT PROGRAM.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency, the Secretary of Commerce (acting through the Director of the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration), the Secretary of Health and Human Services (acting through the Director of the National Institute of Environmental Health Sciences and the Director of the Centers for Disease Control and Prevention), and the Secretary of Agriculture shall—

(1) establish a research program for the eradication or control of Pfiesteria piscicida and other aquatic toxins; and

(2) make grants to colleges, universities, and other entities in affected States for the eradication or control of Pfiesteria piscicida and other aquatic toxins.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 1999 and 2000.

CHAFEE AMENDMENT NO. 3820

Mr. DEWINE (for Mr. CHAFEE) proposed an amendment to the bill, H.R. 2863; supra; as follows:

On page 2, line 21, strike ''$10,000'' and insert ''$15,000''.

On page 3, strike lines 1 through 7 and insert the following:

''(2) in the case of a violation of section 3(b)(2), shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both.''.

SONNY BONO MEMORIAL SALTON SEA RECLAMATION ACT

KYL AMENDMENT NO. 3821

Mr. GORTON (for Mr. KYL) proposed an amendment to the bill (H.R. 3267) to direct the Secretary of the Interior, acting through the Bureau of Reclamation, to conduct a feasibility study and construct a project to reclaim the Salton Sea; as follows:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Salton Sea Reclamation Act of 1998''.

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

SEC. 2. DEFINITIONS.

In this Act:

(1) The term 'Committees' means the Committee on Resources and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the Senate.

(2) The term 'Salton Sea Authority' means the Joint Powers Authority by that name established under the laws of the State of California by a Joint Power Agreement signed on June 2, 1993.

(3) The term 'Secretary' means the Secretary of the Interior, acting through the Bureau of Reclamation.

TITLE I—SALTON SEA FEASIBILITY STUDY

SEC. 101. SALTON SEA FEASITILITY STUDY AUTHORIZATION.

(a) IN GENERAL.—No later than January 1, 2000, the Secretary, in accordance with this section, shall complete all feasibility studies and cost analyses for the options set forth in subsection (b)(2)(A) necessary for Congress to fully evaluate such options.

(b) FEASIBILITY STUDY.—

(1) IN GENERAL.—

(A) the Secretary shall complete all studies, including, but not limited to environmental and other reviews, of the fasibility and benefit-cost of various options that permit the continued use of the Salton Sea as a reservoir for irrigation drainage and (1) reduce and stabilize the overall salinity of the Salton Sea, (2) stabilize the surface elevation of the Salton Sea, (3) reclaim, in the long term, healthy fish and wildlife resources and their habitats, and (4) enhance the potential for recreational uses and economic development of the Salton Sea.

(B) Based solely on whatever information is available at the time of submission of the report, the Secretary shall (1) identify any options he deems economically feasible and cost effective, (2) identify any additional information necessary to develop construction specifications, and (3) submit any recommendations, along with the results of the study to the Committees no later than January 1, 2000.

(C)(i) The Secretary shall carry out the feasibility study in accordance with a memorandum of understanding entered into by the Secretary, the Salton Sea Authority, and the Governor of California.

(ii) The memorandum of understanding shall, at a minimum, establish criteria for evaluation and selection of options under subparagraph (2)(A), including criteria for determining benefits and the magnitude and practicability of costs of construction, operation, and maintenance of each options evaluated.

(2) OPTIONS TO BE CONSIDERED.—Options considered in the feasibility study—

(A) shall consist of, but need not be limited to—

(i) use of impoundments to segregate a portion of the waters of the Salton Sea in one or more evaporation ponds located in the Salton Sea basin;

(ii) pumping water out of the Salton Sea;

(iii) augmented flows of water into the Salton Sea;

(iv) a combination of the options referred to in clauses (i), (ii), and (iii); and

(v) any other economically feasible remediation option the Secretary considers appropriate and for which feasibility analyses and cost estimates can be completed by January 1, 2000;

(B) shall be limited to proven technologies; and

(C) shall not include any option that—

(i) relies on the importation of any new or additional water from the Colorado River; or

(ii) is inconsistent with the provisions of subsection (c).

(3) ASSUMPTIONS.—In evaluating options, the Secretary shall apply assumptions regarding water inflows into the Salton Sea Basin that encourage water conservation, account for transfers of water out of the Salton Sea Basin, and are based on a maximum likely reduction in inflows into the Salton Sea Basin which could be 800,000 acre-feet or less per year.

(4) CONSIDERATION OF COSTS.—In evaluating the feasibility of options, the Secretary shall consider the ability of Federal, tribal, State and local government sources and private sources to fund capital construction costs and annual operation, maintenance, energy, and replacement costs and shall set forth the basis for any cost sharing allocations as well as anticipated repayment, if any, of federal contributions.

(c) RELATIONSHIP TO OTHER LAW.—

(1) RECLAMATION LAWS.—Activities authorized by this Act shall not be subject to the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 391 et seq.), and Acts amendatory thereof and supplemental thereto. Amounts expended for those activities shall be considered nonreimbursable for purposes of those laws and shall not be considered to be a supplemental or additional benefit for purposes of the Reclamation Reform Act of 1982 (96 Stat. 1263; 43 U.S.C. 390aa et seq.).

(2) PRESERVATION OF RIGHTS AND OBLIGATIONS WITH RESPECT TO THE COLORADO RIVER.—This Act shall not be considered to supersede or otherwise affect any treaty, law, decree, contract, or agreement governing use of water from the Colorado River. All activities taken under this Act must be carried out in a manner consistent with rights and obligations of persons under those treaties, laws, decrees, contracts, and agreements.

SEC. 102. CONCURRENT WILDLIFE RESOURCES STUDIES.

(a) IN GENERAL.—The Secretary shall provide for the conduct, concurrently with the feasibility study under section 101(b), of studies of hydrology, wildlife pathology, and toxicology relating to wildlife resources of the Salton Sea by Federal and non-Federal entities.

(b) SELECTION OF TOPICS AND MANAGEMENT OF STUDIES.—

(1) IN GENERAL.—The Secretary shall establish a committee to be known as the ''Salton Sea Research Management Committee''. The committee shall select the topics of studies under this section and manage those studies.

(2) MEMBERSHIP.—The committee shall consist of the following five members:

(A) The Secretary.

(B) The Governor of California.

(C) The Executive Director of the Salton Sea Authority.

(D) The Chairman of the Torres Martinez Desert Cahuilla Tribal Government.

(E) The Director of the California Water Resources Center.

(c) COORDINATION.—The Secretary shall require that studies under this section are coordinated through the Science Subcommittee which reports to the Salton Sea Research Management Committee. In addition to the membership provided for by the Science Subcommittee's charter, representatives shall be invited from the University of California, Riverside; the University of Redlands; San Diego State University; the Imperial Valley College; and Los Alamos National Laboratory.

(d) PEER REVIEW.—The Secretary shall require that studies under this section are subjected to peer review.

(e) AUTHORIZATION OF APPROPRIATIONS.—For wildlife resources studies under this section there are authorized to be appropriated to the Secretary, through accounts within the Fish and Wildlife Service exclusively, $5,000,000.

(f) ADVISORY COMMITTEE ACT.—The committee, and its activities, are not subject to the Federal Advisory Committee Act (5 U.S.C. app.).

SEC. 103. SALTON SEA NATIONAL WILDLIFE REFUGE RENAMED AS SONNY BONO SALTON SEA NATIONAL WILDLIFE REFUGE.

(a) REFUGE RENAMED.—The Salton Sea National Wildlife Refuge, located in Imperial County, California, is hereby renamed and shall be known as the ''Sonny Bono Salton Sea National Wildlife Refuge''.

(b) REFERENCES.—Any reference in any statute, rule, regulation, executive order, publication, map, or paper or other document of the United States to the Salton Sea National Wildlife Refuge is deemed to refer to the Sonny Bono Salton Sea National Wildlife Refuge.

TITLE II—EMERGENCY ACTION TO IMPROVE WATER QUALITY IN THE ALAMO RIVER AND NEW RIVER

SEC. 201. ALAMO RIVER AND NEW RIVER IRRIGATION DRAINAGE WATER.

(a) RIVER ENHANCEMENT.—

(1) IN GENERAL.—The Secretary is authorized and directed to promptly conduct research and construct river reclamation and wetlands projects to improve water quality in the Alamo River and New River, Imperial County, California, by treating water in those rivers and irrigation drainage water that flows into those rivers.

(2) ACQUISITIONS.—The Secretary may acquire equipment, real property from willing sellers, and interests in real property (including site access) from willing sellers as needed to implement actions under this section if the State of California, a political subdivision of the State, or Desert Wildlife Unlimited has entered into an agreement with the Secretary under which the State, subdivision, or Desert Wildlife Unlimited, respectively, will, effective 1 year after the date that systems for which the acquisitions are made are operational and functional—

(A) accept all right, title, and interest in and to the equipment, property, or interests; and

(B) assume responsibility for operation and maintenance of the equipment, property, or interests.

(3) TRANSFER OF TITLE.—Not later than 1 year after the date a system developed under this section is operational and functional, the Secretary shall transfer all right, title, and interest of the United States in and to all equipment, property, and interests acquired for the system in accordance with the applicable agreement under paragraph (2).

(4) MONITORING AND OTHER ACTIONS.—The Secretary shall establish a long-term monitoring program to maximize the effectiveness of any wetlands developed under this title and may implement other actions to improve the efficacy of actions implemented pursuant to this section.

(b) COOPERATION.—The Secretary shall implement subsection (a) in cooperation with the Desert Wildlife Unlimited, the Imperial Irrigation District, California, and other interested persons.

(c) FEDERAL WATER POLLUTION CONTROL.—Water withdrawn solely for the purpose of a wetlands project to improve water quality under subsection (a)(1), when returned to the Alamo River or New River, shall not be required to meet water quality standards under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

(d) AUTHORIZATION OF APPROPRIATIONS.—For river reclamation and other irrigation drainage water treatment actions under this section, there are authorized to be appropriated to the Secretary $3,000,000.

Amend the title to read as follows: ''To direct the Secretary of the Interior acting through the Bureau of Reclamation, to complete a feasibility study relating to the Salton Sea, and for other purposes.''.

FEDERAL FINANCIAL ASSISTANCE MANAGEMENT IMPROVEMENT ACT OF 1998—S. 1642

The bill, S. 1642, as passed by the Senate on October 12, 1998, is as follows:

S. 1642

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Financial Assistance Management Improvement Act of 1998''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) there are over 600 different Federal financial assistance programs to implement domestic policy;

(2) while the assistance described in paragraph (1) has been directed at critical problems, some Federal administrative requirements may be duplicative, burdensome or conflicting, thus impeding cost-effective delivery of services at the local level;

(3) the Nation's State, local, and tribal governments and private, nonprofit organizations are dealing with increasingly complex problems which require the delivery and coordination of many kinds of services; and

(4) streamlining and simplification of Federal financial assistance administrative procedures and reporting requirements will improve the delivery of services to the public.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) improve the effectiveness and performance of Federal financial assistance programs;

(2) to simplify Federal financial assistance application and reporting requirements;

(3) to improve the delivery of services to the public; and

(4) to facilitate greater coordination among those responsible for delivering such services.

SEC. 4. DEFINITIONS.

In this Act:

(1) DIRECTOR.—The term ''Director'' means the Director of the Office of Management and Budget.

(2) FEDERAL AGENCY.—The term ''Federal agency'' means any agency as defined under section 551(1) of title 5, United States Code.

(3) FEDERAL FINANCIAL ASSISTANCE.—The term ''Federal financial assistance'' has the same meaning as defined in section 7501(a)(5) of title 31, United States Code, under which Federal financial assistance is provided, directly or indirectly, to a non-Federal entity.

(4) LOCAL GOVERNMENT.—The term ''local government'' means a political subdivision of a State that is a unit of general local government (as defined under section 7501(a)(11) of title 31, United States Code);

(5) NON-FEDERAL ENTITY.—The term ''non-Federal entity'' means a State, local government, or nonprofit organization.

(6) NONPROFIT ORGANIZATION.—The term ''nonprofit organization'' means any corporation, trust, association, cooperative, or other organization that—

(A) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

(B) is not organized primarily for profit; and

(C) uses net proceeds to maintain, improve, or expand the operations of the organization.

(7) STATE.—The term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, and any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian Tribal Government.

(8) TRIBAL GOVERNMENT.—The term ''tribal government'' means an Indian tribe, as that term is defined in section 7501(a)(9) of title 31, United States Code.

(9) UNIFORM ADMINISTRATIVE RULE.—The term ''uniform administrative rule'' means a government-wide uniform rule for any generally applicable requirement established to achieve national policy objectives that applies to multiple Federal financial assistance programs across Federal agencies.

SEC. 5. DUTIES OF FEDERAL AGENCIES.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, each Federal agency shall develop and implement a plan that—

(1) streamlines and simplifies the application, administrative, and reporting procedures for Federal financial assistance programs administered by the agency;

(2) demonstrates active participation in the interagency process under section 6(a)(2);

(3) demonstrates appropriate agency use, or plans for use, of the common application and reporting system developed under section 6(a)(1);

(4) designates a lead agency official for carrying out the responsibilities of the agency under this Act;

(5) allows applicants to electronically apply for, and report on the use of, funds from the Federal financial assistance program administered by the agency;

(6) ensures recipients of Federal financial assistance provide timely, complete, and high quality information in response to Federal reporting requirements; and

(7) establishes specific annual goals and objectives to further the purposes of this Act and measure annual performance in achieving those goals and objectives, which may be done as part of the agency's annual planning responsibilities under the Government Performance and Results Act.

(b) EXTENSION.—If one or more agencies are unable to comply with the requirements of subsection (a), the Director shall report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives the reasons for noncompliance. After consultation with such committees, the Director may extend the period for plan development and implementation for each noncompliant agency for up to 12 months.

(c) COMMENT AND CONSULTATION ON AGENCY PLANS.—

(1) COMMENT.—Each agency shall publish the plan developed under subsection (a) in the Federal Register and shall receive public comment of the plan through the Federal Register and other means (including electronic means). To the maximum extent practicable, each Federal agency shall hold public forums on the plan.

(2) CONSULTATION.—The lead official designated under subsection (a)(4) shall consult with representatives of non-Federal entities during development and implementation of the plan. Consultation with representatives of State, local, and tribal governments shall be in accordance with section 204 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1534).

(d) SUBMISSION OF PLAN.—Each Federal agency shall submit the plan developed under subsection (a) to the Director and Congress and report annually thereafter on the implementation of the plan and performance of the agency in meeting the goals and objectives specified under subsection (a)(7). Such report may be included as part of any of the general management reports required under law.

SEC. 6. DUTIES OF THE DIRECTOR.

(a) IN GENERAL.—The Director, in consultation with agency heads, and representatives of non-Federal entities, shall direct, coordinate and assist Federal agencies in establishing:

(1) A common application and reporting system, including—

(A) a common application or set of common applications, wherein a non-Federal entity can apply for Federal financial assistance from multiple Federal financial assistance programs that serve similar purposes and are administered by different Federal agencies;

(B) a common system, including electronic processes, wherein a non-Federal entity can apply for, manage, and report on the use of funding from multiple Federal financial assistance programs that serve similar purposes and are administered by different Federal agencies; and

(C) uniform administrative rules for Federal financial assistance programs across different Federal agencies.

(2) An interagency process for addressing—

(A) ways to streamline and simplify Federal financial assistance administrative procedures and reporting requirements for non-Federal entities;

(B) improved interagency and intergovernmental coordination of information collection and sharing of data pertaining to Federal financial assistance programs, including appropriate information sharing consistent with the Privacy Act of 1974; and

(C) improvements in the timeliness, completeness, and quality of information received by Federal agencies from recipients of Federal financial assistance.

(b) LEAD AGENCY AND WORKING GROUPS.—The Director may designate a lead agency to assist the Director in carrying out the responsibilities under this section. The Director may use interagency working groups to assist in carrying out such responsibilities.

(c) REVIEW OF PLANS AND REPORTS.—Agencies shall submit to the Director, upon his request and for his review, information and other reporting regarding their implementation of this Act.

(d) EXEMPTIONS.—The Director may exempt any Federal agency or Federal financial assistance program from the requirements of this Act if the Director determines that the Federal agency does not have a significant number of Federal financial assistance programs. The Director shall maintain a list of exempted agencies which will be available to the public through OMB's Internet site.

SEC. 7. EVALUATION.

(a) IN GENERAL.—The Director (or the lead agency designated under section 6(b)) shall contract with the National Academy of Public Administration to evaluate the effectiveness of this Act. Not later than 4 years after the date of enactment of this Act, the evaluation shall be submitted to the lead agency, the Director, and Congress. The evaluation shall be performed with input from State, local, and tribal governments, and nonprofit organizations.

(b) CONTENTS.—The evaluation under subsection (a) shall—

(1) assess the effectiveness of this Act in meeting the purposes of this Act and make specific recommendations to further the implementation of this Act;

(2) evaluate actual performance of each agency in achieving the goals and objectives stated in agency plans;

(3) assess the level of coordination among the Director, Federal agencies, State, local, and tribal governments, and nonprofit organizations in implementing this Act.

SEC. 8. COLLECTION OF INFORMATION.

Nothing in this Act shall be construed to prevent the Director or any Federal agency from gathering, or to exempt any recipient of Federal financial assistance from providing, information that is required for review of the financial integrity or quality of services of an activity assisted by a Federal financial assistance program.

SEC. 9. JUDICIAL REVIEW.

There shall be no judicial review of compliance or noncompliance with any of the provisions of this Act. No provision of this Act shall be construed to create any right or benefit, substantive or procedural, enforceable by any administrative or judicial action.

SEC. 10. STATUTORY REQUIREMENTS.

Nothing in this Act shall be construed as a means to deviate from the statutory requirements relating to applicable Federal financial assistance programs.

SEC. 11. EFFECTIVE DATE AND SUNSET.

This Act shall take effect on the date of enactment of this Act and shall cease to be effective five years after such date of enactment.

ORDER FOR SUBMITTAL AND PRINTING OF TRIBUTES

Mr. GORTON. Mr. President, I ask unanimous consent that Members have until October 28, 1998, to submit tributes to Senators COATS, KEMPTHORNE, FORD, GLENN, and BUMPERS, and further that the statements be compiled and printed as Senate documents.

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

SALTON SEA RECLAMATION ACT OF 1998

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3267, which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3267) to direct the Secretary of the Interior, acting through the Bureau of Reclamation, to conduct a feasibility study and construct a project to reclaim the Salton Sea.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

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

AMENDMENT NO. 3821

Mr. GORTON. Mr. President, there is an amendment at the desk offered by Senator KYL, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington (Mr. GORTON), for Mr. KYL, proposes an amendment numbered 3821.

Mr. GORTON. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Salton Sea Reclamation Act of 1998''.

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

SEC. 2. DEFINITIONS.

In this Act:

(1) The term 'Committees' means the Committee on Resources and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the Senate.

(2) The term 'Salton Sea Authority' means the Joint Powers Authority by that name established under the laws of the State of California by a Joint Power Agreement signed on June 2, 1993.

(3) The term 'Secretary' means the Secretary of the Interior, acting through the Bureau of Reclamation.

TITLE II—SALTON SEA FEASIBILITY STUDY

SEC. 101. SALTON SEA FEASIBILITY STUDY AUTHORIZATION.

(a) IN GENERAL.—No later than January 1, 2000, the Secretary, in accordance with this section, shall complete all feasibility studies and cost analyses for the options set forth in subsection (b)(2)(A) necessary for Congress to fully evaluate such options.

(b) FEASIBILITY STUDY.—

(1) IN GENERAL.—

(A) the Secretary shall complete all studies, including, but not limited to environmental and other reviews, of the fasibility and benefit-cost of various options that permit the continued use of the Salton Sea as a reservoir for irrigation drainage and (1) reduce and stabilize the overall salinity of the Salton Sea, (2) stabilize the surface elevation of the Salton Sea, (3) reclaim, in the long term, healthy fish and wildlife resources and their habitats, and (4) enhance the potential for recreational uses and economic development of the Salton Sea.

(B) Based solely on whatever information is available at the time of submission of the report, the Secretary shall (1) identify any options he deems economically feasible and cost effective, (2) identify any additional information necessary to develop construction specifications, and (3) submit any recommendations, along with the results of the study to the Committees no later than January 1, 2000.

(B)(i) The Secretary shall carry out the feasibility study in accordance with a memorandum of understanding entered into by the Secretary, the Salton Sea Authority, and the Governor of California.

(ii) The memorandum of understanding shall, at a minimum, establish criteria for evaluation and selection of options under subparagraph (2)(A), including criteria for determining benefits and the magnitude and practicability of costs of construction, operation, and maintenance of each options evaluated.

(2) OPTIONS TO BE CONSIDERED.—Options considered in the feasibility study—

(A) shall consist of, but need not be limited to—

(i) use of impoundments to segregate a portion of the waters of the Salton Sea in one or more evaporation ponds located in the Salton Sea basin;

(ii) pumping water out of the Salton Sea;

(iii) augmented flows of water into the Salton Sea;

(iv) a combination of the options referred to in clauses (i), (ii), and (iii); and

(v) any other economically feasible remediation option the Secretary considers appropriate and for which feasibility analyses and cost estimates can be completed by January 1, 2000;

(B) shall be limited to proven technologies; and

(C) shall not include any option that—

(i) relies on the importation of any new or additional water from the Colorado River; or

(ii) is inconsistent with the provisions of subsection (c).

(3) ASSUMPTIONS.—In evaluating options, the Secretary shall apply assumptions regarding water inflows into the Salton Sea Basin that encourage water conservation, account for transfers of water out of the Salton Sea Basin, and are based on a maximum likely reduction in inflows into the Salton Sea Basin which could be 800,000 acre-feet or less per year.

(4) CONSIDERATION OF COSTS.—In evaluating the feasibility of options, the Secretary shall consider the ability of Federal, tribal, State and local government sources and private sources to fund capital construction costs and annual operation, maintenance, energy, and replacement costs and shall set forth the basis for any cost sharing allocations as well as anticipated repayment, if any, of federal contributions.

(c) RELATIONSHIP TO OTHER LAW.—

(1) RECLAMATION LAWS.—Activities authorized by this Act shall not be subject to the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 391 et seq.), and Acts amendatory thereof and supplemental thereto. Amounts expended for those activities shall be considered nonreimbursable for purposes of those laws and shall not be considered to be a supplemental or additional benefit for purposes of the Reclamation Reform Act of 1982 (96 Stat. 1263; 43 U.S.C. 390aa et seq.).

(2) PRESERVATION OF RIGHTS AND OBLIGATIONS WITH RESPECT TO THE COLORADO RIVER—This Act shall not be considered to supersede or otherwise affect any treaty, law, decree, contract, or agreement governing use of water from the Colorado River. All activities taken under this Act must be carried out in a manner consistent with rights and obligations of persons under those treaties, laws, decrees, contracts, and agreements.

SEC. 102. CONCURRENT WILDLIFE RESOURCES STUDIES.

(a) IN GENERAL.—The Secretary shall provide for the conduct, concurrently with the feasibility study under section 101(b), of studies of hydrology, wildlife pathology, and toxicology relating to wildlife resources of the Salton Sea by Federal and non-Federal entities.

(b) SELECTION OF TOPICS AND MANAGEMENT OF STUDIES.—

(1) IN GENERAL.—The Secretary shall establish a committee to be known as the ''Salton Sea Research Management Committee''. The committee shall select the topics of studies under this section and manage those studies.

(2) MEMBERSHIP.—The committee shall consist of the following five members:

(A) The Secretary.

(B) The Governor of California.

(C) The Executive Director of the Salton Sea Authority.

(D) The Chairman of the Torres Martinez Desert Cahuilla Tribal Government.

(E) The Director of the California Water Resources Center.

(c) COORDINATION.—The Secretary shall require that studies under this section are coordinated through the Science Subcommittee which reports to the Salton Sea Research Management Committee. In addition to the membership provided for by the Science Subcommittee's charter, representatives shall be invited from the University of California, Riverside; the University of Redlands; San Diego State University; the Imperial Valley College; and Los Alamos National Laboratory.

(d) PEER REVIEW.—The Secretary shall require that studies under this section are subjected to peer review.

(e) AUTHORIZATION OF APPROPRIATIONS.—For wildlife resources studies under this section there are authorized to be appropriated to the Secretary, through accounts within the Fish and Wildlife Service exclusively, $5,000,000.

(f) ADVISORY COMMITTEE ACT.—The committee, and its activities, are not subject to the Federal Advisory Committee Act (5 U.S.C. app.).

SEC. 103. SALTON SEA NATIONAL WILDLIFE REFUGE RENAMED AS SONNY BONO SALTON SEA NATIONAL WILDLIFE REFUGE.

(a) REFUGE RENAMED.—The Salton Sea National Wildlife Refuge, located in Imperial County, California, is hereby renamed and shall be known as the ''Sonny Bono Salton Sea National Wildlife Refuge''.

(b) REFERENCES.—Any reference in any statute, rule, regulation, executive order, publication, map, or paper or other document of the United States to the Salton Sea National Wildlife Refuge is deemed to refer to the Sonny Bono Salton Sea National Wildlife Refuge.

TITLE II—EMERGENCY ACTION TO IMPROVE WATER QUALITY IN THE ALAMO RIVER AND NEW RIVER

SEC. 201. ALAMO RIVER AND NEW RIVER IRRIGATION DRAINAGE WATER.

(a) RIVER ENHANCEMENT.—

(1) IN GENERAL.—The Secretary is authorized and directed to promptly conduct research and construct river reclamation and wetlands projects to improve water quality in the Alamo River and New River, Imperial County, California, by treating water in those rivers and irrigation drainage water that flows into those rivers.

(2) ACQUISITIONS.—The Secretary may acquire equipment, real property from willing sellers, and interests in real property (including site access) from willing sellers as needed to implement actions under this section if the State of California, a political subdivision of the State, or Desert Wildlife Unlimited has entered into an agreement with the Secretary under which the State, subdivision, or Desert Wildlife Unlimited, respectively, will, effective 1 year after the date that systems for which the acquisitions are made are operational and functional—

(A) accept all right, title, and interest in and to the equipment, property, or interests; and

(B) assume responsibility for operation and maintenance of the equipment, property, or interests.

(3) TRANSFER OF TITLE.—Not later than 1 year after the date a system developed under this section is operational and functional, the Secretary shall transfer all right, title, and interest of the United States in and to all equipment, property, and interests acquired for the system in accordance with the applicable agreement under paragraph (2).

(4) MONITORING AND OTHER ACTIONS.—The Secretary shall establish a long-term monitoring program to maximize the effectiveness of any wetlands developed under this title and may implement other actions to improve the efficacy of actions implemented pursuant to this section.

(b) COOPERATION.—The Secretary shall implement subsection (a) in cooperation with the Desert Wildlife Unlimited, the Imperial Irrigation District, California, and other interested persons.

(c) FEDERAL WATER POLLUTION CONTROL.—Water withdrawn solely for the purpose of a wetlands project to improve water quality under subsection (a)(1), when returned to the Alamo River or New River, shall not be required to meet water quality standards under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

(d) AUTHORIZATION OF APPROPRIATIONS.—For river reclamation and other irrigation drainage water treatment actions under this section, there are authorized to be appropriated to the Secretary $3,000,000.

Mr. GORTON. Mr. President, I ask unanimous consent that the amendment be agreed to.

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

The amendment (No. 3821) was agreed to.

Mr. GORTON. I ask unanimous consent that the bill, as amended, be read a third time and passed, the title amendment be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at the appropriate place in the RECORD.

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

The bill (H.R. 3267), as amended, was considered read the third time and passed.

The title was amended so as to read: ''An act to direct the Secretary of the Interior, acting through the Bureau of Reclamation, to complete a feasibility study relating to the Salton Sea, and for other purposes.''.

ORDERS FOR WEDNESDAY, OCTOBER 14, 1998

Mr. GORTON. I ask unanimous consent that when the Senate completes its business today, it stand in recess until 12 noon on Wednesday, October 14, 1998. I further ask that the time for the two leaders be reserved.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GORTON. I further ask unanimous consent that there be a period for the transaction of morning business until 1 p.m., with Senators permitted to speak for up to 5 minutes each.

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

PROGRAM

Mr. GORTON. For the information of all Senators, on Wednesday there will be a period of morning business until 1 p.m. Following morning business, the Senate may begin debate in relation to the omnibus appropriations bill, notwithstanding whether or not the papers have been received from the House. It now appears likely that a rollcall vote will be requested on passage of the omnibus bill. Members will be given 24 hours notice when the voting schedule becomes available.

RECESS

Mr. GORTON. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess, under the previous order.

Thereupon, the Senate, at 12:53 p.m., recessed until Wednesday, October 14, 1998, at 12 noon.