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Senate

(Legislative day of Monday, June 19, 1995)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. The Chaplain will now deliver the opening prayer.

PRAYER

Father of liberty, as we begin this Fourth of July weekend and recess time, we praise You for our Founding Fathers who received from You the strength and courage to claim their inalienable right to be free and drafted the Declaration of Independence. You gave them victory in a just revolution and placed in their hearts the American dream. We join our voices with these gallant heroes of liberty in confessing total dependence on You. We know that You are the Author of the glorious vision that gave birth to our beloved Nation.

Through the years we have learned that freedom is not free. It must be cherished, defended, and fought for at high cost. We thank You for the brave men and women who have given their lives in the cause of freedom and justice. Today, help us to be willing to pay the cost of freedom as we lead our Nation. We give You our minds, hearts, and energy as we grapple with the issues of moving this Nation forward in keeping with Your vision. As the fireworks explode in the sky in our Fourth of July celebrations, implode in our hearts a new burst of patriotism and commitment. God, empower the women and men of this Senate and bless America. In Your holy name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. COVERDELL. Mr. President, this morning the leader time has been reserved, and there will be a period for morning business until the hour of 10:30 a.m.

The rescissions bill is expected to arrive from the House of Representatives today, and Senator DOLE, our majority leader, has indicated he would like to complete action on that bill today. Rollcall votes are therefore possible during today's session of the Senate.

Mr. President, I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER (Mr. COVERDELL). The distinguished Senator from Minnesota is recognized.

FREEDOM OR SECURITY?

Mr. GRAMS. Mr. President, this coming Tuesday, the American people will celebrate the Fourth of July. It is a day for parties and parades, fireworks, and family picnics.

It is a day for remembering the bedrock of freedom on which this country was built, and how freedom still binds us together.

So it is ironic that 1 day later, July 5, we will take action right here on Capitol Hill to clamp down on the very freedoms we embrace on Independence Day.

It began on April 19, in Oklahoma City.

The reverberations of the bombing at the Alfred P. Murrah Federal Building were felt across America, but echoed loudly in Washington, DC, home to more Federal buildings—and Federal employees—than any other city in the Nation.

And almost immediately, a siege mentality took hold.

Here at the Capitol, police took extraordinary steps to protect against the possibility of a terrorist attack.

They beefed up patrols around the building, stopped cars and checked trunks, eliminated parking in some areas, increased the sensitivity on the entryway metal detectors, and kept the public away from ground floor windows with yards of yellow tape labeled ''Police Line—Do Not Cross.''

Soon after, the U.S. Treasury Department ordered Pennsylvania Avenue closed to cars and trucks in front of the White House.

For the first time in the 195-year history of the Executive Mansion, the people were no longer allowed to drive past the people's house.

And now, 1 month after Pennsylvania Avenue was shut down to traffic, police say more drastic measures are needed. A plan will go into effect here on Wednesday, July 5, that will even further limit the people's access to Capitol Hill and those of us who work here on the people's behalf.

The Senate Sergeant-at-Arms and the U.S. Capitol Police say that traffic will be restricted or eliminated altogether around the three Senate office buildings.

Some parking will be eliminated, too.

Streets will be closed with the concrete barriers that have become all-too-common in this city. It will be more tire shredders, not ''welcome'' signs, that will greet visitors.

The Capitol Police say they are trying to strike a balance between free access, and the security of the Congress and its visitors.

They say the changes I have outlined mean only ''minor traffic disruptions'' and will have ''little impact on the community.''

Mr. President, I have great admiration and respect for the officers and police administrators who work every day—sometimes putting their own lives on the line—to make this a safe and secure place to work and visit.

They have and deserve our thanks. But with all due respect to them, there is much more at stake in this decision

than simply its physical impact on the community.

Whenever we make such bold moves to further separate ourselves from the very people who sent us here and pay our weekly salaries, it has a tremendous impact on the national psyche as well.

What it comes down to, Mr. President, is the question of freedom versus security. Is ours a government that can operate openly, in the name of freedom, and still shut itself off from the people, in the name of security?

Are we willing to swap one for the other?

If we are, then perhaps we should not stop with a few tire shredders and a couple of closed streets.

Why do not we just build a fence around the Capitol? That is what the Capitol Hill Police proposed in 1985 in an internal report, at a cost then of $2.8 million.

Or better yet, if we really want to make a loud, public statement that ''you cannot mess with the Federal Government,'' we will dig a massive trench around the Capitol.

We will fill the moat with water and maybe a pack of alligators, and build a single, drawbridge entrance, where we will station guards armed with spears.

And then we will dare the public to visit.

We will be secure in our bunker, Mr. President, but for that security, we will be trading away freedom, and we cannot make horse trades with the very principles upon which this Nation was founded.

Mr. President, we should also consider the impact of our actions on the taxpayers.

The recent security precautions taken at the White House will cost the taxpayers $200,000 for new traffic signals, signs, and pavement markings.

The new security arrangements here at the Capitol will come with a price tag to the taxpayers as well, although the costs will not be measured solely by dollars.

Where do we stop?

There are 8,100 Federal buildings in the United States—do we turn each and every one of them into a fortress?

The sad truth is that we can not protect Federal workers by sealing them off from the world.

If we tell terrorists that we are not going to let them park car bombs made of fertilizer and fuel oil next to our Federal buildings anymore, they will find another way.

And we may just be goading on a desperate kook who wants to prove they can not be stopped by another layer of security.

The public does not understand what we are doing.

They have vital business in Federal buildings, or they come here as tourists, expecting to be welcomed.

But when they see the police, and all they yellow tape, and the signs that say ''Do Not Enter,'' they wonder what kind of message we are trying to get across.

I have heard their comments when they look down an empty stretch of Pennsylvania Avenue that used to be open to cars. I know what they whisper when they visit and walk through the metal detectors.

''It is a shame,'' they are saying.

And they do not like it. We have gone too far.

Washington should be a place where visitors feel secure, but by turning it into a fortress, we are sacrificing freedom for security, and making a city of such beauty and such history something dirty.

We can put in more concrete barriers and try to camouflage them with flowers, but in the words of one newspaper columnist, it is like putting lipstick on a goat. It is ugly, and fear is ugly.

Democracy should be about building bridges, not building walls. In Washington, we have become too adept at building walls. And every time a wall goes up, we knock freedom down another notch.

Let us seriously consider what we're doing, and what security we're willing to give up in order to live in a democracy.

If in the end it comes down to a question of security or freedom, this Senator will always choose freedom, Mr. President. And I believe the American people will, too.

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

The PRESIDING OFFICER. The clerk will 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.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m. with Senators permitted to speak therein for not to exceed 5 minutes each. Under the previous order, the Senator from Idaho [Mr. CRAIG] is recognized to speak for up to 15 minutes; under the previous order, the Senator from New Hampshire [Mr. SMITH] is recognized to speak for up to 15 minutes; under the previous order, the Senator from Arkansas [Mr. PRYOR] is recognized to speak for up to 10 minutes. The Senator from Washington may proceed.

Mr. GORTON. Mr. President, I am informed that Senator CRAIG is not going to utilize his time. My name was not mentioned.

I ask unanimous consent to speak for not more than 5 minutes in morning business.

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

THE SECOND RESCISSIONS BILL

Mr. GORTON. Mr. President, at 10 o'clock, I understand, the Senate will take up a second rescissions bill, that bill having passed the House of Representatives last night. This is good news for the people of the United States, following on the even better news of the passage of the budget resolution yesterday, a budget resolution which will lead to a balanced budget in the year 2002. That path will be made markedly easier by the passage and hoped-for signing of a rescissions bill designed to save somewhere between $12 and $15 billion of spending already authorized and appropriated. In fact, next year's appropriations would be extremely difficult without the passage of this rescissions bill.

Regrettably, it will allow somewhat more spending, at the insistence of the President, than was the case with the earlier proposal. But even so, it will represent a major step forward, a significant commitment on the part of this Congress to a leaner, tougher, more efficient and more effective Federal Government with a reduction in spending which, in some cases, would simply be wasteful—in other cases, which might have been significant, but not of a high enough priority to borrow in order to do it and then to send the bill to our children and to our grandchildren.

One of the last matters, perhaps the last matter settled in connection with this rescissions bill, was a proposal of mine and the distinguished Senator from Oregon [Mr. HATFIELD] with respect to salvage timber and to certain other rules related to timber harvesting in the Pacific Northwest—the salvage provisions applying all across the United States.

Negotiations with the administration on this subject were intensive and were lengthy. The net result, from the perspective of this Senator, is that the changes in the earlier bill are only slightly more than superficial. Both the provisions in the earlier bill and those in this bill, I wish to emphasize, were aimed solely at permitting the President and the administration to do what they claim they want to do anyway, to keep their own commitments. Neither in the field of salvage timber nor in connection with so-called option 9 in the Pacific Northwest, do I believe this administration proposes a balance between its environmental concerns and the very real, human needs of the people who live in timber communities and supply a vitally important commodity for the people of the United States.

I wish to emphasize this. I do not believe the administration's plans are appropriately balanced or that they give due weight to human concerns. But they are something. They are more than people in timber country across the United States have today. This amendment is simply designed to remove the frivolous and endless litigation which seeks to obstruct even the

modest relief which the administration proposes.

So the President is not required to do anything that he does not want to do. He is enabled to do what he does wish to do, or says that he wishes to do. He is enabled to keep his own commitments, and the people of the United States, and especially those in timber country, can then determine whether or not those commitments are indeed adequate; are, indeed, balanced.

I trust that later on this year we will be dealing with legislation that will create that balance. But in the meantime, this significant though modest relief will be available. For that I am most grateful.

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

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

A TRIBUTE TO NILS M. SANDER

Mr. SMITH. Mr. President, I rise today to pay tribute to a long time friend, Nils M. Sander, of Kingston, NH.

Nils was a deeply religious man, a devoted husband and father and a true American patriot. Although he would not immediately be recognized by millions of Americans, he embodied the essence of the American people and their spirit.

Nils Sander died on March 17, 1995, but it is his life that I want to share with my colleagues today.

Nils was born in 1917 in Stockholm, Sweden, the second son of John and Maria Sander. It was soon after Nils' birth that the Sander family began immigrating to America. Initially it was several aunts and uncles and then as word spread among the family that in America the jobs were plentiful and opportunity was boundless, Nils' parents, John and Maria, brought their whole family.

Nils, his brother, Arnie, a pregnant mother and a hopeful father disembarked from the boat at Ellis Island. Nils' sister, Nana, was later born in America and it was her birth as a U.S. citizen that enabled her to sponsor the rest of the family into citizenship. Nils' father, John, the industrious and hardworking Swede, found work as a machinist and was soon able to buy his family a home.

Nils grew up in a generation that knew the value of a strong work ethic. He saw the Depression. He saw it devastate the lives of his neighbors, family and friends. Nils' brother left home so there would be one less mouth to feed. His mother pawned her wedding ring to feed her family. Nils learned the value of saving and he learned the machinist trade from his father. He learned to love America.

In 1942, Nils married his high school sweetheart, Ruth Seaburg. While his wife was expecting their first child, World War II was raging. Nils joined the Navy because he knew that freedom was not free. Nils put his life on the line to preserve that freedom not only for his generation but for his children and grandchildren for generations to come.

He served as a machinist mate on board the U.S.S. *Doyle C. Barnes* in the Philippines and New Guinea. It was in 1944 that Nils returned from the war. He came home to a son who was ready a year old. Nils found work at the Watertown Arsenal and then later at MIT as a tool and die maker.

In 1947, Nils moved his family to Kingston, NH, and a second son was born. He rode his bike 2 miles to the train station in the next town in order to make his way to and from Haverhill, MA, where he taught at a trade school. The family was soon able to buy a car and life became easier.

The agreement at Yalta removed forever any lingering Socialist ideas that had been brought from Sweden with his parents. No man or nation had the right to determine the sovereignty of another nation. Individual freedom with responsibility began to root itself deep into Nils' beliefs. Those beliefs formed the basis for his conservative philosophy.

Nils' family remembers very clearly the lengthy conversations around the dinner table had about communism, his compassion for people imprisoned within the Communist state, and his determination that freedom must prevail against those tyrannies.

For Nils, there was never a problem with defining right or wrong. His faith in God and knowledge of biblical lessons were all he needed to direct his life and to teach his family, his students, and all who came to know him.

Nils was a founder of the Kingston Community House, a volunteer organization formed to help those in need in the community. They provided food and clothes to those who were without. They provided Christmas gifts for needy children, and they ran a weekly meal program. The success of the Kingston Community House brought Nancy Reagan to Kingston because of her interest in voluntarism.

Nils became active in the New Hampshire Republican Party and campaigned tirelessly for those conservative candidates who shared his ideals. Those he worked for included Barry Goldwater, Richard Nixon, Ronald Reagan, Gordon Humphrey, Mel Thomson, and BOB SMITH. Nils was not only our supporter—he was our friend.

Nils was there for me in the beginning when it was tough going. He did not have to help me but he did, and he never asked for anything in return. Not one thing did he ever ask in return.

Nils helped to craft the conservative platform which now guides the party. He was one of the quiet people who never asked for anything but good government—and the less the better. He believed with all his heart that government should do only what people cannot do for themselves.

Nils never ran for public office. So you would not know him. Instead he preferred to serve from the sidelines. He was always there when a void needed to be filled which could further his conservative beliefs in the preciousness of freedom, the sanctity of human life, and the importance of family.

Nils and his wife, Ruth and his daughter, Asta, and the rest of the family, were quiet but active Americans who deserve a great deal of credit for the revolution which took place in last November's election. They never sat back and let the liberal agenda destroy the fragile freedom we enjoy. They went to work every day. They taught their families right from wrong and they taught them to love God and to love America and to take their responsibilities seriously, to save for the future, and not to be a burden to society.

As I indicated, Nils passed away a short time ago. He suffered from Alzheimers, a cruel disease that has also stricken one of his beloved political leaders, Ronald Reagan. Because he was in the final stages of Alzheimers, Nils was unable to witness the November elections and enjoy the fruits of his labors.

Nils—I know that you are watching now and smiling as you see your old friend in the majority in the U.S. Senate.

I am a U.S. Senator today because of Nils Sander. Nils believed in me at a time when it was tough. And I believed in him. I will miss my friend, and I intend to honor his memory by continuing to fight for the conservative principles he espoused.

Yes, Nils Sander, one man can make a difference * * * and you did.

Thank you, Mr. President.

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

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

(The remarks of Mr. PRYOR and Mr. HATCH pertaining to the introduction of S. 1006 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

REGULATORY PROCEDURES REFORM ACT

Mr. GLENN. Mr. President, yesterday, I, along with a bipartisan group of Senators, introduced S. 1001, the Regulatory Procedures Reform Act of 1995.

Upon its introduction, it was my intention to have the bill printed in the RECORD so that all Members with an interest in this important issue—the

issue of regulatory reform—would have the opportunity to review the provisions of the measure. Unfortunately, the measure was not printed.

Therefore, I now ask unanimous consent that the text of S. 1001 and a comparative be printed in the RECORD.

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

S. 1001

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 ''Regulatory Procedures Reform Act of 1995''.

SEC. 2. DEFINITIONS.

Section 551 of title 5, United States Code, is amended—

(1) in paragraph (13), by striking out ''; and'' and inserting in lieu thereof a semicolon;

(2) in paragraph (14), by striking out the period and inserting in lieu thereof ''; and''; and

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

''(15) 'Director' means the Director of the Office of Management and Budget.''.

SEC. 3. ANALYSIS OF AGENCY RULES.

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following:

''SUBCHAPTER II—ANALYSIS OF AGENCY RULES

''§ 621. Definitions

''For purposes of this subchapter the definitions under section 551 shall apply and—

''(1) the term 'benefit' means the reasonably identifiable significant favorable effects, including social, environmental, and economic benefits, that are expected to result directly or indirectly from implementation of a rule or an alternative to a rule;

''(2) the term 'cost' means the reasonably identifiable significant adverse effects, including social, environmental, and economic costs that are expected to result directly or indirectly from implementation of, or compliance with, a rule or an alternative to a rule;

''(3) the term 'cost-benefit analysis' means an evaluation of the costs and benefits of a rule, quantified to the extent feasible and appropriate and otherwise qualitatively described, that is prepared in accordance with the requirements of this subchapter at the level of detail appropriate and practicable for reasoned decisionmaking on the matter involved, taking into consideration the significance and complexity of the decision and any need for expedition;

''(4)(A) the term 'major rule' means a rule or a group of closely related rules that the agency proposing the rule, the Director, or a designee of the President reasonably determines is likely to have a gross annual effect on the economy of $100,000,000 or more in reasonably quantifiable direct and indirect costs; and

''(B) the term 'major rule' shall not include—

''(i) a rule that involves the internal revenue laws of the United States;

''(ii) a rule or agency action that authorizes the introduction into, or removal from, commerce, or recognizes the marketable status, of a product; or

''(iii) a rule exempt from notice and public comment procedure under section 553 of this title;

''(5) the term 'market-based mechanism' means a regulatory program that—

''(A) imposes legal accountability for the achievement of an explicit regulatory objective, including the reduction of environmental pollutants or of risks to human health, safety, or the environment, on each regulated person;

''(B) affords maximum flexibility to each regulated person in complying with mandatory regulatory objectives, and such flexibility shall, where feasible and appropriate, include the opportunity to transfer to, or receive from, other persons, including for cash or other legal consideration, increments of compliance responsibility established by the program; and

''(C) permits regulated persons to respond at their own discretion in an automatic manner, consistent with subparagraph (B), to changes in general economic conditions and in economic circumstances directly pertinent to the regulatory program without affecting the achievement of the program's explicit regulatory mandates under subparagraph (A);

''(6) the term 'performance standard' means a requirement that imposes legal accountability for the achievement of an explicit regulatory objective, such as the reduction of environmental pollutants or of risks to human health, safety, or the environment, on each regulated person;

''(7) the term 'risk assessment' has the same meaning as such term is defined under section 631(5); and

''(8) the term 'rule' has the same meaning as in section 551(4) of this title, and shall not include—

''(A) a rule of particular applicability that approves or prescribes for the future rates, wages, prices, services, corporate or financial structures, reorganizations, mergers, acquisitions, accounting practices, or disclosures bearing on any of the foregoing;

''(B) a rule relating to monetary policy proposed or promulgated by the Board of Governors of the Federal Reserve System or by the Federal Open Market Committee;

''(C) a rule relating to the safety or soundness of federally insured depository institutions or any affiliate of such an institution (as defined in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k)); credit unions; the Federal Home Loan Banks; government-sponsored housing enterprises; a Farm Credit System Institution; foreign banks, and their branches, agencies, commercial lending companies or representative offices that operate in the United States and any affiliate of such foreign banks (as those terms are defined in the International Banking Act of 1978 (12 U.S.C. 3101)); or a rule relating to the payments system or the protection of deposit insurance funds or Farm Credit Insurance Fund; or

''(D) a rule issued by the Federal Election Commission or a rule issued by the Federal Communications Commission pursuant to sections 312(a)(7) and 315 of the Communications Act of 1934 (47 U.S.C. 312(a)(7) and 315).

''§ 622. Rulemaking cost-benefit analysis

''(a) Before publishing notice of a proposed rulemaking for any rule (or, in the case of a notice of a proposed rulemaking that has been published on or before the effective date of this subchapter, no later than 30 days after such date), each agency shall determine whether the rule is or is not a major rule. For the purpose of any such determination, a group of closely related rules shall be considered as one rule.

''(b)(1) If an agency has determined that a rule is not a major rule, the Director or a designee of the President may, as appropriate, determine that the rule is a major rule no later than 30 days after the publication of the notice of proposed rulemaking for the rule (or, in the case of a notice of proposed rulemaking that has been published on or before the effective date of this subchapter, no later than 60 days after such date).

''(2) Such determination shall be published in the Federal Register, together with a succinct statement of the basis for the determination.

''(c)(1)(A) When the agency publishes a notice of proposed rulemaking for a major rule, the agency shall issue and place in the rulemaking file an initial cost-benefit analysis, and shall include a summary of such analysis in the notice of proposed rulemaking.

''(B)(i) When the Director or a designee of the President has published a determination that a rule is a major rule after the publication of the notice of proposed rulemaking for the rule, the agency shall promptly issue and place in the rulemaking file an initial cost-benefit analysis for the rule and shall publish in the Federal Register a summary of such analysis.

''(ii) Following the issuance of an initial cost-benefit analysis under clause (i), the agency shall give interested persons an opportunity to comment pursuant to section 553 in the same manner as if the draft cost-benefit analysis had been issued with the notice of proposed rulemaking.

''(2) Each initial cost-benefit analysis shall contain—

''(A) an analysis of the benefits of the proposed rule, including any benefits that cannot be quantified, and an explanation of how the agency anticipates that such benefits will be achieved by the proposed rule, including a description of the persons or classes of persons likely to receive such benefits;

''(B) an analysis of the costs of the proposed rule, including any costs that cannot be quantified, and an explanation of how the agency anticipates that such costs will result from the proposed rule, including a description of the persons or classes of persons likely to bear such costs;

''(C) an identification (including an analysis of costs and benefits) of an appropriate number of reasonable alternatives allowed under the statute granting the rulemaking authority for achieving the identified benefits of the proposed rule, including alternatives that—

''(i) require no government action;

''(ii) will accommodate differences among geographic regions and among persons with differing levels of resources with which to comply; and

''(iii) employ voluntary programs, performance standards, or market-based mechanisms that permit greater flexibility in achieving the identified benefits of the proposed rule and that comply with the requirements of subparagraph (D);

''(D) an assessment of the feasibility of establishing a regulatory program that operates through the application of market-based mechanisms;

''(E) an explanation of the extent to which the proposed rule—

''(i) will accommodate differences among geographic regions and among persons with differing levels of resources with which to comply; and

''(ii) employs voluntary programs, performance standards, or market-based mechanisms that permit greater flexibility in achieving the identified benefits of the proposed rule;

''(F) a description of the quality, reliability, and relevance of scientific or economic evaluations or information in accordance with the cost-benefit analysis and risk assessment requirements of this chapter;

''(G) if not expressly or implicitly inconsistent with the statute under which the agency is proposing the rule, an explanation of the extent to which the identified benefits

of the proposed rule justify the identified costs of the proposed rule, and an explanation of how the proposed rule is likely to substantially achieve the rulemaking objectives in a more cost-effective manner than the alternatives to the proposed rule, including alternatives identified in accordance with subparagraph (C); and

''(H) if a major rule subject to subchapter III addresses risks to human health, safety, or the environment—

''(i) a risk assessment in accordance with this chapter; and

''(ii) for each such proposed or final rule, an assessment of incremental risk reduction or other benefits associated with each significant regulatory alternative considered by the agency in connection with the rule or proposed rule.

''(d)(1) When the agency publishes a final major rule, the agency shall also issue and place in the rulemaking file a final cost-benefit analysis, and shall include a summary of the analysis in the statement of basis and purpose.

''(2) Each final cost-benefit analysis shall contain—

''(A) a description and comparison of the benefits and costs of the rule and of the reasonable alternatives to the rule described in the rulemaking, including the market-based mechanisms identified under subsection (c)(2)(C)(iii); and

''(B) if not expressly or implicitly inconsistent with the statute under which the agency is acting, a reasonable determination, based upon the rulemaking file considered as a whole, whether—

''(i) the benefits of the rule justify the costs of the rule; and

''(ii) the rule will achieve the rulemaking objectives in a more cost-effective manner than the alternatives described in the rulemaking, including the market-based mechanisms identified under subsection (c)(2)(C)(iii).

''(e)(1) The analysis of the benefits and costs of a proposed and a final rule required under this section shall include, to the extent feasible, a quantification or numerical estimate of the quantifiable benefits and costs. Such quantification or numerical estimate shall be made in the most appropriate units of measurement, using comparable assumptions, including time periods, shall specify the ranges of predictions, and shall explain the margins of error involved in the quantification methods and in the estimates used. An agency shall describe the nature and extent of the nonquantifiable benefits and costs of a final rule pursuant to this section in as precise and succinct a manner as possible. An agency shall not be required to make such evaluation primarily on a mathematical or numerical basis.

''(2)(A) In evaluating and comparing costs and benefits and in evaluating the risk assessment information developed under subchapter III, the agency shall not rely on cost, benefit, or risk assessment information that is not accompanied by data, analysis, or other supporting materials that would enable the agency and other persons interested in the rulemaking to assess the accuracy, reliability, and uncertainty factors applicable to such information.

''(B) The agency evaluations of the relationships of the benefits of a proposed and final rule to its costs shall be clearly articulated in accordance with this section.

''(f) As part of the promulgation of each major rule that addresses risks to human health, safety, or the environment, the head of the agency or the President shall make a determination that—

''(1) the risk assessment and the analysis under subsection (c)(2)(H) are based on a scientific evaluation of the risk addressed by the major rule and that the conclusions of such evaluation are supported by the available information; and

''(2) the regulatory alternative chosen will reduce risk in a cost-effective and, to the extent feasible, flexible manner, taking into consideration any of the alternatives identified under subsection (c)(2) (C) and (D).

''(g) The preparation of the initial or final cost-benefit analysis required by this section shall only be performed under the direction of an officer or employee of the agency. The preceding sentence shall not preclude a person outside the agency from gathering data or information to be used by the agency in preparing any such cost-benefit analysis or from providing an explanation sufficient to permit the agency to analyze such data or information. If any such data or information is gathered or explained by a person outside the agency, the agency shall specifically identify in the initial or final cost-benefit analysis the data or information gathered or explained and the person who gathered or explained it, and shall describe the arrangement by which the information was procured by the agency, including the total amount of funds expended for such procurement.

''(h) The requirements of this subchapter shall not alter the criteria for rulemaking otherwise applicable under other statutes.

''§ 623. Judicial review

''(a) Compliance or noncompliance by an agency with the provisions of this subchapter and subchapter III shall not be subject to judicial review except in connection with review of a final agency rule and according to the provisions of this section.

''(b) Any determination by a designee of the President or the Director that a rule is, or is not, a major rule shall not be subject to judicial review in any manner.

''(c) The determination by an agency that a rule is, or is not, a major rule shall be set aside by a reviewing court only upon a clear and convincing showing that the determination is erroneous in light of the information available to the agency at the time the agency made the determination.

''(d) If the cost-benefit analysis or risk assessment required under this chapter has been wholly omitted for any major rule, a court shall vacate the rule and remand the case for further consideration. If an analysis or assessment has been performed, the court shall not review to determine whether the analysis or assessment conformed to the particular requirements of this chapter.

''(e) Any cost-benefit analysis or risk assessment prepared under this chapter shall not be subject to judicial consideration separate or apart from review of the agency action to which it relates. When an action for judicial review of an agency action is instituted, any regulatory analysis for such agency action shall constitute part of the whole administrative record of agency action for the purpose of judicial review of the agency action, and shall, to the extent relevant, be considered by a court in determining the legality of the agency action.

''§ 624. Deadlines for rulemaking

''(a) All deadlines in statutes that require agencies to propose or promulgate any rule subject to section 622 or subchapter III during the 2-year period beginning on the effective date of this section shall be suspended until the earlier of—

''(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

''(2) the date occurring 6 months after the date of the applicable deadline.

''(b) All deadlines imposed by any court of the United States that would require an agency to propose or promulgate a rule subject to section 622 or subchapter III during the 2-year period beginning on the effective date of this section shall be suspended until the earlier of—

''(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

''(2) the date occurring 6 months after the date of the applicable deadline.

''(c) In any case in which the failure to promulgate a rule by a deadline occurring during the 2-year period beginning on the effective date of this section would create an obligation to regulate through individual adjudications, the deadline shall be suspended until the earlier of—

''(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

''(2) the date occurring 6 months after the date of the applicable deadline.

''§ 625. Agency review of rules

''(a)(1)(A) No later than 9 months after the effective date of this section, each agency shall prepare and publish in the Federal Register a proposed schedule for the review, in accordance with this section, of—

''(i) each rule of the agency that is in effect on such effective date and which, if adopted on such effective date, would be a major rule; and

''(ii) each rule of the agency in effect on the effective date of this section (in addition to the rules described in clause (i)) that the agency has selected for review.

''(B) Each proposed schedule required under subparagraph (A) shall be developed in consultation with—

''(i) the Administrator of the Office of Information and Regulatory Affairs; and

''(ii) the classes of persons affected by the rules, including members from the regulated industries, small businesses, State and local governments, and organizations representing the interested public.

''(C) Each proposed schedule required under subparagraph (A) shall establish priorities for the review of rules that, in the joint determination of the Administrator of the Office of Information and Regulatory Affairs and the agency, most likely can be amended or eliminated to—

''(i) provide the same or greater benefits at substantially lower costs;

''(ii) achieve substantially greater benefits at the same or lower costs; or

''(iii) replace command-and-control regulatory requirements with market mechanisms or performance standards that achieve substantially equivalent benefits at lower costs or with greater flexibility.

''(D) Each proposed schedule required by subparagraph (A) shall include—

''(i) a brief explanation of the reasons the agency considers each rule on the schedule to be a major rule, or the reasons why the agency selected the rule for review;

''(ii) a date set by the agency, in accordance with subsection (b), for the completion of the review of each such rule; and

''(iii) a statement that the agency requests comments from the public on the proposed schedule.

''(E) The agency shall set a date to initiate review of each rule on the schedule in a manner that will ensure the simultaneous review of related items and that will achieve a reasonable distribution of reviews over the period of time covered by the schedule.

''(2) No later than 90 days before publishing in the Federal Register the proposed schedule required under paragraph (1), each agency shall make the proposed schedule available to the Director or a designee of the President. The President or that officer may select for review in accordance with this section any additional rule.

''(3) No later than 1 year after the effective date of this section, each agency shall publish in the Federal Register a final schedule for the review of the rules referred to in

paragraphs (1) and (2). Each agency shall publish with the final schedule the response of the agency to comments received concerning the proposed schedule.

''(b)(1) Except as explicitly provided otherwise by statute, the agency shall, pursuant to subsections (c) through (e), review—

''(A) each rule on the schedule promulgated pursuant to subsection (a);

''(B) each major rule promulgated, amended, or otherwise continued by an agency after the effective date of this section; and

''(C) each rule promulgated after the effective date of this section that the President or the officer designated by the President selects for review pursuant to subsection (a)(2).

''(2) Except as provided pursuant to subsection (f), the review of a rule required by this section shall be completed no later than the later of—

''(A) 10 years after the effective date of this section; or

''(B) 10 years after the date on which the rule is—

''(i) promulgated; or

''(ii) amended or continued under this section.

''(c) An agency shall publish in the Federal Register a notice of its proposed action under this section with respect to a rule being reviewed. The notice shall include—

''(1) an identification of the specific statutory authority under which the rule was promulgated and an explanation of whether the agency's interpretation of the statute is expressly required by the current text of that statute or, if not, whether it is within the range of permissible interpretations of the statute;

''(2) an analysis of the benefits and costs of the rule during the period in which it has been in effect;

''(3) an explanation of the proposed agency action with respect to the rule, including action to repeal or amend the rule to resolve inconsistencies or conflicts with any other obligation or requirement established by any Federal statute, rule, or other agency statement, interpretation, or action that has the force of law; and

''(4) a statement that the agency seeks proposals from the public for modifications or alternatives to the rule which may accomplish the objectives of the rule in a more effective or less burdensome manner.

''(d) If an agency proposes to repeal or amend a rule under review pursuant to this section, the agency shall, after issuing the notice required by subsection (c), comply with the provisions of this chapter, chapter 5, and any other applicable law. The requirements of such provisions and related requirements shall apply to the same extent and in the same manner as in the case of a proposed agency action to repeal or amend a rule that is not taken pursuant to the review required by this section.

''(e) If an agency proposes to continue without amendment a rule under review pursuant to this section, the agency shall—

''(1) give interested persons no less than 60 days after the publication of the notice required by subsection (c) to comment on the proposed continuation; and

''(2) publish in the Federal Register notice of the continuation of such rule.

''(f) Any agency, which for good cause finds that compliance with this section with respect to a particular rule during the period provided in subsection (b) of this section is contrary to an important public interest may request the President, or the officer designated by the President pursuant to subsection (a)(2), to establish a period longer than 10 years for the completion of the review of such rule. The President or that officer may extend the period for review of a rule to a total period of no more than 15 years. Such extension shall be published in the Federal Register with an explanation of the reasons therefor.

''(g) If the agency fails to comply with the requirements of subsection (b)(2), the agency shall immediately commence a rulemaking action pursuant to section 553 of this title to repeal the rule.

''(h) Nothing in this section shall relieve any agency from its obligation to respond to a petition to issue, amend, or repeal a rule, for an interpretation regarding the meaning of a rule, or for a variance or exemption from the terms of a rule, submitted pursuant to any other provision of law.

''§ 626. Public participation and accountability

''In order to maximize accountability for, and public participation in, the development and review of regulatory actions each agency shall, consistent with chapter 5 and other applicable law, provide the public with opportunities for meaningful participation in the development of regulatory actions, including—

''(1) seeking the involvement, where practicable and appropriate, of those who are intended to benefit from and those who are expected to be burdened by any regulatory action;

''(2) providing in any proposed or final rulemaking notice published in the Federal Register—

''(A) a certification of compliance with the requirements of this chapter, or an explanation why such certification cannot be made;

''(B) a summary of any regulatory analysis required under this chapter, or under any other legal requirement, and notice of the availability of the regulatory analysis;

''(C) a certification that the rule will produce benefits that will justify the cost to the Government and to the public of implementation of, and compliance with, the rule, or an explanation why such certification cannot be made; and

''(D) a summary of the results of any regulatory review and the agency's response to such review, including an explanation of any significant changes made to such regulatory action as a consequence of regulatory review;

''(3) identifying, upon request, a regulatory action and the date upon which such action was submitted to the designated officer to whom authority was delegated under section 644 for review;

''(4) disclosure to the public, consistent with section 633(3), of any information created or collected in performing a regulatory analysis required under this chapter, or under any other legal requirement; and

''(5) placing in the appropriate rulemaking record all written communications received from the Director, other designated officer, or other individual or entity relating to regulatory review.

''SUBCHAPTER III—RISK ASSESSMENTS

''§ 631. Definitions

''For purposes of this subchapter, the definitions under sections 551 and 621 shall apply, and—

''(1) the term 'covered agency' means each agency required to comply with this subchapter, as provided in section 632;

''(2) the term 'emergency' means an imminent or substantial endangerment to public health, safety, or the environment if no action is taken;

''(3) the term 'exposure assessment' means the scientific determination of the intensity, frequency, and duration of exposures to the hazard in question;

''(4) the term 'hazard assessment' means the scientific determination of whether a hazard can cause an increased incidence of one or more significant adverse effects, and a scientific evaluation of the relationship between the degree of exposure to a perceived cause of an adverse effect and the incidence and severity of the effect;

''(5) the term 'risk assessment' means the systematic process of organizing and analyzing scientific knowledge and information on potential hazards, including as appropriate for the specific risk involved, hazard assessment, exposure assessment, and risk characterization;

''(6) the term 'risk characterization' means the integration and organization of hazard and exposure assessment to estimate the potential for specific harm to an exposed individual population or natural resource including, to the extent feasible, a characterization of the distribution of risk as well as an analysis of uncertainties, variabilities, conflicting information, and inferences and assumptions in the assessment;

''(7) the term 'screening analysis' means an analysis using simple conservative postulates to arrive at an estimate of upper and lower bounds as appropriate, that permits the manager to eliminate risks from further consideration and analysis, or to help establish priorities for agency action; and

''(8) the term 'substitution risk' means an increased risk to human health, safety, or the environment reasonably likely to result from a regulatory option.

''§ 632. Applicability

''(a) Except as provided in subsection (c), this subchapter shall apply to all risk assessments and risk characterizations prepared in connection with a major rule addressing health, safety, and environmental risks by—

''(1) the Secretary of Defense, for major rules relating to the programs and responsibilities of the United States Army Corps of Engineers;

''(2) the Secretary of the Interior, for major rules relating to the programs and responsibilities of the Office of Surface Mining Reclamation and Enforcement;

''(3) the Secretary of Agriculture, for major rules relating to the programs and responsibilities of—

''(A) the Animal and Plant Health Inspection Service;

''(B) the Grain Inspection, Packers, and Stockyards Administration;

''(C) the Food Safety and Inspection Service;

''(D) the Forest Service; and

''(E) the Natural Resources Conservation Service;

''(4) the Secretary of Commerce, for major rules relating to the programs and responsibilities of the National Marine Fisheries Service;

''(5) the Secretary of Labor, for major rules relating to the programs and responsibilities of—

''(A) the Occupational Safety and Health Administration; and

''(B) the Mine Safety and Health Administration;

''(6) the Secretary of Health and Human Services, for major rules relating to the programs and responsibilities assigned to the Food and Drug Administration;

''(7) the Secretary of Transportation, for major rules relating to the programs and responsibilities assigned to—

''(A) the Federal Aviation Administration; and

''(B) the National Highway Traffic Safety Administration;

''(8) the Secretary of Energy, for major rules relating to nuclear safety, occupational safety and health, and environmental restoration and waste management;

''(9) the Chairman of the Consumer Product Safety Commission;

''(10) the Administrator of the Environmental Protection Agency; and

''(11) the Chairman of the Nuclear Regulatory Commission.

''(b)(1) No later than 18 months after the effective date of this section, the President, acting through the Director of the Office of Management and Budget, shall determine whether other Federal agencies should be considered covered agencies for the purposes of this subchapter. Such determination, with respect to a particular Federal agency, shall be based on the impact of risk assessment documents and risk characterization documents on—

''(A) regulatory programs administered by that agency; and

''(B) the communication of risk information by that agency to the public.

''(2) If the President makes a determination under paragraph (1), this subchapter shall apply to any agency determined to be a covered agency beginning on a date set by the President. Such date may be no later than 6 months after the date of such determination.

''(c)(1) This subchapter shall not apply to risk assessments or risk characterizations performed with respect to—

''(A) an emergency determined by the head of an agency;

''(B) a health, safety, or environmental inspection, compliance or enforcement action, or individual facility permitting action; or

''(C) a screening analysis.

''(2) This subchapter shall not apply to any food, drug, or other product label, or to any risk characterization appearing on any such label.

''§ 633. Savings provisions

''Nothing in this subchapter shall be construed to—

''(1) modify any statutory standard or requirement designed to protect human health, safety, or the environment; or

''(2) require the disclosure of any trade secret or other confidential information.

''§ 634. Principles for risk assessments

''(a)(1) The head of each agency shall design and conduct risk assessments in a manner that promotes rational and informed risk management decisions and informed public input into the process of making agency decisions.

''(2) The head of each agency shall establish and maintain a distinction between risk assessment and risk management.

''(3) An agency may take into account priorities for managing risks, including the types of information that would be important in evaluating a full range of alternatives, in developing priorities for risk assessment activities.

''(4) An agency shall not be required to repeat discussions or explanations in each risk assessment required under this subchapter if there is an unambiguous reference to a relevant discussion or explanation in another reasonably available agency document that meets the requirements of this section.

''(5)(A) In conducting a risk assessment, the head of each agency shall employ the level of detail and rigor appropriate and practicable for reasoned decisionmaking in the matter involved, proportionate to the significance and complexity of the potential agency action and the need for expedition.

''(B)(i) Each agency shall develop and use an iterative process for risk assessment, starting with relatively inexpensive screening analyses and progressing to more rigorous analyses, as circumstances or results warrant.

''(ii) In determining whether or not to proceed to a more detailed analysis, the head of the agency shall take into consideration whether or not use of additional data or the analysis thereof would significantly change the estimate of risk.

''(b)(1) The head of each agency shall base each risk assessment on the best reasonably available scientific information, including scientific information that finds or fails to find a correlation between a potential hazard and an adverse effect, and data regarding exposure and other relevant physical conditions that are reasonably expected to be encountered.

''(2) The head of an agency shall select data for use in the assessment based on an appropriate consideration of the quality and relevance of the data, and shall describe the basis for selecting the data.

''(3) In making its selection of data, the head of an agency shall consider whether the data were developed in accordance with good scientific practice or other appropriate protocols to ensure data quality.

''(4) Subject to paragraph (3), relevant scientific data submitted by interested parties shall be reviewed and considered in the analysis by the head of an agency under paragraph (2).

''(5) When conflicts among scientific data appear to exist, the risk assessment shall include a discussion of all relevant information, including the likelihood of alternative interpretations of data.

''(c)(1) To the maximum extent practicable, the head of each agency shall use postulates, including default assumptions, inferences, models, or safety factors, when relevant scientific data and understanding, including site-specific data, are lacking.

''(2) When a risk assessment involves choice of a postulate, the head of the agency shall—

''(A) identify the postulate and its scientific or policy basis, including the extent to which the postulate has been validated by, or conflicts with, empirical data;

''(B) explain the basis for any choices among postulates; and

''(C) describe reasonable alternative postulates that were not selected by the agency for use in the risk assessment, and the sensitivity for the conclusions of the risk assessment to the alternatives, and the rationale for not using such alternatives.

''(3) An agency shall not inappropriately combine or compound multiple postulates.

''(4) The head of each agency shall develop a procedure and publish guidelines for choosing default postulates and for deciding when and how in a specific risk assessments to adopt alternative postulates or to use available scientific information in place of a default postulate.

''(d) The head of each agency shall provide appropriate opportunities for public participation and comment on risk assessments.

''(e) In each risk assessment, the head of each agency shall include in the risk characterization, as appropriate, each of the following:

''(1) A description of the hazard of concern.

''(2) A description of the populations or natural resources that are the subject of the risk assessment.

''(3) An explanation of the exposure scenarios used in the risk assessment, including an estimate of the corresponding population at risk and the likelihood of such exposure scenarios.

''(4) A description of the nature and severity of the harm that could plausibly occur.

''(5) A description of the major uncertainties in each component of the risk assessment and their influence on the results of the assessment.

''(f) To the extent feasible and scientifically appropriate, the head of an agency shall—

''(1) express the overall estimate of risk as a range or probability distribution that reflects variabilities and uncertainties in the analysis;

''(2) provide the range and distribution of risks and the corresponding exposure scenarios, identifying the reasonably expected risk to the general population and, where appropriate, to more highly exposed or sensitive subpopulations; and

''(3) where quantitative estimates of the range and distribution of risk estimates are not available, describe the qualitative factors influencing the range of possible risks.

''(g) The head of an agency shall place the nature and magnitude of risks to human health, safety, and the environment being analyzed in context, including appropriate comparisons with other risks that are familiar to, and routinely encountered by, the general public.

''(h) In any notice of proposed or final regulatory action subject to this subchapter, the head of an agency shall describe significant substitution risks to human health or safety identified by the agency or contained in information provided to the agency by a commentator.

''§ 635. Peer review

''(a) The head of each covered agency shall develop a systematic program for independent and external peer review required under subsection (b). Such program shall be applicable throughout each covered agency and—

''(1) shall provide for the creation of peer review panels that—

''(A) consist of members with expertise relevant to the sciences involved in regulatory decisions and who are independent of the covered agency; and

''(B) are broadly representative and balanced and, to the extent relevant and appropriate, may include persons affiliated with Federal, State, local, or tribal governments, small businesses, other representatives of industry, universities, agriculture, labor consumers, conservation organizations, or other public interest groups and organizations;

''(2) shall not exclude any person with substantial and relevant expertise as a panel member on the basis that such person represents an entity that may have a potential interest in the outcome, if such interest is fully disclosed to the agency, and in the case of a regulatory decision affecting a single entity, no peer reviewer representing such entity may be included on the panel;

''(3) shall provide for a timely completed peer review, meeting agency deadlines, that contains a balanced presentation of all considerations, including minority reports and an agency response to all significant peer review comments; and

''(4) shall provide adequate protections for confidential business information and trade secrets, including requiring panel members to enter into confidentiality agreements.

''(b)(1)(A) Except as provided under subparagraph (B), each covered agency shall provide for peer review in accordance with this section of any risk assessment or cost-benefit analysis that forms the basis of any major rule that addresses risks to the environment, health, or safety.

''(B) Subparagraph (A) shall not apply to a rule or other action taken by an agency to authorize or approve any individual substance or product.

''(2) The Director of the Office of Management and Budget may order that peer review be provided for any risk assessment or cost-benefit analysis that is likely to have a significant impact on public policy decisions or would establish an important precedent.

''(c) Each peer review under this section shall include a report to the Federal agency concerned with respect to the scientific and technical merit of data and methods used for the risk assessments or cost-benefit analyses.

''(d) The head of the covered agency shall provide a written response to all significant peer review comments.

''(e) All peer review comments or conclusions and the agency's responses shall be made available to the public and shall be made part of the administrative record for purposes of judicial review of any final agency action.

''(f) No peer review shall be required under this section for any data, method, document, or assessment, or any component thereof, which has been previously subjected to peer review.

''§ 636. Guidelines, plan for assessing new information, and report

''(a)(1)(A) As soon as practicable and scientifically feasible, each covered agency shall adopt, after notification and opportunity for public comment, guidelines to implement the risk assessment principles under section 634, as well as the cost-benefit analysis requirements under section 622, and shall provide a format for summarizing risk assessment results.

''(B) No later than 12 months after the effective date of this section, the head of each covered agency shall issue a report on the status of such guidelines to the Congress.

''(2) The guidelines under paragraph (1) shall—

''(A) include guidance on use of specific technical methodologies and standards for acceptable quality of specific kinds of data;

''(B) address important decisional factors for the risk assessment, risk characterization, and cost-benefit analysis at issue; and

''(C) provide procedures for the refinement and replacement of policy-based default assumptions.

''(b) The guidelines, plan and report under this section shall be developed after notice and opportunity for public comment, and after consultation with representatives of appropriate State agencies and local governments, and such other departments and agencies, organizations, or persons as may be advisable.

''(c) The President shall review the guidelines published under this section at least every 4 years.

''(d) The development, issuance, and publication of risk assessment and risk characterization guidelines under this section shall not be subject to judicial review.

''§ 637. Research and training in risk assessment

''(a) The head of each covered agency shall regularly and systematically evaluate risk assessment research and training needs of the agency, including, where relevant and appropriate, the following:

''(1) Research to reduce generic data gaps, to address modelling needs (including improved model sensitivity), and to validate default options, particularly those common to multiple risk assessments.

''(2) Research leading to improvement of methods to quantify and communicate uncertainty and variability among individuals, species, populations, and, in the case of ecological risk assessment, ecological communities.

''(3) Emerging and future areas of research, including research on comparative risk analysis, exposure to multiple chemicals and other stressors, noncancer endpoints, biological markers of exposure and effect, mechanisms of action in both mammalian and nonmammalian species, dynamics and probabilities of physiological and ecosystem exposures, and prediction of ecosystem-level responses.

''(4) Long-term needs to adequately train individuals in risk assessment and risk assessment application. Evaluations under this paragraph shall include an estimate of the resources needed to provide necessary training.

''(b) The head of each covered agency shall develop a strategy and schedule for carrying out research and training to meet the needs identified in subsection (a).

''§ 638. Interagency coordination

''(a) To promote the conduct, application, and practice of risk assessment in a consistent manner and to identify risk assessment data and research needs common to more than 1 Federal agency, the Director of the Office of Management and Budget, in consultation with the Office of Science and Technology Policy, shall—

''(1) periodically survey the manner in which each Federal agency involved in risk assessment is conducting such risk assessment to determine the scope and adequacy of risk assessment practices in use by the Federal Government;

''(2) provide advice and recommendations to the President and Congress based on the surveys conducted and determinations made under paragraph (1);

''(3) establish appropriate interagency mechanisms to promote—

''(A) coordination among Federal agencies conducting risk assessment with respect to the conduct, application, and practice of risk assessment; and

''(B) the use of state-of-the-art risk assessment practices throughout the Federal Government;

''(4) establish appropriate mechanisms between Federal and State agencies to communicate state-of-the-art risk assessment practices; and

''(5) periodically convene meetings with State government representatives and Federal and other leaders to assess the effectiveness of Federal and State cooperation in the development and application of risk assessment.

''(b) The President shall appoint National Peer Review Panels to review every 3 years the risk assessment practices of each covered agency for programs designed to protect human health, safety, or the environment. The Panels shall submit a report to the President and the Congress at least every 3 years containing the results of such review.

''§ 639. Plan for review of risk assessments

''(a) No later than 18 months after the effective date of this section, the head of each covered agency shall publish a plan to review and revise any risk assessment published before the expiration of such 18-month period if the covered agency determines that significant new information or methodologies are available that could significantly alter the results of the prior risk assessment.

''(b) A plan under subsection (a) shall—

''(1) provide procedures for receiving and considering new information and risk assessments from the public; and

''(2) set priorities and criteria for review and revision of risk assessments based on such factors as the agency head considers appropriate.

''§ 640. Judicial review

''The provisions of section 623 relating to judicial review shall apply to this subchapter.

''§ 640a. Deadlines for rulemaking

''The provisions of section 624 relating to deadlines for rulemaking shall apply to this subchapter.

''SUBCHAPTER IV—EXECUTIVE OVERSIGHT

''§ 641. Definition

''For purposes of this subchapter, the definitions under sections 551 and 621 shall apply.

''§ 642. Procedures

''The Director or other designated officer to whom authority is delegated under section 644 shall—

''(1) establish procedures for agency compliance with this chapter; and

''(2) monitor, review, and ensure agency implementation of such procedures.

''§ 643. Promulgation and adoption

''(a) Procedures established pursuant to section 642 shall only be implemented after opportunity for public comment. Any such procedures shall be consistent with the prompt completion of rulemaking proceedings.

''(b)(1) If procedures established pursuant to section 642 include review of any initial or final analyses of a rule required under this chapter, the time for any such review of any initial analysis shall not exceed 60 days following the receipt of the analysis by the Director, a designee of the President, or by an officer to whom the authority granted under section 642 has been delegated pursuant to section 644.

''(2) The time for review of any final analysis required under this chapter shall not exceed 60 days following the receipt of the analysis by the Director, a designee of the President, or such officer.

''(3)(A) The times for each such review may be extended for good cause by the President or such officer for an additional 30 days.

''(B) Notice of any such extension, together with a succinct statement of the reasons therefor, shall be inserted in the rulemaking file.

''§ 644. Delegation of authority

''(a) The President shall delegate the authority granted by this subchapter to the Director or to another officer within the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate.

''(b) Notice of any delegation, or any revocation or modification thereof shall be published in the Federal Register.

''§ 645. Public disclosure of information

''The Director or other designated officer to whom authority is delegated under section 644, in carrying out the provisions of section 642, shall establish procedures (covering all employees of the Director or other designated officer) to provide public and agency access to information concerning regulatory review actions, including—

''(1) disclosure to the public on an ongoing basis of information regarding the status of regulatory actions undergoing review;

''(2) disclosure to the public, no later than publication of, or other substantive notice to the public concerning a regulatory action, of—

''(A) all written communications, regardless of form or format, including drafts of all proposals and associated analyses, between the Director or other designated officer and the regulatory agency;

''(B) all written communications, regardless of form or format, between the Director or other designated officer and any person not employed by the executive branch of the Federal Government relating to the substance of a regulatory action;

''(C) a record of all oral communications relating to the substance of a regulatory action between the Director or other designated officer and any person not employed by the executive branch of the Federal Government; and

''(D) a written explanation of any review action and the date of such action; and

''(3) disclosure to the regulatory agency, on a timely basis, of—

''(A) all written communications between the Director or other designated officer and

any person who is not employed by the executive branch of the Federal Government;

''(B) a record of all oral communications, and an invitation to participate in meetings, relating to the substance of a regulatory action between the Director or other designated officer and any person not employed by the executive branch of the Federal Government; and

''(C) a written explanation of any review action taken concerning an agency regulatory action.

''§ 646. Judicial review

''The exercise of the authority granted under this subchapter by the Director, the President, or by an officer to whom such authority has been delegated under section 644 shall not be subject to judicial review in any manner.''.

(b) REGULATORY FLEXIBILITY ANALYSIS.—

(1) IN GENERAL.—Section 611 of title 5, United States Code, is amended to read as follows:

''§ 611. Judicial review

''(a)(1) Except as provided in paragraph (2), no later than 1 year after the effective date of a final rule with respect to which an agency—

''(A) certified, pursuant to section 605(b), that such rule would not have a significant economic impact on a substantial number of small entities; or

''(B) prepared a final regulatory flexibility analysis pursuant to section 604,

an affected small entity may petition for the judicial review of such certification or analysis in accordance with this subsection. A court having jurisdiction to review such rule for compliance with section 553 of this title or under any other provision of law shall have jurisdiction to review such certification or analysis.

''(2)(A) Except as provided in subparagraph (B), in the case of a provision of law that requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period provided in paragraph (1), such lesser period shall apply to a petition for the judicial review under this subsection.

''(B) In a case in which an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b), a petition for judicial review under this subsection shall be filed no later than—

''(i) 1 year; or

''(ii) in a case in which a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period provided in paragraph (1), the number of days specified in such provision of law,

after the date the analysis is made available to the public.

''(3) For purposes of this subsection, the term 'affected small entity' means a small entity that is or will be adversely affected by the final rule.

''(4) Nothing in this subsection shall be construed to affect the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law.

''(5)(A) In a case in which an agency certifies that such rule would not have a significant economic impact on a substantial number of small entities, the court may order the agency to prepare a final regulatory flexibility analysis pursuant to section 604 if the court determines, on the basis of the rulemaking record, that the certification was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

''(B) In a case in which the agency prepared a final regulatory flexibility analysis, the court may order the agency to take corrective action consistent with section 604 if the court determines, on the basis of the rulemaking record, that the final regulatory flexibility analysis was prepared by the agency without complying with section 604.

''(6) If, by the end of the 90-day period beginning on the date of the order of the court pursuant to paragraph (5) (or such longer period as the court may provide), the agency fails, as appropriate—

''(A) to prepare the analysis required by section 604; or

''(B) to take corrective action consistent with section 604 of this title,

the court may stay the rule or grant such other relief as it deems appropriate.

''(7) In making any determination or granting any relief authorized by this subsection, the court shall take due account of the rule of prejudicial error.

''(b) In an action for the judicial review of a rule, any regulatory flexibility analysis for such rule (including an analysis prepared or corrected pursuant to subsection (a)(5)) shall constitute part of the whole record of agency action in connection with such review.

''(c) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise provided by law.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the effective date of this Act, except that the judicial review authorized by section 611(a) of title 5, United States Code (as added by subsection (a)), shall apply only to final agency rules issued after such effective date.

(c) PRESIDENTIAL AUTHORITY.—Nothing in this Act shall limit the exercise by the President of the authority and responsibility that the President otherwise possesses under the Constitution and other laws of the United States with respect to regulatory policies, procedures, and programs of departments, agencies, and offices.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Part I of title 5, United States Code, is amended by striking out the chapter heading and table of sections for chapter 6 and inserting in lieu thereof the following:

''CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

''SUBCHAPTER I—REGULATORY ANALYSIS

''SUBCHAPTER II—ANALYSIS OF AGENCY RULES

''SUBCHAPTER III—RISK ASSESSMENTS

''SUBCHAPTER IV—EXECUTIVE OVERSIGHT

(2) Chapter 6 of title 5, United States Code, is amended by inserting immediately before section 601, the following subchapter heading:

''SUBCHAPTER I—REGULATORY ANALYSIS''.

SEC. 4. CONGRESSIONAL REVIEW.

(a) IN GENERAL.—Part I of title 5, United States Code, is amended by inserting after chapter 7 the following new chapter:

''CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

''§ 801. Congressional review of agency rulemaking

''(a) For purposes of this chapter, the term—

''(1) 'major rule' means a major rule as defined under section 621(4) of this title and as determined under section 622 of this title; and

''(2) 'rule' (except in reference to a rule of the Senate or House of Representatives) is a reference to a major rule.

''(b)(1) Upon the promulgation of a final major rule, the agency promulgating such rule shall submit to the Congress a copy of the rule, the statement of basis and purpose for the rule, and the proposed effective date of the rule.

''(2) A rule submitted under paragraph (1) shall not take effect as a final rule before the latest of the following:

''(A) The later of the date occurring 45 days after the date on which—

''(i) the Congress receives the rule submitted under paragraph (1); or

''(ii) the rule is published in the Federal Register.

''(B) If the Congress passes a joint resolution of disapproval described under subsection (i) relating to the rule, and the President signs a veto of such resolution, the earlier date—

''(i) on which either House of Congress votes and fails to override the veto of the President; or

''(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President.

''(C) The date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under subsection (i) is approved).

''(c) A major rule shall not take effect as a final rule if the Congress passes a joint resolution of disapproval described under subsection (i), which is signed by the President or is vetoed and overridden by the Congress.

''(d)(1) Notwithstanding any other provision of this section (except subject to paragraph (2)), a major rule that would not take effect by reason of this section may take effect if the President makes a determination and submits written notice of such determination to the Congress that the major rule should take effect because such major rule is—

''(A) necessary because of an imminent threat to health or safety, or other emergency;

''(B) necessary for the enforcement of criminal laws; or

''(C) necessary for national security.

''(2) An exercise by the President of the authority under this subsection shall have no effect on the procedures under subsection (i) or the effect of a joint resolution of disapproval under this section.

''(e)(1) Subsection (i) shall apply to any major rule that is promulgated as a final rule during the period beginning on the date occurring 60 days before the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes.

''(2) For purposes of subsection (i), a major rule described under paragraph (1) shall be treated as though such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the date the succeeding Congress first convenes.

''(3) During the period between the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes, a rule described under paragraph (1) shall take effect as a final rule as otherwise provided by law.

''(f) Any rule that takes effect and later is made of no force or effect by the enactment of a joint resolution under subsection (i) shall be treated as though such rule had never taken effect.

''(g) If the Congress does not enact a joint resolution of disapproval under subsection (i), no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such major rule, related statute, or joint resolution of disapproval.

''(h) If the agency fails to comply with the requirements of subsection (b) for any rule, the rule shall cease to be enforceable against any person.

''(i)(1) For purposes of this subsection, the term 'joint resolution' means only a joint resolution introduced after the date on which the rule referred to in subsection (b) is received by Congress the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule submitted by the _____ relating to _____, and such rule shall have no force or effect.' (The blank spaces being appropriately filled in.)

''(2)(A) In the Senate, a resolution described in paragraph (1) shall be referred to the committees with jurisdiction. Such a resolution shall not be reported before the eighth day after its submission or publication date.

''(B) For purposes of this subsection, the term 'submission or publication date' means the later of the date on which—

''(i) the Congress receives the rule submitted under subsection (b)(1); or

''(ii) the rule is published in the Federal Register.

''(3) In the Senate, if the committee to which a resolution described in paragraph (1) is referred has not reported such resolution (or an identical resolution) at the end of 20 calendar days after its submission or publication date, such committee may be discharged on a petition approved by 30 Senators from further consideration of such resolution and such resolution shall be placed on the Senate calendar.

''(4)(A) In the Senate, when the committee to which a resolution is referred has reported, or when a committee is discharged (under paragraph (3)) from further consideration of, a resolution described in paragraph (1), it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) for any Senator to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) shall be waived. The motion shall be privileged in the Senate and shall not be debatable. The motion shall not be subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the Senate until disposed of.

''(B) In the Senate, debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall be in order and shall not be debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution shall not be in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to shall not be in order.

''(C) In the Senate, immediately following the conclusion of the debate on a resolution described in paragraph (1), and a single quorum call at the conclusion of the debate if requested in accordance with the Senate rules, the vote on final passage of the resolution shall occur.

''(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

''(5) If, before the passage in the Senate of a resolution described in paragraph (1), the Senate receives from the House of Representatives a resolution described in paragraph (1), then the following procedures shall apply:

''(A) The resolution of the House of Representatives shall not be referred to a committee.

''(B) With respect to a resolution described in paragraph (1) of the Senate—

''(i) the procedure in the Senate shall be the same as if no resolution had been received from the other House; but

''(ii) the vote on final passage shall be on the resolution of the other House.

''(6) This subsection is enacted by Congress—

''(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed to be a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

''(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

''(j) No requirements under this chapter shall be subject to judicial review in any manner.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part I of title 5, United States Code, is amended by inserting after the item relating to chapter 7 the following:

''8. Congressional Review of Agency Rulemaking ..... 801''.

SEC. 5. STUDIES AND REPORTS.

(a) RISK ASSESSMENTS.—The Administrative Conference of the United States shall—

(1) develop and carry out an ongoing study of the operation of the risk assessment requirements of subchapter III of chapter 6 of title 5, United States Code (as added by section 3 of this Act); and

(2) submit an annual report to the Congress on the findings of the study.

(b) ADMINISTRATIVE PROCEDURE ACT.—No later than December 31, 1996, the Administrative Conference of the United States shall—

(1) carry out a study of the operation of chapters 5 and 6 of title 5, United States Code (commonly referred to as the Administrative Procedure Act), as amended by section 3 of this Act; and

(2) submit a report to the Congress on the findings of the study, including proposals for revision, if any.

SEC. 6. RISK-BASED PRIORITIES.

(a) PURPOSES.—The purposes of this section are to—

(1) encourage Federal agencies engaged in regulating risks to human health, safety, and the environment to achieve the greatest risk reduction at the least cost practical;

(2) promote the coordination of policies and programs to reduce risks to human health, safety, and the environment; and

(3) promote open communication among Federal agencies, the public, the President, and Congress regarding environmental, health, and safety risks, and the prevention and management of those risks.

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

(1) COMPARATIVE RISK ANALYSIS.—The term ''comparative risk analysis'' means a process to systematically estimate, compare, and rank the size and severity of risks to provide a common basis for evaluating strategies for reducing or preventing those risks.

(2) COVERED AGENCY.—The term ''covered agency'' means each of the following:

(A) The Environmental Protection Agency.

(B) The Department of Labor.

(C) The Department of Transportation.

(D) The Food and Drug Administration.

(E) The Department of Energy.

(F) The Department of the Interior.

(G) The Department of Agriculture.

(H) The Consumer Product Safety Commission.

(I) The National Oceanic and Atmospheric Administration.

(J) The United States Army Corps of Engineers.

(K) The Nuclear Regulatory Commission.

(3) EFFECT.—The term ''effect'' means a deleterious change in the condition of—

(A) a human or other living thing (including death, cancer, or other chronic illness, decreased reproductive capacity, or disfigurement); or

(B) an inanimate thing important to human welfare (including destruction, degeneration, the loss of intended function, and increased costs for maintenance).

(4) IRREVERSIBILITY.—The term ''irreversibility'' means the extent to which a return to conditions before the occurrence of an effect are either very slow or will never occur.

(5) LIKELIHOOD.—The term ''likelihood'' means the estimated probability that an effect will occur.

(6) MAGNITUDE.—The term ''magnitude'' means the number of individuals or the quantity of ecological resources or other resources that contribute to human welfare that are affected by exposure to a stressor.

(7) SERIOUSNESS.—The term ''seriousness'' means the intensity of effect, the likelihood, the irreversibility, and the magnitude.

(c) DEPARTMENT AND AGENCY PROGRAM GOALS.—

(1) SETTING PRIORITIES.—In exercising authority under applicable laws protecting human health, safety, or the environment,

the head of each covered agency should set priorities and use the resources available under those laws to address those risks to human health, safety, and the environment that—

(A) the covered agency determines to be the most serious; and

(B) can be addressed in a cost-effective manner, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources expended.

(2) DETERMINING THE MOST SERIOUS RISKS.—In identifying the greatest risks under paragraph (1) of this subsection, each covered agency shall consider, at a minimum—

(A) the likelihood, irreversibility, and severity of the effect; and

(B) the number and classes of individuals potentially affected, and shall explicitly take into account the results of the comparative risk analysis conducted under subsection (d) of this section.

(3) OMB REVIEW.—The covered agency's determinations of the most serious risks for purposes of setting priorities shall be reviewed and approved by the Director of the Office of Management and Budget before submission of the covered agency's annual budget requests to Congress.

(4) INCORPORATING RISK-BASED PRIORITIES INTO BUDGET AND PLANNING.—The head of each covered agency shall incorporate the priorities identified under paragraph (1) into the agency budget, strategic planning, regulatory agenda, enforcement, and research activities. When submitting its budget request to Congress and when announcing its regulatory agenda in the Federal Register, each covered agency shall identify the risks that the covered agency head has determined are the most serious and can be addressed in a cost-effective manner under paragraph (1), the basis for that determination, and explicitly identify how the covered agency's requested budget and regulatory agenda reflect those priorities.

(5) EFFECTIVE DATE.—This subsection shall take effect 12 months after the date of enactment of this Act.

(d) COMPARATIVE RISK ANALYSIS.—

(1) REQUIREMENT.—(A)(i) No later than 6 months after the effective date of this Act, the Director of the Office of Management and Budget shall enter into appropriate arrangements with an accredited scientific body—

(I) to conduct a study of the methodologies for using comparative risk to rank dissimilar human health, safety, and environmental risks; and

(II) to conduct a comparative risk analysis.

(ii) The comparative risk analysis shall compare and rank, to the extent feasible, human health, safety, and environmental risks potentially regulated across the spectrum of programs administered by all covered agencies.

(B) The Director shall consult with the Office of Science and Technology Policy regarding the scope of the study and the conduct of the comparative risk analysis.

(2) CRITERIA.—In arranging for the comparative risk analysis referred to in paragraph (1) of this subsection, the Director shall ensure that—

(A) the scope and specificity of the analysis are sufficient to provide the President and agency heads guidance in allocating resources across agencies and among programs in agencies to achieve the greatest degree of risk prevention and reduction for the public and private resources expended;

(B) the analysis is conducted through an open process, by individuals with relevant expertise, including toxicologists, biologists, engineers and experts in medicine, industrial hygiene and environmental effects;

(C) the analysis is conducted, to the extent feasible, consistent with the risk assessment and risk characterization principles in sections 635 and 636 of this title;

(D) the methodologies and principal scientific determinations made in the analysis are subjected to independent and external peer review consistent with section 635, and the conclusions of the peer review are made publicly available as part of the final report required under subsection (e);

(E) there is an opportunity for public comment on the results before making them final; and

(F) the results are presented in a manner that distinguishes between the scientific conclusions and any policy or value judgments embodied in the comparisons.

(3) COMPLETION AND REVIEW.—No later than 3 years after the effective date of this Act, the comparative risk analysis required under paragraph (1) shall be completed. The comparative risk analysis shall be reviewed and revised at least every 5 years thereafter for a minimum of 15 years following the release of the first analysis. The Director shall arrange for such review and revision with an accredited scientific body in the same manner as provided under paragraphs (1) and (2).

(4) STUDY.—The study of methodologies provided under paragraph (1) shall be conducted as part of the first comparative risk analysis and shall be completed no later than 180 days after the completion of that analysis. The goal of the study shall be to develop and rigorously test methods of comparative risk analysis. The study shall have sufficient scope and breadth to test approaches for improving comparative risk analysis and its use in setting priorities for human health, safety, and environmental risk prevention and reduction.

(5) TECHNICAL GUIDANCE.—No later than 180 days after the effective date of this Act, the Director, in collaboration with other heads of covered agencies shall enter into a contract with the National Research Council to provide technical guidance to agencies on approaches to using comparative risk analysis in setting human health, safety, and environmental priorities to assist agencies in complying with subsection (c) of this section.

(e) REPORTS AND RECOMMENDATIONS TO CONGRESS AND THE PRESIDENT.—No later than 24 months after the effective date of this Act, each covered agency shall submit a report to Congress and the President—

(1) detailing how the agency has complied with subsection (c) and describing the reasons for any departure from the requirement to establish priorities to achieve the greatest overall net reduction in risk;

(2) recommending—

(A) modification, repeal, or enactment of laws to reform, eliminate, or enhance programs or mandates relating to human health, safety, or the environment; and

(B) modification or elimination of statutorily or judicially mandated deadlines,

that would assist the covered agency to set priorities in activities to address the risks to human health, safety, or the environment in a manner consistent with the requirements of subsection (c)(1);

(3) evaluating the categories of policy and value judgments used in risk assessment, risk characterization, or cost-benefit analysis; and

(4) discussing risk assessment research and training needs, and the agency's strategy and schedule for meeting those needs.

(f) SAVINGS PROVISION AND JUDICIAL REVIEW.—

(1) IN GENERAL.—Nothing in this section shall be construed to modify any statutory standard or requirement designed to protect human health, safety, or the environment.

(2) JUDICIAL REVIEW.—Compliance or noncompliance by an agency with the provisions of this section shall not be subject to judicial review.

(3) AGENCY ANALYSIS.—Any analysis prepared under this section shall not be subject to judicial consideration separate or apart from the requirement, rule, program, or law to which it relates. When an action for judicial review of a covered agency action is instituted, any analysis for, or relating to, the action shall constitute part of the whole record of agency action for the purpose of judicial review of the action and shall, to the extent relevant, be considered by a court in determining the legality of the covered agency action.

SEC. 7. REGULATORY ACCOUNTING.

(a) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) AGENCY.—The term ''agency'' means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but shall not include—

(A) the General Accounting Office;

(B) the Federal Election Commission;

(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

(D) government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities.

(2) REGULATION.—The term ''regulation'' means an agency statement of general applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the procedures or practice requirements of an agency. The term shall not include—

(A) administrative actions governed by sections 556 and 557 of title 5, United States Code;

(B) regulations issued with respect to a military or foreign affairs function of the United States; or

(C) regulations related to agency organization, management, or personnel.

(b) ACCOUNTING STATEMENT.—

(1) IN GENERAL.—(A) The President shall be responsible for implementing and administering the requirements of this section.

(B) Every 2 years, no later than June of the second year, the President shall prepare and submit to Congress an accounting statement that estimates the annual costs of Federal regulatory programs and corresponding benefits in accordance with this subsection.

(2) YEARS COVERED BY ACCOUNTING STATEMENT.—Each accounting statement shall cover, at a minimum, the 5 fiscal years beginning on October 1 of the year in which the report is submitted and may cover any fiscal year preceding such fiscal years for purpose of revising previous estimates.

(3) TIMING AND PROCEDURES.—(A) The President shall provide notice and opportunity for comment for each accounting statement. The President may delegate to an agency the requirement to provide notice and opportunity to comment for the portion of the accounting statement relating to that agency.

(B) The President shall propose the first accounting statement under this subsection no later than 2 years after the effective date of this Act and shall issue the first accounting statement in final form no later than 3 years after such effective date. Such statement shall cover, at a minimum, each of the fiscal years beginning after the effective date of this Act.

(4) CONTENT OF ACCOUNTING STATEMENT.—(A) Each accounting statement shall contain

estimates of costs and benefits with respect to each fiscal year covered by the statement in accordance with this paragraph. For each such fiscal year for which estimates were made in a previous accounting statement, the statement shall revise those estimates and state the reasons for the revisions.

(B)(i) An accounting statement shall estimate the costs of Federal regulatory programs by setting forth, for each year covered by the statement—

(I) the annual expenditure of national economic resources for each regulatory program; and

(II) such other quantitative and qualitative measures of costs as the President considers appropriate.

(ii) For purposes of the estimate of costs in the accounting statement, national economic resources shall include, and shall be listed under, at least the following categories:

(I) Private sector costs.

(II) Federal sector costs.

(III) State and local government costs.

(C) An accounting statement shall estimate the benefits of Federal regulatory programs by setting forth, for each year covered by the statement, such quantitative and qualitative measures of benefits as the President considers appropriate. Any estimates of benefits concerning reduction in human health, safety, or environmental risks shall present the most plausible level of risk practical, along with a statement of the reasonable degree of scientific certainty.

(c) ASSOCIATED REPORT TO CONGRESS.—

(1) IN GENERAL.—At the same time as the President submits an accounting statement under subsection (b), the President, acting through the Director of the Office of Management and Budget, shall submit to Congress a report associated with the accounting statement (hereinafter referred to as an ''associated report''). The associated report shall contain, in accordance with this subsection—

(A) analyses of impacts; and

(B) recommendations for reform.

(2) ANALYSES OF IMPACTS.—The President shall include in the associated report the following:

(A) The cumulative impact on the economy of Federal regulatory programs covered in the accounting statement. Factors to be considered in such report shall include impacts on the following:

(i) The ability of State and local governments to provide essential services, including police, fire protection, and education.

(ii) Small business.

(iii) Productivity.

(iv) Wages.

(v) Economic growth.

(vi) Technological innovation.

(vii) Consumer prices for goods and services.

(viii) Such other factors considered appropriate by the President.

(B) A summary of any independent analyses of impacts prepared by persons commenting during the comment period on the accounting statement.

(3) RECOMMENDATIONS FOR REFORM.—The President shall include in the associated report the following:

(A) A summary of recommendations of the President for reform or elimination of any Federal regulatory program or program element that does not represent sound use of national economic resources or otherwise is inefficient.

(B) A summary of any recommendations for such reform or elimination of Federal regulatory programs or program elements prepared by persons commenting during the comment period on the accounting statement.

(d) GUIDANCE FROM OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall, in consultation with the Council of Economic Advisers and the agencies, develop guidance for the agencies—

(1) to standardize measures of costs and benefits in accounting statements prepared pursuant to this section and section 3 of this Act, including—

(A) detailed guidance on estimating the costs and benefits of major rules; and

(B) general guidance on estimating the costs and benefits of all other rules that do not meet the thresholds for major rules; and

(2) to standardize the format of the accounting statements.

(e) RECOMMENDATIONS FROM CONGRESSIONAL BUDGET OFFICE.—After each accounting statement and associated report submitted to Congress, the Director of the Congressional Budget Office shall make recommendations to the President—

(1) for improving accounting statements prepared pursuant to this section, including recommendations on level of detail and accuracy; and

(2) for improving associated reports prepared pursuant to this section, including recommendations on the quality of analysis.

(f) JUDICIAL REVIEW.—No requirements under this section shall be subject to judicial review in any manner.

SEC. 8. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act shall take effect 180 days after the date of the enactment of this Act.

REGULATORY REFORM ALTERNATIVE AND COMPARISONS WITH DOLE/JOHNSTON

Our principles for regulatory reform are the following:

(1) Cost-benefit and risk assessment requirements should apply to only major rules, which has been set at $100 million for executive branch review since President Reagan's time.

Our bill applies to rules that have an impact on the economy of $100 million or more.

The Dole/Johnston draft applies to rules that have an impact on the economy of $50 million or more.

(2) Regulatory reform should not become a lawyer's dream, opening up a multitude of new avenues for judicial review.

Our bill limits judicial review to determinations of: (1) whether a rule is major; and (2) whether a final rule is arbitrary or capricious, taking into consideration the whole rulemaking file. Specific procedural requirements for cost-benefit analysis and risk assessment are not subject to judicial review except as part of the whole rulemaking file.

The Dole/Johnston draft will lead to a litigation explosion that will swamp the courts and bog down agencies. It would allow review of steps in risk assessment and cost-benefit analysis, in addition to the determination of a major rule and of agency decisions to grant or deny petitions. It alters APA standards in ways that undermine legal precedent and invite lawsuits. And it seeks to limit agency discretion in ways that will lead inevitably to challenges in court.

(3) Regulatory reform should not be a ''fix'' for special interests.

Our bill focuses on the fundamentals of regulatory reform and contains no special interest provisions.

The Dole/Johnston draft provides relief to specific business interests, e.g., by restricting the Toxics Release Inventory, limiting the Delaney Clause, and delaying and increasing costs of Superfund cleanups.

(4) Regulatory reform should make Federal agencies more efficient and effective, not tie up agency resources with additional bureaucratic processes.

Our bill requires cost-benefit analysis and risk assessment for major rules, and requires agencies to review all their major rules by a time certain.

The Dole/Johnston draft covers a much broader scope of rules and has several convoluted petition processes for ''interested parties'' (e.g., to amend or rescind a major rule, and to review policies or guidance). These petitions are judicially reviewable and must be granted or denied by an agency within a specified time frame. The petitions will eat up agency resources and allow the petitioners, not the agencies, to set agency priorities.

(5) Regulatory reform legislation should improve analysis, but not override health, safety or environmental protections.

Our bill requires agencies to explain whether benefits justify costs and whether the rule will be more cost-effective than alternatives. It does not allow cost-benefit determinations to control agency decisions or to override existing protections of health, safety or environmental laws.

The Dole/Johnston draft has three separate decisional criteria that control agency decisions, regardless of the underlying statutes. These overriding provisions are created for major rule cost-benefit determinations, for environmental cleanups, and for regulatory flexibility analyses. The reg flex override actually conflicts with the cost-benefit decisional criteria. And the cost-benefit test limits agencies to the cheapest rule, not the most cost-effective one.

(6) There should be ''sunshine'' in the regulatory review process.

Our bill ensures that agencies and OMB publicly disclose the status of regulatory review, related decisions and documents, and communications from persons outside of the government.

The Dole/Johnston draft has no ''sunshine'' provisions to protect against regulatory review delay, unsubstantiated review decisions or undisclosed special interest lobbying and political deals.

The text of this bill is almost identical to S. 291, the ''Regulatory Reform Act of 1995,'' which was reported unanimously from the Senate Committee on Governmental Affairs. Like S. 291, this bill:

(1) Covers all ''major'' rules with a cost impact of $100 million.

(2) Requires cost-benefit analysis for all major rules.

(3) Requires risk assessment for all major rules related to environment, health, or safety.

(4) Requires peer review of cost-benefit analyses and risk assessments.

(5) Limits judicial review to the determination of ''major'' rules and to the final rulemaking file.

(6) Requires agencies to review existing rules every ten years, with a presidential extension of up to five years.

(7) Provides judicial review of Regulatory Flexibility Act decisions, allowing one year for small entities to petition for review of agency compliance with the Reg Flex Act.

(8) Requires public disclosure of regulatory analysis and review documents to ensure ''sunshine'' in the regulatory review process.

(9) Provides legislative ''veto'' of major rules to provide an expedited procedure for Congress to review rules.

(10) Requires risk-based priority setting for the most serious risks to health, safety, and the environment.

(11) Requires regulatory accounting every two years on the cumulative costs and benefits of agency regulations.

This bill only differs from S. 291 on three points:

(1) It does not have an arbitrary sunset for existing rules that agency fail to be reviewed. Rather, it has an action-forcing

mechanism that uses the rulemaking process.

(2) It does not include any narrative definitions for ''major'' rule (e.g., ''adverse effects on wages'').

(3) It incorporates technical changes to risk assessment to track more closely recommendations of the National Academy of Sciences and to cover specific programs and agencies, not just agencies.

LIFTING THE YACHTS, SWAMPING THE ROWBOATS

Mr. DASCHLE. Mr. President, if you look past the headlines and the hype connected to the conference agreement on the budget resolution, I think the American people can get a pretty good sense of who's looking out for whom in the Republican budget.

Republican budget writers talked about putting tax money back into the hands of wage earners. Republican budget writers talked about their big tax cuts to fuel the Nation's economic engine.

But the only engine this budget primes is the full-throttle expansion of incomes for the wealthiest Americans. The Republican budget does nothing to address the fact that middle-income families have been stuck in neutral for the past 20 years, while many low-income Americans are sliding into reverse.

Republican budget priorities will only serve to drive deeper and wider the wedge between Americans at either end of the earnings scale.

This country always had, and always will have, the rich, the poor, and the middle class. Like never before, however, these economic groups are pulling away from each other, and it's tearing at the social fabric of our Nation.

Every year, families in the top 5 percent in terms of income now make, on average, the rough equivalent of what 16 low-wage families combined struggle to earn in a year. In the past two decades, America's top earners enjoyed an average 25-percent increase in cash income. Down at the bottom, the lowest wage workers actually felt a 7-percent drop in pay over the same period.

According to a survey published last Sunday in the Washington Post, no other industrialized nation on Earth has a greater income gap between top and bottom than the United States. And in between, the middle class grows larger in number, but their paychecks are stuck in a rut. Hourly wages of workers with average skills are sliding. The absolute incomes of low- and middle-income Americans are actually below those of people in other industrialized countries that are poorer than the United States.

That, Mr. President, is unacceptable. This country was built on the promise of hope that people can, indeed, come up from nothing. That you can work hard from the bottom and eventually reach the top. That you can build a better future for your family through your own honest efforts.

That promise is becoming a lie to an ever-increasing number of Americans. The road to prosperity now crosses a bridge that spans further than many Americans can see.

Mr. President, Democrats believe in prosperity. We believe in economic progress. We want to help American workers earn more. We want more Americans to be wealthy. We would like more low-wage workers to join the ranks of the middle-class. We would like more middle class workers to join the ranks of the rich.

But it seems to me that the Republican budget aspires to no such progress.

It seems to me that the Republican budget will punish those Americans now mired in this stagnant status quo, and provide a kind of winner's bonus to those traveling on the fast track.

While we don't know yet exactly who will get their hands on this $245 billion tax cut, we do know that the House bill gave over half the tax cuts to the 2.8 percent of families making more than $100,000. It is safe bet to assume that the wealthiest 1 percent will get at least a $20,000 tax cut. That little bonus alone is more than twice the annual income earned by families at the bottom of the scale.

And what do we offer to those families who are struggling to move up? Education cuts that hit 65 million children. Student loans that cost $3,000 more per student; $100 billion in so-called welfare reforms, and cuts in the earned income tax credit. And I will not even begin to talk about the harm that will be felt by their plan for Medicare and Medicaid.

It is painfully clear where the priorities lie in the Republican budget. And its not just Democrats who have figured it out. According to Stanford economist Paul Krugman: ''Quite obviously these programs would make unequal incomes even more unequal, particularly at the extremes—the very rich and the very poor.'' Frank Levy, an economist at MIT says:

> We're going through a period in which trade and technology are like an economic natural disaster for the half of the working population that does not have a college degree . . . the last thing you would want to do right now is to have Government make a bad situation worse by extending tax breaks to the rich.

Democrats and Republicans agree on producing a budget that comes into balance within a decade. But Democrats refuse to forget the working Americans who must struggle to live their lives, pay their mortgages, educate their children, and provide for their families over that same decade. These are the families Democrats will neither abandon nor betray in the face of this $245 billion gold rush within the just-passed Republican budget.

Finally, Mr. President, I commend to my colleagues' attention an op-ed printed in last Sunday's Washington Post, ''America's Tide: Lifting the Yachts, Swapping the Rowboats,'' by Gary Burtless and Timothy Smeeding. I ask unanimous consent that it be printed in the RECORD.

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

[From the Washington Post, June 25, 1995]

AMERICA'S TIDE: LIFTING THE YACHTS, SWAMPING THE ROWBOATS

(By Gary Burtless and Timothy Smeeding)

During the early postwar era, most American families could expect to see their incomes grow from one year to the next. During both the 1950s and 1960s, median family income adjusted for inflation rose about a third. With incomes growing this fast, few people (and even fewer politicians) bothered to inquire very closely into the distribution of income. A rising tide lifted all boats, the rowboats as well as the yachts.

But since the early 1970s, the nation's experience has been much more discouraging. In the past 20 years, incomes have not grown at all, and for families near the bottom of the distribution, incomes have done even worse—they have shrunk.

Instead of routinely hearing news about growing incomes, Americans now read dismal reports of swelling poverty rolls, rising inequality and shrinking wages. It would be wrong to conclude from these reports that the United States has not enjoyed prosperity since 1973. On the contrary, the nation added more than 40 million jobs and enjoyed three of its longest postwar expansions.

But American prosperity is extremely uneven. Families and workers at the top of the economic ladder have enjoyed rising incomes. Families in the middle have seen their incomes stagnate or slip. Young families and workers at the bottom have suffered the equivalent of a Great Depression. Though the nation is in the midst of a robust expansion, recent census statistics offer no hint that the trend toward wider inequality has slowed. Poverty rates continue to rise, especially among children and young adults. Hourly wages of workers with average or below-average skills continue to slide. At the same time, the percentage of U.S. income received by the top 5 percent of households continues to climb, reaching new postwar highs almost every year.

Although the United States continues to have a large middle class, the disparity between those at the top of the income scale and those at the bottom has widened significantly. Measured in constant 1990 dollars, a family in the bottom one-fifth of the U.S. income distribution received about $10,400 in gross cash income in 1973. In the same year, a family in the top one-fifth received about $77,500, or roughly 7½ times the average gross income of those at the bottom.

By 1992, average gross income in the bottom fifth of the distribution had shrunk almost 7 percent, falling to just $9,700. Average gross income in the top fifth of the distribution had climbed to $98,800, a gain of more than 25 percent. The average income of a family in the top fifth of the distribution now amounts to more than 10 times that of those at the bottom of the distribution.

Gains among the very wealthy have been even more impressive. Those in the top 5 percent of the distribution saw their incomes climb nearly a third in the past two decades so that the average family in the top bracket takes in the equivalent of what 16 families in the bottom bracket earn. The rising tide is now lifting the yachts, but swamping the rowboats.

Not only have U.S. income disparities soared since the early 1970s, the gap between rich and poor has grown much faster than it has elsewhere in the industrialized world. When the recent inequality trend began, the United States already experienced wider income disparities than other countries with similar standards of living.

Income disparities can be measured in a variety of ways. The accompanying table contains information about the distribution of income in 13 rich industrialized countries. The statistics were compiled by the Luxembourg Income Study and are based on household surveys conducted in the mid-1980s. They reflect personal incomes adjusted for differences in family size. Each country on the list is ranked according to its median after-tax income, measured in U.S. dollars using purchasing-power-parity, a calculation used by economists to compare one nation's real income to another's in a way that adjusts for differences in the capacity to consume goods and services in each country.

Not surprisingly, the United States ranks near the top of industrialized countries in median income. With the exception of a few tax havens, we are still the richest nation on earth. But this method of analyzing income does not attempt to define or talk about the size of the middle class; rather it is a means of evaluating the disparity between rich and poor. And by that measure, we are the most unequal rich nation on earth.

Many people become uneasy when the gap between rich and poor grows too wide. No social scientist or philosopher can tell us when this threshold has been passed. But most of us sense that when the gulf separating rich, middle class and poor grows too large, the social fabric is at risk. Low-income citizens, and those whose incomes used to be closer to the middle but have fallen, may begin to feel a weaker bond with the rest of society and see less reason to respect its rules and institutions.

In recent years, opinion leaders have been increasingly willing to lift their voices in defense of inequality and even to suggest that widening income gaps play a useful social function. The New York Times, in a recent front-page story, described the United States as ''the most economically stratified of industrial nations.'' Shortly after the story appeared, it was attacked in three separate Washington Post columns—by George Will, James K. Glassman and Robert J. Samuelson. Each critic mentioned different shortcomings of the story, but all agreed that the United States is doing a lot better than its lowly rank in the inequality sweepstakes might suggest.

Glassman argued, for example, that U.S. incomes are extremely mobile. Americans who are comfortably well off for one or two years often find themselves in tough circumstances a few years later. The starting pitcher who earned $2 million three years ago can find himself throwing in the minor leagues. Similarly, Americans currently stuck on the bottom can climb their way up the income scale through pluck and hard work. The office messenger can hope for promotion to CEO.

Though valid, the argument of higher social mobility does not go far toward explaining the widening gap between rich and poor or why the U.S. disparity is so much higher than in other wealthy countries. Growing inequality might not represent a social problem if the increase in inequality in a single year were matched by a similar increase in income mobility from one year to the next. The problem is, there has been no increase in income mobility to offset the sharp rise of inequality.

The chance of receiving a large one-year increase in income has never been very high. More to the point, the chance of enjoying a big increase has not grown noticeably in the past few decades. Americans with annual incomes that place them in the bottom quarter of the income distribution have an 80 percent chance of remaining there for at least two years in a row. Although studies over a longer period of time are less conclusive, some research indicates that the probability of moving out of the poorest class has hardly budged since the 1970s.

It might also be the case that Americans enjoy greater class and income mobility than Europeans. U.S. incomes may be more unequal at a given point in time, but, according to this theory, Americans enjoy better opportunities for advancement than residents of other countries. This is an inspiring story, and one that is cherished by many Americans, especially by conservatives. The problem with the theory is that there is no evidence to suggest it is true.

Studies of income mobility suggest that the United States ranks about in the middle of industrialized countries. To analyze mobility, a team of economic researchers tracked the same set of individuals over long periods of time in both the United States and Germany. Their findings showed that the level of inequality within each country actually declined, but that the gap between the two countries grew, with the United States showing wider disparities.

A more fundamental criticism of the Times story, suggested by both Will and Samuelson, goes as follows: Although income disparities are larger in the United States than elsewhere, other societies pay too heavy a price to achieve equality. Will concludes that ''. . . increasingly unequal social rewards can conduce to a more truly egalitarian society, one that offers upward mobility to all who accept its rewarding disciplines.'' Samuelson argues, ''What determines the well-being of most people is the increase of national income and wealth, not their distribution.'' Other countries' attempts to equalize incomes have led to higher joblessness and less entrepreneurial activity than we see in the United States, and hence to slower growth abroad. The United States accepts greater inequality, but is rewarded by higher income and faster growth.

Affluent readers may draw comfort from this reasoning. Americans further down the economic scale might find the logic less appealing. The size and growth of national income undoubtedly helps to determine whether individual citizens can enjoy a comfortable standard of living. Each citizen's living standard also depends, however, on the percentage of national income that he or she is permitted to share. If a pie is to be divided among 10 people, the person receiving the smallest slice may prefer to share a small pie that is divided in roughly equal slices rather than a larger pie that is divided very evenly. A little arithmetic will show that it is better to receive 10 percent of a small pie than 2 percent of a pie that is twice as large.

Stacked against other industrial countries, the after-tax incomes of those people at the lowest 10th percentile of Americans tumbles toward the bottom (see chart). Low-income Finns, for example, receive after-tax incomes that exceed those of low-income Americans by 27 percent. Poor Americans are poor not only by the standards of middle-class Americans, but also in relation to low-income people in most other industrialized countries.

Samuelson and Will may be right that wide income disparities in the United States offer a powerful inducement for Americans to work, save and invest (though it is difficult to find evidence for this in U.S. saving or investment rates, which tend to languish near the bottom of the industrialized world). They may also be correct in believing large and rising disparities contribute to U.S. economic growth, though evidence for this is also weak. Recent studies on the relationship between inequality and growth in fact suggest that advanced countries with more equal distributions grow faster than countries that are less equal. Whatever the advantages of faster growth, they are purely theoretical for many low-income Americans, These Americans have not shared the general prosperity. Their after-tax incomes have slipped even though national output has increased.

Even more depressing is the fact that the absolute incomes of low- and even middle-income Americans are below those of residents in industrialized countries that are poorer than the United States. A comparison of Canada and the United States, based on 1991 income statistics, is particularly striking. In 1991, gross domestic product per person was 13 percent lower in Canada than in the United States. Because the Canadian income distribution is more equal than our own, however, Canadians in the bottom 55 percent of the distribution enjoyed higher after-tax incomes than they would have received in the United States at a comparable position in our income distribution. Of course, Americans in the top 45 percent of the U.S. income distribution received higher incomes than their Canadian counterparts. But for a majority of poorer and middle-class Canadians, the higher average income of the United States has little practical significance. These Canadians enjoy more comfortable incomes in Canada than they would be likely to receive in the United States.

The United States enjoys a high rank in one international contest, however. Americans near the top of our income distribution tend to receive much larger incomes than people with a similar position in other industrialized countries.

It is probably safe to assume that Will, Glassman and Samuelson are closer to the upper tier than the bottom tier of the income distribution. From their perch, U.S. economic performance undoubtedly looks quite satisfying. People further down the economic scale can be forgiven. however, if they doubt their economic good fortune as Americans. If wide income disparities have big advantages for the U.S. economy, low-income Americans are right to think the advantages should eventually show up in a tangible way—in larger paychecks and higher incomes. Whatever the virtues of our economic system, one conclusion is certain: Our fatter paychecks have not gone to the poor.

A TRIBUTE TO SHERMAN J. LINDHARDT ON THE OCCASION OF HIS RETIREMENT

Mr. BENNETT. Mr. President, I rise today to pay tribute to a fellow Utahn, Mr. Sherman J. Lindhardt, who retires today, culminating a distinguished career in public education. For the past 34 years, Sherm Lindhardt has served our youth as a high school history teacher and administrator. For all but 2 of those years, he taught and administered in the Utah public school system.

While this day marks the end of his chosen profession, it should be noted that his influence will continue to be felt far beyond the close of a successful teaching career. Many students, now numbered among the upstanding adult members of our communities, looked to Sherm Lindhardt as a role model of successful living. The father of seven children, Mr. Lindhardt participated as a member of the Smithfield city planning and zoning commission, and continues to serve his local congregation as an ecclesiastical leader of the Church of Jesus Christ of Latter-day

Saints. In addition to his education career, Sherm Lindhardt served in our Nation's Armed Forces, attaining the rank of captain in the U.S. Army.

Again, Mr. President, I would like to pay tribute to Sherman J. Lindhardt for his dedication in teaching our youth. The success of his efforts are clearly evident as we enjoy the benefits of a new generation of community leaders and upstanding citizens. While this day marks the setting of the Sun on a fine career, I am sure that it also marks the beginning of many continued years of service and honorable pursuits by Sherm Lindhardt. In those pursuits I wish him the very best.

WHERE'S WELFARE?

Mr. DASCHLE. Mr. President, as we all know, welfare reform has been one of the most hotly debated issues of this Congress. Two and a half years ago President Clinton promised to end welfare as we know it, and the public has reinforced that message by telling us unequivocally that they want to see this done.

The ball lies in Congress' court, and we have a clear task in front of us. The House has set the stage by passing the Personal Responsibility Act almost 3 months ago. In fact, the House felt this issue was so pressing that they included welfare reform as one of their 10 highest priorities in the Contract With America.

While many of us may disagree with the substantive course the House chose to take, they were clearly responding to a mandate from the public to address this issue in some way.

It is now the Senate's turn. The Finance Committee has completed action on a bill that has been reported to the full Senate, and I think I speak for all Senators on my side of the aisle when I say that we are ready for floor consideration of this legislation.

Mr. President, we had been led to believe that welfare reform might be on the floor as early as the 12th of June. And then we were told by the majority leader that welfare reform would be considered immediately upon completion of action on the telecommunications bill.

That bill was wrapped up last Thursday. It is now the 22d of June, and we are hearing rumors that welfare reform may not be considered in June at all, and may not be considered this summer at all. It may be considered in July—but, then again, we're told by some in the Republican leadership that we may not get to welfare until September.

Mr. President, the notion that the Senate may put off consideration of welfare reform until September is unacceptable.

We are ready. We are ready now.

President Clinton challenged us to have a bill on his desk by July 4, not because of politics, but because it is important for the Nation that we fix a welfare system that is not working—not working for those on it, and not working for those who are footing the bill.

The public has told us that they view the welfare crisis as one of the most pressing problems facing our Nation today. The public is clearly ready for us to address this issue. And Democrats are ready to address it.

The question is, Are Republicans ready?

More to the point: Are Republicans serious about addressing this issue? Are they serious about reform, or just serious about rhetoric?

The Finance Committee reported a welfare bill on June 9. It is now June 22, and I understand my colleagues on the other side of the aisle are divided on how to proceed. They are divided on a number of provisions, either included in, or excluded from, that bill.

Mr. President, I understand division. And I, too, have concerns about the Finance Committee bill. But the proper forum to address these concerns is on the Senate floor.

Bring the bill to the floor and let those who want to offer amendments to modify current provisions do so. Let those who want to add provisions through the amendment process do so.

That is the legislative process.

What concerns me and many on my side of the aisle is that the welfare bill will be delayed until July as Republican Senators meet behind closed doors to try and work out problems.

Then, in July, those doors will still be closed as secret discussions continue. Before we know it, it will be September.

Yes, there are problems with the Finance Committee bill. But let us air those problems on the floor and address them through the open legislative process.

As for the Finance Committee bill, I too, am troubled by many aspects of that legislation.

First, the Finance Committee bill does not solve the problems with our welfare system. It merely boxes up that system and ships it to the States. That is not reform.

Second, the Republicans have said that they want to put welfare recipients to work. But, although the Finance Committee bill requires increased numbers of people to be participating in programs intended to move them toward work, it provides no resources to meet these participation requirements.

The Congressional Budget Office has said that 44 States will be unable to meet the participation requirements in the Finance Committee bill. The U.S. Conference of Mayors has said that this is the mother of all unfunded mandates.

What is clear is that Finance Committee bill is not reform. And it is not about work. In fact, if it is about anything, it is about shipping the welfare problem to the States and—ironically enough—passing the largest unfunded mandate in history.

In essence, the Finance Committee bill represents the kind of typical two-step about which the public is most cynical: It says one thing and means another. It sounds, but is actually disastrous. The Finance Committee bill is about rhetoric, not reform.

It will reap exactly the kind of results the unfunded mandates bill was meant to prevent, and having it come so quickly upon the heels of he unfunded mandates legislation represents hypocrisy at its worst.

It is ironic that most Members put their serious face on when they say that they do not want to hurt children. Mr. President, I want to believe them. But again, it is the difference between rhetoric and reality.

The reality of the Finance Committee bill is that some 4 million children will be cut off from assistance. Some 4 million children could be put out on the street.

Children should not pay for the mistakes or misfortune of their parents.

That is not fair. That is draconian. That is mean.

And that is plain old un-American.

It is one thing to require that able-bodied people go to work. That was the original intent of welfare: To provide out-of-luck families with a helping hand to get back on their feet. I believe most Americans support that kind of a safety net today.

But the Finance Committee plan cuts kids off welfare while doing nothing to help their parents find work. That is wrong; it is unfair; it is shortsighted.

This leads to yet another problem I see with the Finance Committee bill. Anyone who has kids knows that one of the real linchpins between welfare and work is child care. It is impossible to work unless you have some means of caring for your children—it as simple as that.

Nevertheless, the Finance Committee bill fails to address the child care issue in any serious way. It mandates child care for welfare recipients who are working only until the child is 6 years old.

What happens to a 7-year-old? Or an 8-year-old? Or any child that should not be left alone?

Beyond that, the bill does not increase funds for child care, so that as the participation requirements increase—requiring a greater population of welfare mothers to participate in the JOBS Program—there is no corresponding increase in funds for child care.

If we are to increase the mandate for adults to work, but not provide for a corresponding increase in child care funds to enable parents to work, then we are not really expecting parents to work.

Or we are expecting the States to pick up the tab—a sort of unwritten unfunded mandate.

Or we are suggesting that young children can be left alone.

None of these alternatives are acceptable.

So the Finance Committee needs a lot of work. But Democrats are ready to do the work, and the Finance Committee bill does provide us with a mechanism for bringing welfare to the floor of the Senate for debate.

If Republicans have problems with their own bill, they should offer amendments to improve it. That is what Democrats intend to do.

In fact, we will offer an alternative plan that is truly about work.

And so today I urge the majority leader to bring the welfare bill to the floor.

It is time the Senate fulfills its obligation to give the American people what they want and deserve: True welfare reform that will move people off welfare and into work, not by punishing children, but by providing people access to the real means to become self-sufficient.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, as of the close of business yesterday, Thursday, June 29, the Federal debt stood at $4,898,835,701,662.79. On a per capita basis, every man, woman, and child in America owes $18,596.06 as his or her share of that debt.

REGULATORY REFORM ACT

Mr. PRESSLER. Mr. President, during consideration of S. 343, the Regulatory Reform Act, I intended to offer an amendment to waive administrative and civil penalties for local governments when Federal water pollution control compliance plans are in effect.

I believe this amendment is a simple issue of fairness to local governments and I urge my colleagues to join me in supporting this amendment. I ask unanimous consent that the text of my amendment and the text of my ''Dear Colleague'' letter be printed in the RECORD.

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

AMENDMENT NO. —

At the appropriate place, insert the following:

SEC. . WAIVER OF PENALTIES WHEN FEDERAL WATER POLLUTION CONTROL ACT COMPLIANCE PLANS ARE IN EFFECT.

Section 309 of the Federal Water Pollution Control Act (33 U.S.C. 1319) is amended by adding at the end the following:

''(h) WAIVER OF PENALTIES WHEN COMPLIANCE PLANS ARE IN EFFECT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of this Act, no civil or administrative penalty may be imposed under this Act against a unit of local government for a violation of a provision of this Act (including a violation of a condition of a permit issued under this Act)—

''(A) if the unit of local government has entered into an agreement with the Administrator (or the Secretary of the Army, in the case of a violation of section 404) to carry out a compliance plan with respect to a prior violation of the provision by the unit of local government; and

''(B) during the period—

''(i) beginning on the date on which the unit of local government and the Administrator (or the Secretary of the Army, in the case of a violation of section 404) enter into the agreement; and

''(ii) ending on the date on which the unit of local government is required to be in compliance with the provision under the plan.

''(2) REQUIREMENT OF GOOD FAITH.—Paragraph (1) shall not apply during any period in which the Administrator (or the Secretary of the Army, in the case of a violation of section 404) determines that the unit of local government is not carrying out the compliance plan in good faith.

''(3) OTHER ENFORCEMENT.—A waiver of penalties provided under paragraph (1) shall not apply with respect to a violation of any provision of this Act other than the provision that is the subject of the agreement described in paragraph (1)(A).''.

U.S. SENATE,
Washington, DC, June 27, 1995.

DEAR COLLEAGUE: When the Senate begins consideration of S. 343, the Regulatory Reform Bill, I intend to offer an amendment to lift the unfair burden of excessive civil penalties from the backs of local governments that are working in good faith with the Clean Water Act.

Under current law, civil penalties begin to accumulate the moment a local government violates the Clean Water Act. Once this happens, the law requires that the local government present a Municipal Compliance plan for approval by the Administrator of the Environmental Protection Agency (EPA), or the Secretary of the Army in cases of Section 404 violations. However, even after a compliance plan has been approved, penalties continue to accumulate. In effect, existing law actually punishes local governments while they are trying to comply with the law.

Under my amendment, local governments would stop accumulating civil and administrative penalties once a Municipal Compliance Plan has been negotiated and the locality is acting in good faith to carry out the plan. Further, my amendment would act as an incentive to encourage governments to move quickly to achieve compliance with the Clean Water Act.

This amendment is a simple issue of fairness. Local governments must operate with a limited pool of resources. Localities should not have to devote their tax revenue to penalties, while having to comply with the law. Rather, by discontinuing burdensome penalties, local governments can better concentrate their resources to met the intent of the law in protecting our water resources from pollution.

I hope you will join me in supporting this commonsense amendment for our towns and cities. If you have any questions or wish to cosponsor this amendment, please feel free to have a member of your staff contact Quinn Mast of my staff at 4–5842.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

Mr. PRYOR. Mr. President, I see no other Senator seeking recognition. I yield the floor, and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE RESCISSIONS BILL

Mr. DOLE. Mr. President, I understand we have morning business until 10:30, at which time I will ask consent that we turn to H.R. 1944, the rescissions bill, and that no amendments be in order; there be 10 minutes for debate to be equally divided in the usual form; and that following the conclusion or yielding back of time, the bill be advanced to third reading and passed and the motion to reconsider be laid upon the table.

I will make that request at 10:30. I hope we can have the cooperation of our colleagues. This is something the White House wants. We have a statement from the administration. This contains the money for the Oklahoma City disaster. It contains money for the earthquakes in California. And if my colleagues on the other side do not want to pass it, that is up to them.

We have had a lot of negotiation on the rescissions package. The President vetoed it, and we went back and tried to accommodate some of the President's concerns. Now I am advised at this last moment there may be some other political efforts made to delay the bill or frustrate the will of the majority.

I hope that at 10:30 sharp we can take up the bill under the previous considerations.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I know we are waiting until the hour of 10:30, but just for the public record, I now have a copy of this bill. This is the first time I have seen this bill.

I voted for the $16 billion in cuts when it was on the Senate side, but I want to make it crystal clear that there have now been additional cuts, for example, in low-income energy assistance. I am from a cold weather State. I want to talk about that program. I represent people in my State. Just because people are low income does not mean they do not have representation.

Just now I received a copy of this bill. There was a program that we had that was an important program—the majority leader actually helped me on this before—which provided counseling to elderly people so they do not get ripped off on some of the supplemental health care coverage to Medicare. That came out in the conference committee.

So, Mr. President, there is also a range of important programs here for dislocated people, workers with summer youth employment. I just received this bill—just received it. I have not even had a chance to look at it. I certainly would oppose any kind of a unanimous-consent agreement that said we would have a vote at a time certain.

I want to have an opportunity to offer amendments. I want to have an opportunity to talk about this. We are talking about people's lives, and there are some serious cuts in here that affect some of the most vulnerable citizens.

I would start, coming from a cold weather State, talking about the Low-Income Home Energy Assistance Program, many of whom are elderly, many of whom are disabled—we are a cold weather State —many of whom depend upon this grant. This was eliminated on the House side. We restored the funding on the Senate side, and now there have been additional cuts of over $300 million in this program—$330 million in cuts in energy assistance for some of the most vulnerable citizens.

So I think we need to have an opportunity to offer amendments, an opportunity to debate and certainly an opportunity to even go through this bill. I was not elected from Minnesota to come here and just have things rammed through. This is the first time I have had a copy of this bill—the first time. Significant changes have been made. I am a legislator. We should have an opportunity to evaluate this, and we should have a debate on what is in this.

Mr. DOLE. Mr. President, I understand the Low-Income Home Energy Assistance Program is the same as in the vetoed bill. There has not been any change in that. I do not know where the $400 million figure came from.

I want to include in the RECORD at this point a statement of administration policy, this is the Clinton administration policy, that supports H.R. 1944 as it passed the House:

H.R. 1944 provides an important balance between deficit reduction and providing funds to meet emergency needs. This legislation provides essential funding for FEMA Disaster Relief, for the Federal response to the bombing in Oklahoma City, for increased anti-terrorism efforts, and for providing debt relief to Jordan in order to contribute to further progress toward a Middle East peace settlement. H.R. 1944 reduces Federal spending by $9 billion.

I think the administration statement is in accord with the thinking of most individuals.

This matter did pass the House last night. As I understand it, there has been change in the Low Income Home Energy Assistance Program since the bill passed the Senate.

Mr. WELLSTONE. Actually it is true. The bill the President vetoed is the same. Many of us voted against that. What we passed out of the Senate restored the $1.3 billion for low-income energy assistance. Now we have gone back to over $300 million of cuts. That is a very serious issue for people in my State. I just received a copy of this. Let us take some time and evaluate what is in this rescissions bill.

Mr. DOLE. 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. DOLE. Mr. President, I ask that the order for the quorum call be rescinded.

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

Mr. DOLE. Mr. President, I have been discussing H.R. 1944 with the Democratic leader, Senator DASCHLE. I understand now I have consent to turn to the consideration of H.R. 1944.

Mr. DASCHLE. That is correct.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR ADDITIONAL DISASTER ASSISTANCE, FOR ANTITERRORISM INITIATIVES, FOR ASSISTANCE IN THE RECOVERY FROM THE TRAGEDY THAT OCCURRED AT OKLAHOMA CITY, AND RESCISSIONS ACT, 1995

Mr. DOLE. Mr. President, I ask unanimous consent that we turn to consideration of H.R. 1944.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senate will proceed to the consideration of H.R. 1944, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1944) making emergency supplemental appropriations for additional disaster assistance, for antiterrorism initiatives, for assistance in the recovery of the tragedy that occurred in Oklahoma City, and making rescissions for the fiscal year ending September 30, 1995, and for other purposes.

The Senate proceeded to consider the bill.

Mr. DOLE. Mr. President, I also understand we will not be able to get unanimous consent that there be no amendments to the bill, so I will not make that request.

I am advised that the managers are here. We would like to proceed as quickly as possible. If there are amendments we hope the amendments will be offered with very little debate. Certainly people have a right to offer amendments. We discourage amendments.

I hope that those who want this bill passed—which will save $9.2 billion and is supported by President Clinton—will join together in defeating any amendments or tabling any amendments that may be offered.

I know there are a number of absent Senators on each side of the aisle. I must say they were never told there would be no votes today, so they left at their own risk.

In any event, I think we are prepared to proceed on the bill.

Mr. DASCHLE. Mr. President, we are prepared to proceed. While I know there are absent Senators on both sides, I think it is important we try to finish the business on this particular legislation.

The ranking member has done an outstanding job of bringing the Senate to this point, and they deserve our support for the work they have done. We hope in the not-too-distant future today we can accomplish our task and pass this legislation. I yield the floor.

Mr. HATFIELD. Mr. President, I would like the attention of the Senator from Minnesota.

Mr. President, before I engage in an opening statement, I would like to make one observation and describe a very unique situation we are in.

In this rescissions package, we have, in effect, made cuts at current 1995 appropriations counts that represents about $3 billion in outlays in the outyears.

I want to make very clear to the Senator from Minnesota and others who may be interested in this—knowing of his concern for nonmilitary discretionary programs that involve people, children, poor people, needy low-income energy assistance, other such programs—if we cannot put this bill through before we adjourn at this time, let me indicate the time program and consequences.

Anything that stalls this at this time to move on this and act upon this, puts the Senate into July 10 returning. On that date, and the day following, the Appropriations Committee will be, then, in a process of making allocations under the 602(b) of the Budget Act for 1996 accounts.

If we cannot make that $3 billion outlay action now, that means we are going to have to add that to the 1996 allocations in order to stay within the budget resolution.

What any Senator would be doing would be taking the responsibility of cutting further, deeper, into those programs he or she may be interested in, by holding up this action today, because we are not going to be able to delay the 1996 action any longer.

The House has already passed four of six out of their committee. If we cannot absorb in the 1995 period that $3 billion outlay, we will be absorbing it in the 1996. Any Senator would be compounding the very thing they are trying to defend. The Senator is creating a higher cut in 1996. We cannot escape that.

Let me say, we also lost the battle of cutting out the *Seawolf* or the B–2 bomber or something and taking that money and putting it into programs of nonmilitary. We lost that battle. We are precluded in the appropriations in our 602(b) allocations of transferring money from defense discretionary to nondefense discretionary.

Do not be misled with the idea that somehow we will face the battle on the *Seawolf* or the B–2, and we will reduce those commitments in the defense appropriation discretionary programs and be able to use them for low-income energy assistance or other welfare or people's need programs. That battle we have lost, much to my chagrin.

I want to just add a word of caution. The very things that the Senator may feel he would defend in the 1995 rescission, the Senator will compound it in

1996 by the very action of this Senate in the budget resolution and other decisions we have made. I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I fully support the statement made by the chairman of the committee. If I had my way about it, I would change this conference report in a few particulars, at least. I am only one. We have been down this road, now, twice. We spent many hours, several days, on the first conference report.

Mr. President, on May 25 of this year, the Senate adopted the conference report to H.R. 1158, the FEMA supplemental appropriation and rescission bill by a vote of 61 to 38. At that time, I spoke in support of the conference agreement even though it did not contain all of the provisions that were included in the Senate bill. In particular, a number of Members on this side of the aisle felt that the conference agreement did not include a sufficient number of the programs that were funded under the Daschle-Dole joint leadership amendment.

Nevertheless, I urged the President to sign the conference report on H.R. 1158 because it was a result of long and difficult negotiations with the other body and because it contained many important items, including an appropriation of $6.7 billion for Federal Emergency Management Agency [FEMA] disaster relief effort. These funds were to be used to finance the relief costs associated with the Northridge earthquake, as well as to address declared disasters resulting from floods and storms throughout some 40 States, including the most recent, extraordinary rains and hail which occurred in Louisiana and some other States.

With regard to the administration's request for emergency supplemental appropriations in the wake of the tragedy in Oklahoma City, H.R. 1158 provided approximately $250 million for antiterrorism initiatives and Oklahoma City recovery efforts. This included substantial increases above the President's request for the FBI, the Department of Justice, the Secret Service, the Bureau of Alcohol, Tobacco and Firearms, and the Judiciary. Included in this amount is $67 million to meet the special needs of the General Services Administration created by the April 19, 1995, terrorist bombing attack at the Murrah Federal Building.

The conference report on H.R. 1158 also provided $275 million for debt relief for Jordan—to which I object; I did not support that debt relief—as proposed by the administration. These funds would allow the President to fulfill a promise to help Jordan in its historic peace agreement with Israel.

The President chose to veto H.R. 1158 against my wishes. I do not think he should have vetoed it. But he did so for a number of reasons, which he set forth in correspondence to the Congress accompanying his veto message. Since that veto, negotiations have been ongoing between the House and Senate leadership and the Appropriations Committees. And, as a result of those negotiations, last night the House passed H.R. 1944, the bill which is presently before the Senate. In addition to all of the provisions contained in the conference reports to H.R. 1158 that I previously mentioned, H.R. 1944 also contains reductions in a number of rescissions as requested by the administration, as well as an increased appropriation for replacement of the Federal building in Oklahoma City. The total of these addbacks above the amounts contained in H.R. 1158 is $772 million. In order to offset this additional spending, new or increased rescissions are contained in H.R. 1944 totaling $794 million, resulting in additional deficit reduction of $22 million more than was contained in the conference agreement accompanying H.R. 1158.

I support the passage of H.R. 1944 because it contains $6.55 billion in emergency disaster assistance for funds for victims of various disasters, including the California earthquake and flooding throughout the Nation, and, under the Byrd amendment, the bill, if enacted, would reduce the deficit by approximately $9 billion. I do not think we ought to lose sight of that. And, moreover, the 1995 rescissions which are contained in the bill, if enacted, will result in a decrease in outlays for fiscal year 1996 of approximately $3.1 billion, just as the distinguished Senator from Oregon [Mr. HATFIELD] stated a few minutes ago.

This is so because the outlays which would have occurred in 1996 from the appropriations for which funds were rescinded will no longer be required. And this will free up approximately $6 billion in budget authority and $3.1 billion in outlays for use in fiscal year 1996—this is very important, for nondefense discretionary purposes—for nondefense discretionary programs.

As Senator HATFIELD has said, the walls are going back up. When the walls of Jericho came down, they were not rebuilt so soon, and the appropriations walls are now up again. I am very opposed to these walls, walling off defense moneys from nondefense discretionary funding, because nondefense discretionary funding will continue to take the brunt of the cuts, as it has for, now, these several recent years.

I hope we will be able to pass this bill, and pass it quickly. The distinguished chairman has pointed out, when we get back we are going to be on the appropriations bills. The House is already passing them. These rescissions will then enable the Appropriations Committee to have more moneys to allocate in budget authority and in outlays for 1996. So I hope we will not cut off our nose to spite our face.

I certainly can sympathize, however, with Senators who may be displeased with the product that we have before the Senate. But we can make it worse in the long run. I think we have to accept a reality.

Mr. President, I congratulate the chairman of the committee, Senator HATFIELD, for the tireless efforts that he has put forth that resulted in the successful resolution of the differences between the President, the House, and the Senate on these difficult matters.

As I say, I know that all Senators are not satisfied with the bill. I am not satisfied with it. But it is better than we could expect otherwise if it were to be delayed or, indeed, rejected, which I do not believe it will be.

On balance, I believe it is an important appropriation and rescissions bill that deserves the support of the Senate for the reasons that I have set forth.

Mr. President, I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I say to my colleagues, I know the Senator from Oregon also wishes to speak. I will be speaking from the floor with some difficulty because of an asthma condition, or allergy condition, and I apologize for the coughing.

Mr. President, I find myself in a position of being out on the floor with several Senators whom I deeply admire but with whom, at least for this moment, I am in profound disagreement.

I am extremely sympathetic to my colleagues, who are as good Senators as you could ever find, as accomplished legislators as you could ever find. But in all due respect, I did not vote for this budget resolution. I understand the pressures all too well. That is why I did not vote for the budget resolution. And I certainly am not someone who is in favor of putting walls back up between the domestic and the Pentagon spending.

There are two issues I want to raise at the beginning of this discussion. First of all, I did not object to the motion to proceed. I just simply said that, as a Senator, I now know, as I look at the report that has come back, that there have been some changes. I voted initially for this rescissions package. I am all for—and I understand the position of the President vis-a-vis assistance to California and Oklahoma—I am all for it.

But I am a legislator and this report came less than 1 hour ago. I cannot quite read—is it almost 11 now? This report came here at 9:55. This is the first time I had a chance to look at this rescissions package, at 9:55. I do not know about other Senators, but I do not even know what is in here. I know some of what is in here. I have not had a chance to examine this. This package, H.R. 1944, is some 120 pages long and we are just going to rush this through? Initially there was a proposal—some Senators were talking about voice voting it.

I said, from the time I came here, that on all appropriations matters, all expenditures of money, we should

never have voice votes. We should be accountable.

I feel the same way also about these cuts, about this rescissions package. This has a very real impact on the lives of people we represent. I want to talk about that impact. But above and beyond that, I say to my colleagues, 9:55 is when this came here. I have not even had a chance to examine this piece of legislation, this rescissions package.

I know enough to know what has been changed for the worse and I want to talk about that. But I just refuse to have this thing just sail through here, essentially jammed through the Senate. I do not think that is a responsible way to legislate. I feel strongly about that.

What is the hurry? We ought to examine what is in H.R. 1944. For example, I have here—this is one of the reasons that I have such fondness for the Senator from Oregon. I would say the same thing about the Senator from West Virginia. This was a letter dated May 8.

DEAR PAUL: Thank you for your most recent letter regarding the House of Representatives rescission of $1.319 billion for the Low Income Home Energy Assistance Program.

Which I voted for. Which you know I voted for.

As you know, the Senate bill did not include this rescission. Please be assured that the Commmittee intends to maintain this position during the on-going House-Senate conference.

I thank my colleague from Oregon for his assistance——

Mr. HATFIELD. If the Senator will yield, just to make certain the RECORD is correct, this bill does not change this program, so it is not for the worse.

Mr. WELLSTONE. What has happened——

Mr. HATFIELD. It is not for the worse. It is the same level as the vetoed bill. I can give you a list of the better parts of this bill, of the vetoed bill, if the Senator would be interested in that, too?

Mr. WELLSTONE. I thank the Senator.

Mr. HATFIELD. So I just want to correct the RECORD. It is not for the worse.

Mr. WELLSTONE. Mr. President, the vetoed bill is the bill I voted against. I voted for a bill that we reported out of the Senate because we had restored the $1.3 billion funding. But now we have cuts of about $330 million in funding for the Low-Income Housing Energy Assistance Program. That is now what is in this bill which just came to us at 9:55. We have $20 million of cuts. That is different from what I voted for out of the Senate. I did not vote for the bill that the President vetoed.

Mr. President, just to be clear about what is at issue here, I think it is a matter of priorities. I look at their rescissions package and I see a disproportionate number of cuts, in all due respect, that affect low- and moderate-income citizens in this Nation. I do not think it was my colleagues' choosing. But I just want to talk about some of these priorities. I am talking about restoring $330 million of assistance for low-income people.

I say to the Chair, we come from the third coldest State. One B–2 bomber costs over $1 billion. This is not even a third of a B–2 bomber. Mr. President, we have one of the finest fighting fleets of F–15's. Everybody will tell you that. We now have a proposal to replace the F–15 with the F–27 to the tune of $162 million, and an overall costs of $70 billion additional dollars. In the post-cold-war period, the Soviet Union Empire no longer existing, and the Pentagon saying we do not need some of these weapons. There are no rescissions there at all.

Later on today, Mr. President, I am going to talk about all the subsidies that go to the oil companies since we are talking about low-income energy assistance.

But President, I met at the home of Olita Larson in Richfield. She is a disabled senior citizen and a LIHEAP recipient. In addition to her, I met with several veterans, and several mothers with children. And what I learned from them is that, at least in my State of Minnesota, the Low-Income Housing Energy Assistance Program is not an income supplement. It is a survival supplement: 111,000 households receive LIHEAP assistance; 313,000 individuals; 28,000 seniors; 53 percent of those that receive this assistance which is about $300 a month or so. This is just to enable people to get by so that it is not ''heat or eat.'' Fifty-three percent were working at low-wage jobs; 32 percent were senior citizens; 41 percent were households with small children; about 50 percent earn less than $6,500 a year.

Excuse me, Mr. President, for not understanding some kind of definition of reality here in the Nation's Capital. But for the life of me, I do not understand how in the world we can be cutting low-income energy assistance to people, people who really need the assistance, people who are the most vulnerable citizens in our country, but we go forward spending $1 billion on B–2 bombers that the Pentagon tells us we do not need. We have billions of dollars of subsidies to oil companies. We do not choose to close those loopholes.

Mr. President, these are distorted priorities. Just because Olita Larson does not make big contributions, just because she is not well-connected, just because she is not a player does not mean she should not be represented.

Mr. President, I met at the home. I am not going to cave in right now. You meet with people. You talk with people. You make a commitment that you are going to do everything you can to support people. And that is where I thought we were. That is why I originally voted for this rescissions package. Now what we get H.R. 1944 from the House, which comes at 9:55, I find out that we have over $300 million of cuts.

Mr. HATFIELD. Will the Senator yield for a question?

Mr. WELLSTONE. Certainly.

Mr. HATFIELD. I thank the Senator.

Is the Senator aware that the B–2 bomber was killed last night by the Armed Services Committee? According to this morning's paper, the committee voted not to fund any additional B–2 bombers, which I hail as a great achievement. But I would also like to add there is no way we can take the savings of that B–2 bomber and transfer it into nonmilitary discretionary programs. We, on the Appropriations Committee, have our hands tied on that. I could not agree with the Senator more. I will not take a back seat to the Senator nor to any other Senator in fighting for the Low-Income Housing Energy Assistance Program, and all these other programs that represent people's needs.

But what I am saying to the Senator is that this speech is a little late. It should be repeated and repeated. But I am saying it is a little late as it relates to the current issue we have before us. The die is cast. What are we going to salvage out of this circumstance? I say to the Senator in all respect, that, if this is not acted upon today, the Senator will have led the appropriators and forced the appropriators into cutting $1.3 billion out of the subcommittee on Labor-HHS for 1996, over and above what we would otherwise have to do. If the Senator wants to take on that responsibility, keep that in mind. You are hurting the very people you are trying to help. That is not your making. It is not my making. It is the decision of the total body of this Senate, and we lost. We lost. But do not compound that terrible, terrible thing onto those very people by saying to the appropriators you have to cut another $1.3 billion. I say to the Senator with all due respect, that is reality. That is the reality we face.

I find it a very, very unpleasant experience to have to cut any out of the Labor-HHS subcommittee of appropriations. The House cut $10 billion from, $70 billion and $60 billion. We are going to be forced into allocations to cut further, if we do not get this passed today. That is the reality. Like it or not, that is the reality. That is the position the Senator from Minnesota is pushing the Appropriations Committee into. I do not want any part of it. I am wanting to ease the pain that we have already created. I do not want to increase them, and the Senator from Minnesota will be escalating that burden on the very poor of this Nation by $1.3 billion more out of the Labor-HHS that we do not get out of 1995.

Mr. WELLSTONE. Mr. President, I still have the floor. Let me just say that, first of all, one more time, I did not vote for the budget resolution. I did not vote—later on today when we get into the discussion—I did not vote for the tax cut. The Byrd rule I think protected us over the first year. I am not at all sure ultimately, as I stretch

this out and project where this heads. This is the first time we have actually seen the rubber meet the road and some real decisions made that ultimately this money in the outyears is not eventually being used to finance tax cuts for fat cats in this country, frankly. But let me say to the Senator from Oregon, and I would like to proceed here, that in terms of the choices, about 60 percent of the administrative travel funds are in the Pentagon. We can make some further cuts there. We can also do the same thing with FEMA. We can make some cuts there. So I do not think it is quite true that there are no choices.

In addition, Mr. President, I just simply want to go back to what I have been saying. I thought, though it was a close call for me, that my colleagues did an admirable job, a very admirable job given the constraints they were working under, so we passed this rescissions package. I had some questions about it, but I voted for it.

Then the House goes to work and the President vetoes the conference report, and I support the President's veto. Then we get H.R. 1944 that comes here at 9:55. I have not even had a chance to examine this. I just refuse to be put in the position that somehow what I am doing right now is going to hurt low-income people.

If I could just finish this, I will be pleased to yield. I have over and over again been talking about this. Now, I do not know where other Democrats are. I know that 150 Members of the House voted against this package yesterday, last night. I could just simply tell you that I think these are distorted priorities. I think there are other areas that could be cut that are not being cut. I think we are asking some of the most vulnerable citizens in this country to pay a price by tightening their belt when they cannot tighten their belt.

Ms. MOSELEY-BRAUN. Will the Senator from Minnesota yield?

Mr. WELLSTONE. I will be pleased to yield.

Ms. MOSELEY-BRAUN. I thank the Senator. I say to the Senator from Minnesota and the distinguished Senators from Oregon and West Virginia, I cannot think of three people for whom I have more respect in this body, but I have to say I concur in and associate myself with the remarks of the Senator from Minnesota.

I want to say that in listening to the debate and the argument about the harm that we are doing, or might be doing, by taking the floor in opposition to this conference report, this resolution, I could not help but think about the old poem—and I think the Senator from West Virginia may remember this one—a poem from many years ago about: Lizzie Borden took an ax and gave her mother 40 whacks, and when she saw what she done, she gave her father 41.

It seems to me that if you boil down the argument that the distinguished Senator from Oregon has made about what we are doing right now in this procedural setting, it is suggesting that the 40 whacks the children and poor people have taken in this bill, in this compromise, might be increased to 41 if we do not sit back, accede to the decision of the conference committee, be quiet, say nothing and let this roll out of here on a moment's notice without examination or discussion.

I just do not think that is an appropriate response for conscientious legislators who have real concerns about this bill.

The Senator from Minnesota has talked about the low-income heating issue. I particularly am concerned about education and what has happened with the education funding for needy people, needy children, in this bill.

I am not going to debate it, and I do appreciate the efforts that were made to restore education funding in this compromise, but I have to submit to you that the rescissions were not called for in education in the first place. Why would we, at this critical time in our Nation's history, do anything but begin to weigh in 100 percent to help support education, to give our youngsters the ability to compete in this world economy, to guarantee for this next generation that they will be able to compete in this world market?

I want to point out specifically that in this compromise, the title II-C JPTA funding for poor children who are in disadvantaged circumstances was cut $272 million, cut down to now—out of $398 million, which it was in the previous budget, to $126 million. That is a cut of $272 million for job training for disadvantaged young people.

Well, you go out on the streets, at least in the State that I come from and young people are wondering what we are doing to help them. They want to be productive. They want to get the job skills and the literacy skills and the educational skills to be able to participate in our society, and this bill would just cut them off altogether. And to shut down activities that are working to stop school dropouts in order to give young people a hand up, to cut them by $272 million is just, in my opinion, unconscionable.

I do not know how we can justify that on the grounds that, well, if we do not do it now, we will not have a chance again until after July. And if we do it in July, the money will not be freed up for appropriations and spending and then they will have to give them 41 whacks in September.

Mr. HATFIELD. Will the Senator from Minnesota permit the Senator from Illinois to yield for just a moment?

Mr. WELLSTONE. Mr. President, with the understanding I have the floor, I will be pleased to have the Senator yield for a question.

Ms. MOSELEY-BRAUN. Always, so long as it is yielding for a question.

Mr. HATFIELD. I say to the Senator, I was giving those speeches 25 years ago on this floor, and it was valid then, and it has been proven to be more valid today, as the Senator gives the same remarks about our priorities—our lack of priorities—our failure to put the focus where the needs are by our overwhelming lust and willingness to vote for greater capacity to destroy life than to sustain and improve life, namely the military versus the nonmilitary spending.

But in all due kindness and respect, I ask the Senator, what is the option? I ask the Senator to put herself in my shoes and tell me what she would do as of this moment in this timeframe with 1996 upon us and having to make that decision, and every day we lose the money, the baseline in the rescissions—right or wrong rescissions—every day we lose that money. We come back here July 11, and it is all over. We will have not had this action.

Now, in that timeframe, what is the Senator's option or alternative that she would take?

Ms. MOSELEY-BRAUN. I say to the Senator from Oregon, again for whom I have a tremendous amount of respect, and I know he has been on the right side of history for these 25 years trying to make this case, but it is a case that we have to make, it seems to me. And in response specifically to the Senator's question, I do not have an answer. We just got the bill 1½ hours ago. We have not had a chance really to even go through to see where the shifts and the changes might be. We are not on the committee.

And please understand, I say to the Senator from Oregon and the Senator from West Virginia, no one is unmindful of the hard work that the Senators have done and the dedication and the long hours trying to hammer out a compromise. But compromise by definition means that some priorities get lost in the shuffle.

I just submit—and the Senator from Minnesota submits—that the days in which we can continue to allow the children of this Nation and poor people who need heating assistance to get lost in the shuffle are over. We cannot afford to continue down this path.

Our Nation's greatness depends on our capacity to allow individuals to contribute to this society and to function within it. No economy on this planet in this time is going to be healthier or be able to succeed more than the social fabric of what that nation will allow. To the extent that we allow Senator WELLSTONE's constituent to have to choose between turning on a gas burner in her house and eating dinner, we weaken our entire national fabric. To the extent we allow these teenagers to drop out of school and to stand on street corners, not only do we increase the crime rate, not only do we diminish the quality of life in our communities, but we have done serious injury to our national fabric as well.

And so the only response I would have for the Senator, since we have only had 2 hours, maybe 1½ hours, to

look at this, is to say to the Senator from Oregon we do not have all the answers.

I was going to talk about another set of cuts—the majority leader just entered, and I know he knows of my interest in this particular issue—education infrastructure. We have schools crumbling around this country. There have been articles in every magazine, every newspaper, about the state and quality of our schools that our youngsters——

Mr. HATFIELD. Did I hear the answer to my question is the Senator does not have an answer?

Ms. MOSELEY-BRAUN. I say, in answer to the Senator's question, I have not had time to give the Senator an answer because we just got the bill 1½ hours ago. I will be delighted, and I take the challenge——

Mr. HATFIELD. I say to the Senator, that is not the question. I got the bill, too, the same time the Senator did. That is not the question I asked. I asked, what in this timeframe would the Senator instruct me to do? I am happy to hear any new idea that gives me an option, and I am just asking the Senator, other than protesting this particular time and this particular action, which I agree with the Senator, but tell me, as chairman of the Appropriations Committee, what the Senator would do today.

Mr. WELLSTONE. Mr. President, if I could just——

Mr. HATFIELD. Let her have a chance to answer.

Ms. MOSELEY-BRAUN. What I would do today is I would put together legislation that does not take those 40 whacks out of children and poor people.

Mr. HATFIELD. Well, I say to the Senator, that is a fine statement, if I could——

Ms. MOSELEY-BRAUN. Let me give specific dollar numbers. We want to restore $272 million.

Mr. HATFIELD. That is not an option today. This body already passed the budget resolution. You may not have voted, I say to the Senator, for the budget resolution, but the body did. I have to function under the body, not under how I voted, but under the body's decision. So what is the option——

Mr. WELLSTONE. If I can——

Ms. MOSELEY-BRAUN. Again——

Mr. HATFIELD. This must be a protest statement, which is perfectly legitimate, and I join in addressing the protests both Senators are making toward the priorities in this budget, but that is not our option today.

Ms. MOSELEY-BRAUN. May I respond?

Mr. WELLSTONE. Then I would like to get the floor back.

Ms. MOSELEY-BRAUN. I thank the Senator from Minnesota. I had not intended for this to become a colloquy with the Senator from Oregon. I can tell he is upset because time is upon us. He put in a lot of work. I certainly appreciate that and understand that and understand his frustration with having the Senator from Minnesota and myself standing here and saying, ''Well, this is not quite good enough.''

But let me tell you, in response to the Senator from Oregon, we start off with a situation in which we are now being told, because of the procedure, that this is a fait accompli; that there is nothing we can do about this; that it has been served up to us a couple of hours ago based on a decision that happened 2 weeks ago, based on some decisions that were made a month ago; and that this train has gone too far down line for us to do anything about it.

I say to the Senator from Oregon that at a minimum, if I am going to be Polly Pure Heart run over by a train, I do not have to do it quietly. I can at least stand on this floor and make the point that it is wrong to cut job training for disadvantaged young people by $272 million, and it is inappropriate at this point in time, given the status of our Nation's schools, to cut $35 million out of education infrastructure. And it is wrong, in any event, to cut heating assistance for poor people in cold climates in communities all over this Nation.

If I am going to be run over by this train, I say to the Senator from Oregon and the Senator from West Virginia and to anybody else who is listening, at least I can yell out about what is about to happen to me. I go back to my 40 whacks. It may be that I am asking, I am begging to get 41 whacks next month by making this point. But it seems to me that the worst thing we can do in this situation is to stand by and say nothing. And if we stand by and say nothing as these cuts occur, if we stand by and say nothing to cuts in low-income heating and cuts in disadvantaged youth job training—disadvantaged youth job training programs, how can anybody, red pencil notwithstanding, sit back and say, ''No, we want fewer job training opportunities for already disadvantaged teenagers''? This is just not logical to me.

The Senator may be absolutely right. If we have a vote on the motion by the Senator from Minnesota or myself, whatever, we may lose, but it seems to me——

Mr. HATFIELD. Will the Senator yield?

Ms. MOSELEY-BRAUN. I cannot yield. I yield back the time to the Senator from Minnesota.

Mr. WELLSTONE. I will be pleased to yield, if I can have 1 minute, and then I will yield for a question.

Mr. HATFIELD. I will be happy——

Mr. WELLSTONE. I ask my colleague from Oregon to yield for a question?

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair. Mr. President, just to kind of sort this out for a moment, I am in complete agreement with not only what my colleague from Illinois had to say but with the eloquence with which she said it. Absolutely, we did not know what was going to be in this bill, I say to my colleagues, until late last night—10 o'clock. We just received this at 9:55 this morning.

Second of all, I do not view this as a protest. My distinguished colleague from Oregon talks about it is a protest. I am prepared to debate. I will have amendments, and I am prepared to debate those amendments, and I am prepared to have a vote on those amendments.

This is not something like all of a sudden I have become interested in. My colleagues all know of my strong commitment to LIHEAP. They all know that I think it is unconscionable that we are making these cuts. I feel very strongly about the Summer Jobs Training Program.

Mr. President, when we first finished up on the Senate rescissions bill late at night, with some assistance from the majority leader, we restored funding for a counseling program for senior citizens to make sure that they do not get ripped off in some of the supplemental coverage that they get to their Medicare. Now we are going to have all these cuts in Medicare and Medicaid—and this is great, I suppose, for some of the insurance companies for there not to be this consumer protection—but we are now going to go back to cutting, I think it was, $5 million—only $5 million.

What is the purpose of cutting a counseling program for senior citizens to provide them with basic consumer protection? That is in, as it turns out, H.R. 1944, passed late at night, just sent over here today.

So, Mr. President, I want to be crystal clear, this is not like something we just started saying.

I read the other day in the paper about a general having a plane sent across the country to pick him and his cat up, at a cost of over $100,000 a year. Is that the kind of travel we are funding? I say to you, we have it within this budget, we have it within our power, within this bill to actually take more out of that administrative and travel budget from the Pentagon. We can do that. I have talked about FEMA. There are plenty of alternatives.

But, Mr. President, first, let us just get back to the process. It is pretty hard for us to sort of lay out all the alternatives until we, first of all, know what is in this bill; and second, do not tell me that upon some time for deliberation and some time for discussion and some time for debate on amendments, we cannot come up with alternatives. Of course, we can come up with alternatives. This is not in concrete. Who said this is the day, that this is it, there cannot be any changes, we cannot make any changes at all, especially if we feel very strongly that there are some real distorted priorities?

I can only speak for myself, but I really do not understand the priorities

which say we go headlong with increases in the Pentagon budget, we have massive tax cuts, $245 billion, most of them going to wealthy people, and we are going to cut low-income energy assistance in the State of Minnesota.

I say to my colleague, I may lose on this amendment, but I will not be silent about this, and if I lose, I will go down fighting, not on the basis of just some principle or some protest, but because I am a legislator and I know there are alternatives and I know as we have a discussion of this, we will get to those alternatives.

But I just, again, have to say—I so appreciate what my colleague from Illinois said—here we are talking about children. We all love children. We all want to have photo opportunities with children, and we cut job training programs for young people, and we cut low-income—LIHEAP is not coming anywhere close to meeting the needs of those people that are eligible. And now we are going to have additional cuts in the Low-Income Home Energy Assistance Program?

I come from a cold weather State. Sometimes it is 20 below zero, sometimes it is 40 below zero, sometimes, as the Presiding Officer knows, it can be 70 below zero wind chill. But for many of the most vulnerable citizens in Minnesota, this can be terrifying—this can be terrifying.

Mr. President, I think that I went over these figures today, and I can give some figures for other States as well, but in Minnesota, 37 percent of the households are working poor; 15 percent have a disabled household member; 26 percent of the households have an elderly household member; 33 percent of the households have a child of 5 or younger, and I can go on and on.

When I met with Olita Larson in Richfield, and others, I made a commitment to them to fight hard for this program. I have been doing that all along. I do not come to this just now.

So what we have here is a rescissions package that just came over. Some of the initial good work that we did in the Senate has been undone with cuts where there were not supposed to be cuts.

Mr. President, I have to raise questions about the whole priority of this. I would be pleased, eventually, to get to amendments and to have discussion. I have the average fiscal net allotment and average heating and cooling benefits for households assisted by State and region for fiscal 1993. I am prepared to go through these figures and talk about what this means in human terms.

Mr. BYRD. If the Senator will yield, nobody in the Senate believes more than I believe in the freedom of speech in the Senate, and in the right to debate, and the right to stand on one's feet and speak as long as one has breath. I have fought that battle many times. I respect the fact that the distinguished Senator from Minnesota is protesting at this point and is speaking with great feeling. He speaks from the heart. He is doing his very best to represent his constituents. He is displeased with what he sees happening in connection with appropriations. I respect the right of the distinguished Senator from Illinois to do the same. And I am perfectly willing to sit here and listen to the Senators.

But if the Senator will allow me, let me point out that I, too, voted against the conference agreement yesterday in the budget bill. I have spoken out against the tax cuts. I oppose the tax cut that our own President is advocating. I oppose the tax cut that the Republicans are advocating. I am against any tax cut at this particular time. We are just digging the hole deeper when we have a tax cut and we say we want to get out of that hole that represents the budget deficit. So I am against the tax cut. I voted against the conference report yesterday. Several Democrats voted against it because of the tax cuts that are likely to result from that agreement.

But, Mr. President, I say to the two Senators that this agreement before us is better than the one that the President vetoed. I do not agree with everything that is in this package—not by any means. But the President himself says he will sign this bill. He vetoed the first one. He says the changes that have been made will bring about his signature. So if he is not satisfied with it, he is at least going to sign it.

Now, Mr. President, I merely urge the distinguished Senators, if they feel compelled to offer an amendment, that they offer it, and let the Senate vote on it today. I hope they will not offer an amendment, but I recognize their right to do so, and I will protect their rights to do so as far as I can. I just suggest that they offer the amendments and have their go at it. But it takes a majority to carry an amendment. I do not believe they are going to get that majority. Nevertheless, they have the right to offer amendments. I have been in the position several times in my long service here of offering amendments and seeing them defeated—amendments about which I felt as strongly as any Senator could feel. But when I felt I had done my best, I got up off the carpet, dusted myself off, and went on to the next battle.

I recognize the Senator's right to speak and his right to offer an amendment. I urge the Senators not to force us into a delay that puts us over the holiday, because I can assure the Senator that if that happens, we are going to be much the worse off. We will have less money and budget authority. We will have less outlays, and we are going to regret that if we do it.

So I hope we will offer any amendment that we feel compelled to offer, speak on it, and let us vote on it. Let us not delay this matter so that it is still before the Senate when we return, because we will have lost and lost badly. Let me say this with the greatest of respect. The Senator has not seen anything yet. This is just a drop in the bucket to the cuts that are coming. I am on the Armed Services Committee, and——

Ms. MOSELEY-BRAUN. Will the Senator yield?

Mr. BYRD. I do not have the floor.

I am on the Armed Services Committee, and I got rolled a couple of times in the committee yesterday. The Republican side in that committee is voting in lockstep. They are unanimous, and there is no way that 10 members on our side of the Armed Services Committee can outvote 11 members on the other side. So we might as well get used to it. We will not get used to it without protesting, and I will be protesting some, too. But I merely make my plea on the basis of at least getting on with this matter today, disposing of it, and getting up off the carpet and dusting ourselves off and getting ready for the next battle, which we will probably lose again. There may be some we will win. I appreciate the Senator's allowing me to make these remarks and for his yielding. I respect his right to speak, and I respect his right to offer an amendment, and I respect the way he feels. I hope he will finish his speech, but if he has an amendment, offer it and let us vote.

Mr. HATFIELD. Will the Senator yield for a minute?

Mr. WELLSTONE. Yes, I yield.

Excuse me, I yield for a question or comment, but I will retain the right to the floor.

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD. Mr. President, I wonder if the Senator was aware of the specifics that have been extrapolated, that increased in this particular new rescissions package: Adult job training, by $40 million; school to work, another $20 million; Goals 2000, by another $60 million; safe and drug free schools, $220 million; drug courts, $5 million; community schools, $10 million; TRIO, $11 million; child care block grant, $8 million; housing for people with AIDS, $15 million; national and community service, $105 million; safe drinking water, $225 million; community development financial institutions, $14 million; community development grants $39 million, for a total of an add-back of $772 million over the first rescissions package.

That is after weeks of working with the White House, after working with our colleagues in the House of Representatives. Sure, the glass is half full or half empty, depending on what you look at.

Again, there has not been a word said about the Senator from Minnesota or the Senator from Illinois that I would not endorse 100 percent. My views precisely. But let me also say to the Senator that he has talked about low-income energy assistance. No one has gone cold for a lack of money in that account. We do not predict the weather ahead. What we do in the appropriations is we set forth $1.3 billion in 1995

appropriations for low-income energy assistance for this coming winter. We cannot predict that winter. Anytime in the past on the record where we have had less money than required to keep people warm, we have appropriated a supplemental.

So the fear that the Senator is expressing on the basis of the figure here is not a justified fear. We appropriate supplementals.

Now, let me say also to the Senator that in dealing with the White House, they had a higher figure for low-income energy assistance rescission than we had that they were willing to have rescinded. Was it because they were interested in people of low income? Not at all. They understood the funding mechanism. They knew that we would always put that appropriation out there in a supplemental form to keep those people warm.

Therefore, that money was not yet obtained because we had no knowledge of the requirement of the amount of that money.

I can say to the Senator, I participated in that time after time, leading the battle, in some instances, of putting that money in the supplemental to keep people warm. We cannot predict what that winter weather is.

The Senator said a while ago he might lose on this. No, the Senator will not lose. The people of Minnesota will lose, the people of Illinois will lose, and anybody else who blocks this action at this time.

Again, the fundamental bottom line that the Senator cannot escape—I cannot, the Senator cannot—is requiring the Appropriations Committee to gut $1.3 billion more in the 602(b)'s for 1996 if we do not pass this and get this acted upon today.

Ms. MOSELEY-BRAUN. Will the Senator from Minnesota yield?

Mr. WELLSTONE. I am happy to yield to the Senator.

Ms. MOSELEY-BRAUN. Actually, there are a couple of comments, and when we get into a colloquy like this, it is sometimes difficult to know what to respond to first.

I have to point out to the Senator from Oregon, and even the Senator from West Virginia, it is very difficult to debate someone who has been on the right side of these issues for so long and who cares about them, as I know that the Senator from Oregon and the Senator from West Virginia do.

However, I will point out that back home, we have an expression, ''If you are being chopped to death with an ax, you don't let them do it to you in the closet, you go out on the street corner.''

Quite frankly, with regard to these cuts, I think it is not only appropriate, but I think it is essential that Senator WELLSTONE, the Senator from Minnesota, myself, and any other Senator who cares about these issues, come out and talk about what we are doing here.

The Senator read off the numbers in terms of what we put back. I think it is important, also, to remember—and I wish I could remember the numbers but I do not have my glasses with me right now—to talk about what was cut to begin with.

The fact is, these are meat ax cuts. They start off as meat ax cuts, and they are a little less—no question—they are a little less bad than they were previously.

But that still does not mean that we should not take to this floor and talk about why it is important to restore the $272 million that was cut out of the JTPA Program, or the dollars that were cut out of heating, or the dollars that were cut out of the education infrastructure program to help start trying to fix some of the falling down, broken down schools across this country. We have to be able to talk about these issues. It is not symbolic.

Frankly, I say to the Senator from Oregon, I find it more distressing—no one is trying to be uncooperative—I find it more than a little distressing that the Senator from Minnesota and I will be told, ''If you go out here and talk about issues you care about, then you are in danger we will do it even worse.''

I started off talking about Lizzie Borden. The more this debate goes on, that is exactly where we are, Senator WELLSTONE. The threat is, if we do not go quietly down this primrose path, we will get 41 whacks after July.

I just do not think that is what the people of Illinois sent me here to do—the people of Illinois or the people from Minnesota, or anywhere, if they knew what we were doing to people concerns, human concerns.

Is there a way to predict and to make the offsets, the question was asked of me earlier? I could not respond, because we just got this bill a couple of hours ago.

The fact is that we have given FEMA, our emergency management organization—and they do a great job, by the way—we have given them more money than they say they need. We could fix schools and we could provide for job training for disadvantaged youth, education infrastructure, and heating assistance out of the FEMA money alone.

What are we looking at here—they say they need $1.3 billion and they got $3.2 billion. There you go. If you want to start, talk to FEMA and see how much more they can give up. There is a place to offset.

Certainly, to take any cuts from disadvantaged young people when we are dealing with teen criminal activity, teen sexual activity, the explosion of illegitimacy, right down the list, things we talk about on the floor, and then turn around and cut job training for teenagers, I do not understand.

Education infrastructure—kids going to schools with broken sewer pipes. How are they supposed to learn? Is that not critical to the future of this country? Why are we taking anything from there—not to mention heating.

The Senator from Minnesota has been more than gracious and indulgent. I say to my colleagues and the Senator from Oregon—and I understand the Senator has a job to do, and this is saying we just have to go on down this track because everybody wants to go on vacation. That really is what this debate kind of is about. Senator BYRD, I worked every single day of last week, and I look forward to it.

Mr. BYRD. The Senator does not have a thing on this Senator when it comes to work.

Ms. MOSELEY-BRAUN. I know that is true. I understand everybody here wants to go home, and it is hard to be the one person standing up saying, ''Well, let's not quite go home yet; we should talk about what we are doing.''

Mr. BYRD. I am in no hurry to go home, but I want to make this point, if the Senator will yield.

Mr. President, I ask that the Senator be permitted to yield to me without losing the right to the floor.

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

Mr. BYRD. Mr. President, I say to the Senator, this is the bottom line: If we pass this bill and it becomes law, the Appropriations Committee will have $6 billion more in budget authority and $3 billion more in outlay for the 1996 appropriations bill, which will help the very programs, I am sure, that the Senators and I feel so strongly about.

If we do not pass this, the Appropriations Committee is going to have $6 billion less in budget authority when we start marking up those bills after we come back—$6 billion less in budget authority and $3 billion less in outlay. I hope the Senators will please keep that in mind. That is the bottom line.

We may not be happy with this. The President has said that he will sign it. He feels that he has gained over what was the bill that was vetoed some time ago. And he has. The Senator from Oregon just read the list of decreased rescissions.

I plead with Senators that it means heavier losses in your programs and my programs, when we mark up the 1996 appropriations bill, if this bill dies.

Ms. MOSELEY-BRAUN. This bill would terminate the education infrastructure program. Zero dollars in this rescission bill—zero dollars.

Mr. BYRD. Mr. President, wait until the Senator sees the bills that are going to come to this floor if this bill dies. Wait until the Senator sees the cuts that are going to be made if this bill dies.

The cuts that are going to be made in the 1996—the Senators will come back and read what I said in the RECORD, if the Senators insist on killing this. The Senators will read it. The Senators will see that this is just a drop in the bucket.

Mr. WELLSTONE. Mr. President, just——

The PRESIDING OFFICER. A reminder that the Senator can yield for

questions only during the course of this debate.

Mr. WELLSTONE. Mr. President, just one more time, to summarize. We received this bill at 9:55. That is not even 2 hours ago. I did not know everything in here.

I am perfectly willing, as I said before, I did not object to the motion to proceed. There have been a lot of questions that have been put to me. I am more than willing to go forward with amendments and debate. I need a little time to look through this bill.

But, Mr. President, when my colleagues talk to me about this being just the beginning, I am well aware of that. I did not vote for these budget cuts. I did not vote for these ceilings. I did not vote to increase money for military contracts.

Again, the other day in the paper, the story in the paper about a general having a plane sent across the country to pick up him and his cat at a cost of $100,000—that is out of the travel and administrative account.

I did not vote for that, Mr. President. These are distorted priorities. And my colleague from Illinois kept saying—and I understand the Senator from Oregon and the Senator from West Virginia have done their best within these boundaries that have been set by the votes that are here right now. I know that.

But, in all due respect, we do not, in that budget resolution, decide we are going to take on any of the loopholes, deductions, subsidies—for example for oil companies. But we are going to cut the Low-Income Home Energy Assistance Program for seniors, people with disabilities, and children. And, in addition, summer jobs training programs. And, in addition, infrastructure—some small investment in infrastructure in schools. What kind of message do we send to children about whether we have any hope for them or what kind of value do we attach to them when the ceilings—the buildings are decrepit and the plumbing does not work and all the rest. We cannot even begin to make any kind—we are going to cut expenditures in that area?

Ms. MOSELEY-BRAUN. Will the Senator yield?

Mr. WELLSTONE. I will be pleased to yield in just a moment.

Mr. President, I worked hard. I had support from colleagues for a counseling program for elderly people, to make sure they do not get ripped off on supplemental coverage from Medicare. That, now, gets cut again. My colleague from Oregon talked about the good things that have been done. Fine, I agree and I am glad.

But he did not talk about some of the areas that have now been cut as opposed to the original rescissions bill. I only found out about what has been cut because I have had a little bit of time, just a little bit of time to go through this. What is the hurry? What is the hurry? I am pleased to go through this and I am pleased, today, to introduce amendments. I am pleased to have debate on those amendments and up or down votes. But I will tell you, I will have an amendment to restore that funding for the Low-Income Home Energy Assistance Program.

Mr. DOLE. Will the Senator yield on that point?

Mr. WELLSTONE. I will.

Mr. DOLE. When are you going to have the amendment? That is what I would like to find out.

Mr. WELLSTONE. I say to my colleague, I will be ready to go with that amendment—A, I have been responding to questions and comments from other Senators. I would like a little bit of time to look through this to get all my amendments together. But I will have amendments and we will have debate.

Mr. President, I say to the majority leader in all due respect, this bill came here at 9:50. It was passed last night at 10 o'clock, in the House.

I am not going to let this be jammed down my throat and I am not going to let it be jammed down the throats of a lot of very vulnerable people in my State. I will examine this. I am more than willing to have amendments—I said this to the majority leader—and we will have debate on those amendments and I am pleased to vote up or down. Absolutely.

Mr. DOLE. Mr. President, will the Senator yield further for a parliamentary inquiry?

Mr. WELLSTONE. I will be pleased to.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, will the call for the regular order return the regulatory reform bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. I just say to the Senator from Minnesota, I am not going to be here all day while he is doing whatever he is doing. He has every right to do that, but I have listened very carefully to the two managers of the appropriations bill and I think they are trying to be helpful here, saying they are going to have less money if this is delayed.

The President wants this bill, so I ought to be happy if he does not get it, I assume. That would be the conventional wisdom around this town. He says he wants it. He has written a letter. He sent up a statement. He has added $700 and some million he said he wanted to add for the very programs that have been addressed by the two Senators.

But it is a little late in the day for game playing. If the Senator is going to offer amendments, offer amendments. If not, as soon as I get the floor, this bill is finished. It is finished. And it will not be brought up again until there is consent to bring it up without amendment and you explain to the people in Oklahoma City and you explain to the people in California and you explain to the people in Minnesota how you lost money on low-income home energy assistance because you would not let this bill pass.

You have every right to object. You are doing a good job of it. That is your right.

But I do not intend to tie up the entire Senate here the rest of the afternoon while somebody out here is making whatever argument they want to make.

We will bring the bill back as soon as the administration convinces the Senators from Illinois and Minnesota that this is a good bill.

If the Democratic President cannot convince the Democrats, certainly we cannot convince the Democrats.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I say to the majority leader in response to his characterization of the Senator from Minnesota doing whatever he is doing, what I am doing is being a responsible legislator. This bill came to this Chamber less than 2 hours ago. I would like to have the opportunity to examine this bill. I have already spoken about areas where I am prepared to introduce amendments and to have debate.

There are no games here. I do not think it is a game to speak in behalf of low-income people in my State who are really worried that there will not be low-income energy assistance available for them. I do not think it is a game to raise questions about what happened to the counseling program for senior citizens to make sure they are not ripped off on supplemental coverage to Medicare.

I just realized, going through this, that now has been cut again.

I do not think it is a game—Mr. President, I do not think it is a game to talk about what is going to happen to displaced workers. What is the significance of those cuts?

Ms. MOSELEY-BRAUN. Will the Senator yield?

Mr. WELLSTONE. I will be pleased to yield in a moment.

Mr. President, we have now zeroed out a program for homeless vets. It was not much of an appropriation, but it was important. I do not think it is a game to go through this piece of legislation and to highlight that and raise questions about it.

I do not think any of this is a game. But what I find so interesting about this rescissions package is that so many of the cuts seem to be based upon the path of least political resistance. We did not go after any of the wasteful military contracts. In our budget resolution we did not go after any of the subsidies for oil companies. And, in addition, we have $245 billion of tax cuts mainly going to the wealthy people. And I have no assurance, by the way, over the years, as I project this, that most of this money will not be used to finance tax cuts for fat cats in our country, taken away from the people who are the most vulnerable. This is no game.

I would say to the majority leader and to my colleagues—and I will be pleased to yield for a question—that I think it is a matter of priorities and it is a matter of what we stand for. It is a matter of what we stand for.

Before we just get a little bit too generous with the suffering of other people, do we not have an opportunity to look at what is in this? Do we not have a opportunity to talk about some alternatives?

Just speaking for myself, just let me make it crystal clear—crystal clear—I can take a short period of time and I can look through this and I will have amendments and I am ready for debate on amendments.

I say to the majority leader, if I had wanted to stop this I would have objected to the motion to proceed. We have had a discussion about what is in here, about where the cuts have been, about other priorities. I am just speaking as a Democratic Senator from Minnesota. I know what low-income home energy assistance means to people in my State and I know these cuts are cruel. I did not vote for this budget resolution. I am going to be an advocate for those people. And I do not care if they do not have any money to contribute to campaigns. I do not care if they do not have any lobbyists here. I do not care if they are not the heavy hitters, or are not the players, or are not well connected. I do not care if they are without a voice. They deserve representation. This Senator thinks the cut we had in the Senate bill before is cruel. I will have an amendment to restore that cut, and we will have a debate on it. There were many Senators who supported it the last time. And I hope to have support from Senators again.

I am pleased to yield for a question.

Ms. MOSELEY-BRAUN. The Senator from Minnesota was talking about the suggestion was made that somehow this was—-

Mr. WELLSTONE. I yield the floor to the Senator.

Ms. MOSELEY-BRAUN. Thank you very much. I thank the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. Thank you very much, Mr. President.

I say to the majority leader that no one is trying to be obstreperous.

Mr. BYRD. Mr. President, I call to the Senator's attention that under the rules a Senator cannot yield the floor to another Senator.

Ms. MOSELEY-BRAUN. I seek recognition.

The PRESIDING OFFICER. The Senator is correct. In the opinion of the Chair the Senator from Minnesota yielded the floor, and the Chair recognized the Senator from Illinois.

Ms. MOSELEY-BRAUN. Thank you very much, Mr. President.

Mr. President, to the Senator from West Virginia, the suggestion was made that somehow or another we were just kind of fooling around here, and it seems to me that it really flies in the face of what is involved, and why this is so deadly serious. And to the Senator from Kansas, I consider the cuts in the JTPA title II program for disadvantaged youth very serious business. We are talking about $272 million less for a program that serves economically disadvantaged 16- to 21-year-olds. These are the kids that we have a chance to save. We have a chance to get them educated, to give them a way out, to give them jobs.

Specifically, you are talking about kids who are—well, I will just read it. Who is involved with this program? They are youngsters who are basic skills deficient, school dropouts, pregnant or parenting kids, disabled kids, homeless and runaway youth. I mean if we are going to take $272 million out of their hide and not look for other ways, assuming that we have to deal with the issue of deficit reduction, the Senator from Kansas knows I support it. I supported a balanced budget amendment against the wishes at the time at least of my President in large part because I know we have to get on a glidepath to fiscal stability.

So deficit reduction is very important to me. But one of the reasons we are out here this morning is that, if we get off on the wrong foot in deficit reduction, we will be crippled thereafter in trying to achieve it in a way that does not destroy the fabric of this Nation. That is why these issues are so vitally important. If we start off assuming that it is OK to let the Federal Government pay for generals and their cats to fly around, but we do not support funding for job training opportunities for 16- to 21-year-old disadvantaged young people, what kind of way is that to balance the budget?

Here we are cutting, zeroing out efforts to provide money to help build up some of our nation's deteriorating schools. You cannot do much worse than zero. You cannot do much worse than termination. We start talking about a balanced budget. I sit on the Finance Committee. How in the world can you talk about tax cuts when you have bills to pay off? The American people know this is just fiscal foolishness. Yet, we can provide for tax cuts and then turn around and say, ''Yes. But we still have to take a little whack out of the hide of poor people who get low-income energy assistance.'' This is not logical.

I have not been around to talk about 25 years worth of battles for social justice like the Senator from Oregon can. I know I do not have the parliamentary legislative skills of the Senator from West Virginia. But I do know this. That as a legislator elected from the State of Illinois the people in my State would not want to see me just lay down on this railroad track and get run over without saying anything.

While we recognize that all of our colleagues want to go home, everybody wants this vacation, and we do not want to be obstreperous, we are not trying to be mean to anybody. At the same time what do you tell these teenagers when you go home, these runaways? We cannot provide them with job training.

When we go home, what do we tell our senior citizens? ''It is summertime now. Don't worry about it. It is going to be OK. Guess what? If you freeze to death, we will appropriate some more money.'' I do not think so. I do not think that is an appropriate response.

I think we have an obligation to stand on this floor and do exactly what we are doing to try to make sure that at least the American people know what is happening to them. So at least this does not just kind of hide and slip through and end up being an ax job in the closet. So at least we make the point out here that this is no way to start off balancing a budget.

Yes. We have to balance the budget. Absolutely we have to do deficit reduction. I served on the President's Commission on Entitlements and Tax Reform. We did not come away with any recommendations. But it was a terrific experience. It told us what kind of trouble we would be in if we did not achieve a balance and a deficit reduction. So I am as committed on that issue as anybody here.

But I say to my colleagues that we should not start off by taking away money that was appropriated last year. And, by the way, I do not know if that has come out in the debate, I say to Senator WELLSTONE. We are talking about rescinding money that was already appropriated last year. This is not even go-forward money. This is not even what we are going to do now, that we have kind of a consensus around here on the balanced budget. This is what happened last year. The bill before us says, ''You have appropriated this money but we are going to take it back.'' In some of these areas, the numbers were below what they had been previously anyway.

So we are going to take it out of the hide of the young people who need job training, pregnant teenagers, disabled teenagers, homeless teenagers, and runaway youth. We are going to take it from them.

We are not enforcing a sensible set of priorities with this. And I do not think it is inappropriate for us to stay a little while to talk about what we can do. Maybe this document can be made better. Maybe it can be made better. Maybe there is some room. I do not know. I mean we are not on that committee. I am on the Finance Committee. I know Senator WELLSTONE is not on committees that wrote this legislation. I understand that. You cannot consult with everybody. But certainly Senator WELLSTONE, the Senator from Minnesota, used the expression, the ''path of political expediency.''

Mr. WELLSTONE. Will the Senator yield? Actually, I said, the ''path of least political resistance.''

Ms. MOSELEY-BRAUN. That is correct. ''Path of least political resistance.'' That is better than the ''path of political expediency.'' That is correct.

I appreciate that correction from the Senator from Minnesota. That was the expression that he used, and I think it is very well taken—least political resistance. I just think that even in situations like this, in which the people who sat around in the wee hours and hammered this out—and again, we appreciate the effort and we know there is an attempt here at compromise, but at the same time I think it would be inappropriate for us not to discuss these issues.

Do we have amendments? Well, one nice thing about the Senate is that it is a traditional legislative body. I listen very closely to ROBERT BYRD when he starts talking about this institution. I love it, too, because it allows you to be a legislator; it allows you to be a lawmaker; so much so that you can write an amendment down on a piece of paper. I would like to get it typed up. I know we do not have a whole lot of time. I know we are in a hurry. I have an amendment here. It is handwritten. I just would like to have it typed. It would restore the money for job training of disadvantaged young people, restore the money for school construction; $35 million is a drop in the bucket. It was cut from $100 million.

The original appropriation was $100 million, reduced to $35 million, in this bill reduced to nothing, taking back money that was appropriated.

This is not logical, it seems to me, nor is it fair, nor is it sensible, nor is it forward-looking, nor is it appropriate, nor does it comport with our obligations to the American people. Job training started out at $398 million, reduced by $272 million. In this bill, it is $126 million. So that is a pretty good whack on job training for disadvantaged young people.

I do not have the numbers. The Senator from Minnesota may have the numbers on what the whack was on last year's appropriation for heating assistance, but the point is this is not something that I think we should just roll over and not say anything about and say, well, you know, it is the time, it is just open season on disadvantaged youth and schools and school kids and poor people who need heating assistance and just roll over and let this happen. I just think it is inappropriate.

I say to my colleagues again, this legislative body permits for this kind of dialog, and it would be inappropriate for us as legislators not to raise the issue, not to raise the question whether or not we can fix this a little bit.

Maybe the amendments will go down. I do not know how many —I just do not know. Maybe my colleagues will go lockstep on that side of the aisle. I say to the Senator from Kansas, the majority leader, maybe his guys will go in lockstep because of a political agenda. Maybe the letter from the President means the folks on this side of the aisle will go in lockstep, and we will lose. But I want everybody to know that I am prepared to talk about job training for disadvantaged youth today, tomorrow, the next day, the day after that, the day after that, to talk about why we need to try to make certain that these kinds of efforts do not get the ax.

Mr. BYRD. Will the Senator yield?

Mr. HATFIELD. Will the Senator yield for a question?

Ms. MOSELEY-BRAUN. Only for a question, and I retain the right to the floor.

Mr. BYRD. The Senator retains her right to the floor. She can just yield for a question.

Ms. MOSELEY-BRAUN. Yes. I thank the Senator. For a question. I will yield for a question, yes.

The PRESIDING OFFICER. Who is the Senator from Illinois yielding to?

Ms. MOSELEY-BRAUN. The first question I think was asked by the Senator from Oregon and then the Senator from West Virginia. I will yield for a question from both of them.

Mr. HATFIELD. I thank the Senator.

I was wanting to ask the question, did the Senator support the Daschle-Dole compromise in the rescissions package that originally passed the Senate?

Ms. MOSELEY-BRAUN. The Senator from Oregon has some very good staff members. Yes, I did, I supported it, but the education infrastructure was not restored in that compromise.

Mr. HATFIELD. The cut for youth job training centers was $272 million.

Ms. MOSELEY-BRAUN. That is correct.

Mr. HATFIELD. The Senator supported it, and in this package it is $272 million, the precise same figure that the Senator supported in the Daschle-Dole compromise.

Ms. MOSELEY-BRAUN. That is true. That is correct. And I make the point that procedurally that was an interim step to where we are today. It was my hope always that we would be able to work toward closure and resolution in a way that made sense.

That vote was not the ultimate vote. This vote is the ultimate vote with regard to fiscal year 1995 rescissions. And so I make the point to my colleague——

Mr. HATFIELD. I thank the Senator.

Ms. MOSELEY-BRAUN. The Senator is correct. The Senator from West Virginia had a question, also.

Mr. BYRD. My question was based on the statement that I understood the Senator to say earlier that her amendment was not typed up; it was just in handwriting. My question was, is she aware that an amendment does not have to be typed, that it can be sent to the desk in one's own handwriting?

Ms. MOSELEY-BRAUN. Yes. I say to the Senator from West Virginia, yes, I am.

Mr. BYRD. And she may——

Ms. MOSELEY-BRAUN. Again, I think that is a wonderful thing about this institution.

Mr. BYRD. Is she also aware that she may orally state the amendment?

Ms. MOSELEY-BRAUN. I was not aware of that. I say to the historian of the Senate, I was not aware that an oral amendment was appropriate.

Mr. BYRD. And if she sends it to the desk or orally states it, she loses the floor?

Ms. MOSELEY-BRAUN. I thank the Senator. I was not aware of that either. I appreciate the counsel from the Senator from West Virginia.

Mr. DOLE. Will the Senator yield?

Ms. MOSELEY-BRAUN. The majority leader.

Mr. DOLE. Will the Senator yield for a question?

Ms. MOSELEY-BRAUN. For a question by the majority leader.

Mr. DOLE. I make an inquiry. Does the Senator intend to offer it or not? I wish to find out—if we are just going to have a filibuster here with two Senators, that is fine—so we can make other plans. If we are going to offer amendments, we hope Senators offer the amendments so we can have a vote.

Ms. MOSELEY-BRAUN. I thank the Senator. I say to the Senator from Kansas, the majority leader, I have an amendment to offer. I have not yet offered it. I am looking at offering it. I would like to get it typed up. I would like to have a chance to talk about the offsets and the numbers and where the money is going to come from. I understand the Senator from Minnesota has an amendment.

Mr. WELLSTONE. If the Senator will yield, I have several amendments in exactly the areas that I was speaking about that I intend to offer and have debate upon, absolutely, and hope to win on them. I said that from the very beginning.

Mr. DOLE. If the Senator will yield, why not offer the amendment? We have been here almost 2 hours on this measure and nothing has happened except for a lot of discussion. And if the Senators are going to offer amendments, let us offer amendments. If Senators do not mind disaccommodating colleagues on that side, I am not going anywhere this weekend, so I will be here all weekend. It is up to Senators. If the President does not have any influence with either one of his colleagues on that side, that is his problem. But we would like to complete the bill because the President would like to have it done. And I wish to make the best effort I can on behalf of the President, but if I am thwarted by members of his own party, I am not going to spend a lot of time trying to help the President. Maybe he ought to pick up the phone and make a couple of phone calls.

But in any event, if we offer the amendments, as the Senator from West Virginia said, we can have a vote. It will be an amendment vote. And then we will see where we are. I do not know how many Members are left. Many Members had to leave early to make plane reservations. We are still enough

here to do business. We are prepared to do business. Let us do business.

Mr. WELLSTONE. Mr. President, if I could respond——

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. WELLSTONE. Will the Senator yield for just a moment?

Ms. MOSELEY-BRAUN. For a question, yes.

Mr. WELLSTONE. The question is in response to the majority leader.

Ms. MOSELEY-BRAUN. For a question.

Mr. DOLE. For a question.

Mr. WELLSTONE. First of all, let me be clear one more time. I am drafting amendments and am pleased to have the debate. But I would say to the majority leader, it is not a question——

The PRESIDING OFFICER. The Senator from Illinois may yield for a question.

Does the Senator from Illinois yield, for a question, to the Senator from Minnesota?

Mr. WELLSTONE. Will the Senator from Illinois yield for a question?

Ms. MOSELEY-BRAUN. To the Senator from Minnesota. I just did.

Mr. WELLSTONE. Let me restate it. Will the Senator from Illinois agree with me that when you get a bill at 9:50 in the morning and you have not had any opportunity to even examine what is in that bill, that the way to represent the people back in your State and the way to be a conscientious legislator is to, first of all, have a chance to look at it and then to be drafting amendments? I have several amendments, I would say to the Senator, already that I am working on. But I want also to look at this bill to see what is in it, and I may have some others.

Would the Senator agree with me that that is a conscientious approach; it is a mistake having something come over here and go through without having a chance to look at it and have discussion and have amendments?

Would not the Senator also agree with me that during a large part of the discussion this morning we have been responding to questions from other colleagues? It is not as if we have just been speaking by ourselves, only to ourselves. And we have been trying to highlight the priorities in this legislation. Would the Senator agree with me? Or some of the distorted priorities and talking about why not some alternatives? Would the Senator agree that that has been what is going on here?

Ms. MOSELEY-BRAUN. I would not only agree, but I would underscore the remarks of the Senator from Minnesota. And I do not have in front of me, since we just came to the floor—again we just got this bill. I did not have a chance to put together the normal amounts of information. But the fact is I do not understand—we are now in the position of being accused of trying to stall something. There is this hurry, hurry, we have just got to pass this and it has to be today. We have to have this rush of what we are going to rescind from last year's legislation. This process has taken a long time. It has gone step by step by step. We had the vote that the Senator from Oregon referred to, which I consider to be an interim step in the process, and we just got this bill this morning, quite frankly.

Were it not for just some pretty fast action to even find out that the JTPA youth training program was being cut by $272 million and education infrastructure was being terminated and low-income heating assistance was being slashed—there may even be more provisions in there of which we are not aware. We have not had a chance—I have been on my feet since 10:30, almost 2 hours. I have been standing right here. And I understand that it is part of the process that you have to stand right here, you cannot move, you cannot go to the telephone, you cannot stop and read things, and you cannot go through and do the kind of research that is required.

But just to ask us to rush to judgment on something as significant as a rollback of money that was appropriated last year, and particularly when that rollback rolls over disadvantaged youth and it rolls over people who want to see our schools repaired and it rolls over poor people who may freeze to death next winter, we are going to roll back and roll over simultaneously, and we have to sit here and say, ''Oh, well, we have to go along with the program. It is not appropriate for us to get up and yell and argue; well, on the one hand, we have been told we may make it worse for those people next year. You have seen these cuts. Well, it is just going to get worse.''

Lizzie Borden took an ax and gave her father 40 whacks. Next year it will be 41, maybe even 42. Well, I am sorry. My attitude about this is—I am not trying to be obstreperous. I think the Senator from Kansas and everybody in this body knows I come out of a legislative tradition. I understand compromise. I understand working with people. I try to work with everybody. But I will tell you, there is a point at which you have to say you stand for something, and among the things we stand for is seeing to the disadvantaged youth, teenagers, 16-to 21-year-olds who are disabled, homeless, school dropouts, runaways, that they do not take a $272 million whack.

I mean, come on. Education infrastructure. I may have to bring out the pictures, I do not know. I was not looking to have to be on my feet this long time, but I have the pictures sitting in the back. You have seen them. Most of the Members of this body, I hope, have seen them if they were listening at all. We have schools falling apart. Kids are having to study next to broken sewer pipes, not to mention broken windows, floorboards cracking through. I can go through—and bring out the pictures—the safety and health hazards, not decoration, not cosmetic, but basic kinds of stuff, and it gets terminated, all $35 million.

It started off at $100 million and went down to $35 million. The Senator from Oregon asked why I voted for the previous compromise. Well, being a legislator, I am compromising. ''We're going to go, yes, it's OK, we'll cut from $100 million to $35 million because, boy, we have to have shared sacrifice in this time of deficit reduction. So, yeah, I'll give up some of the millions of dollars, given the fact we haven't invested in our schools, given the fact they are falling apart. But I am prepared to make some investment in the process, to go along with the program.''

So we went from $100 million to $35 million, and then I look up and it is zero in this bill. I do not think that is sensible. I do not think the spirit of compromise goes to the point where you just strangle yourself, or the spirit of compromise says you necessarily have to just go quietly into the closet and let somebody cut you to death with a meat ax. I just do not think that is what the spirit of compromise means.

I think there are offsets. We were talking about where is the money going to come from? Well, we looked at it just very briefly. Here is money—we give FEMA more money than they think they need. OK, it is important to have some money for emergencies sitting there, but could you not do that by supplemental appropriations? We could not find a few dollars to put back some of the money for disadvantaged youth, for education infrastructure?

So I ask the Senator from Minnesota—I want to applaud his leadership, because last night we had a conversation here on the floor because we did not know what was going to be in this bill, and the Senator from Minnesota said, ''Well, I am waiting to see what is going to be in it, because I hear some pretty bad things about it, and if it turns out it is as bad as I hear, I am just going to have to take to the floor and object.'' I applaud him for that.

Mr. WELLSTONE. Will the Senator yield for just a moment?

Ms. MOSELEY-BRAUN. I yield, yes, for a question.

Mr. DOLE. Mr. President, the Senator may yield for a question but not for debate.

The PRESIDING OFFICER. The Senator may yield for a question.

Ms. MOSELEY-BRAUN. I yield for a question.

Mr. WELLSTONE. Last night, is it not the case I said to the Senator that I did not know what was going to be in the bill, but what I wanted to have was at least an opportunity to look at it? Is it not true I said I did not want this to be steamrolled, and I also wanted to have an opportunity to have discussion and offer amendments to restore some of the cuts which I think are cruel to some of the most vulnerable citizens? Is that not the gist of our discussion, which is what I intend to do?

Ms. MOSELEY-BRAUN. That is the gist of the Senator's statement to me.

I applaud him for his leadership and foresight.

I guess I am a little optimistic. I had hoped that the compromise would mean we would not take any whacks out of kids and poor people and the vulnerable population. I had hoped we had moved in the direction of saying, ''Well, we pushed it this far, we are going to leave education funding like it is, we are going to leave job training like it is, we are not going to fool around and take any more out of the people who need heating assistance, money to help heat their homes in communities like the Senator's and like mine.''

The Senator from Minnesota was talking with the Chair earlier about how the wind chill gets to be 70 below in Minnesota. I do not know the last time the Senator from Minnesota visited Chicago and Lake Michigan in the dead of winter, January. It gets so cold people say its the hawk coming off the lake, and what looks on the thermometer to be 10 below feels more like 50 below. There are a lot of senior citizens, a lot of senior citizens who live on fixed incomes who do not have the ability to heat their homes in the winter, to withstand that. Will the Senator from Minnesota advise the Senator from Illinois, what is the cut on home heating assistance?

The PRESIDING OFFICER. The Chair reminds the Senator from Illinois that she can only yield for a question.

Mr. WELLSTONE. Will the Senator yield for a question?

Ms. MOSELEY-BRAUN. I will yield for a question.

Mr. WELLSTONE. It is the Senator's understanding based upon the answer that I am about to give to the Senator that it is about $320 million, or so, of cuts. And does the Senator understand that what happened was that on the Senate side, when we voted for this rescissions package, I voted for it? We had restored the full funding, though the House had eliminated the whole program. I have strong support, letters that I have here when we get to the debate on the amendment from the distinguished chair of the Appropriations Committee that we would hold firm in our position. But now we have over $300 million of additional cuts that just came to us late last night.

Would the Senator agree with me that in terms of priorities, what is the hurry? Would the Senator agree with me in terms of the focus we keep getting this pressure about hurry, hurry, hurry? Why are we in such a hurry to cut low-income energy assistance for elderly people, people with disabilities, people with children? What is the hurry to do that? Would the Senator be able to answer that question for me?

Ms. MOSELEY-BRAUN. Well, there is an answer, I say to the Senator from Minnesota. There is an answer, and the answer is: Vacation, I think.

I think the answer is that folks want to go home. The answer is, the deal is cut, the deck is stacked, this game has moved on down, talk about games. This train is on the track and, unfortunately, people who are concerned about $272 million cuts in job training for disadvantaged young people and who are concerned about $319 million cuts in heating assistance for poor people, and are concerned about termination of the program altogether to fix the schools—well, our bodies are just here on the track. Guess what? Our bodies being on the track is considered to be an annoyance. That is the phenomenal thing about it.

We are talking about substantive issues, and the response is that we are getting in the way, we are an annoyance. It is annoying to talk about homeless teenagers who will not get job assistance. It is annoying to talk about senior citizens found frozen to death. You know and I know, as well, that you get these stories every winter. It is annoying to talk about young people sitting up in classrooms, expected to learn. Goals 2000 calls on all Americans to reach certain educational levels by the year 2000. How can you expect a child to learn when he is sitting there trying to study English next to a broken sewer pipe? How can you expect him to get on the information superhighway when there is only one plug in the classroom and it does not work? But that is an annoyance to talk about that, and it is an annoyance to get in the way of the program. Heaven forbid that we stand on the train track while this train is coming down and raise these issues.

I tell you, in response to the Senator from Minnesota, I do not know what the hurry is. I do not know why we could not have time to—I understand the procedures. If you want to talk about these issues and the train is on the track, you have to actually stand on your feet in the Senate Chamber and talk about it and, no, you do not get a chance to sit down and read the bill. It is called a done deal. Do not pay attention to the details. But, you know, I would like very much to pay attention to the details. I would love to read that bill.

You know the old expression, ''The devil is in the details.'' Quite frankly, I am glad I found them on two of them. I caught them trying to take $272 million out of job training for young people. I caught them trying to take money out of LIHEAP. There are probably more, I do not know. I look forward to a chance to do it.

But, as the Senator from West Virginia advises, our amendments—I say ''ours'' because I know the Senator from Minnesota, who actually has precedence in that regard since he was here before I was, has some amendments. And I have two—at least two. That is based on what I have seen so far.

I have not had a chance to read the whole thing. I am sorry, I say to the majority leader; we are not trying to be obstreperous. We are not. I do not mean to annoy. I do not. I really care passionately about these issues and what happens to these kids, and what happens to these old people. I do not know what else to do, unless the negotiators are willing to take the amendments or fix the compromise. There is money in there to do it with.

Like I said, this bill would give FEMA almost $1.9 billion more than they say they need. I hope they will not need it. If anything, the money that FEMA needs is for disasters. We had a terrible thing happen in Illinois. We had flash floods down in southern Illinois, following the floods of 1992. FEMA is doing a great job and nobody wants to impair them. But to give them more money than they say they need does not make a lot of sense to me, either. We can pay for these programs out of that.

Again, not being on the committee, I do not mean to be a Monday morning quarterback. I know the committee members worked hard and they meant well. But you cannot start off this balanced budget march by stepping on the feet of disadvantaged kids and senior citizens who need heating, and school systems that need windows repaired. You cannot start off down this road.

If we start taking back money from last year in this regard and then we go to reconciliation and the appropriations process this year and make it worse, by the time we achieve a balanced budget, we will have blown our country's fabric out of the water. I do not know about you—again, I guess because I am still on my feet and I have to stay on my feet—I do not know about you, but sometimes I watch—I have a teenage son. My son, Matthew, is 17 now. His generation watches a lot of these futuristic movies. So I get a chance to see some of this stuff.

I am appalled by the vision of the future that they have. Societies with people living in rusted-out cars and alleys, and the very rich with the corporations running the countries, with the very rich up here and the very poor, everybody else, digging in garbage cans. That is the vision they have. And then here we are today saying that teenagers and runaways and dropouts and homeless youth 16 to 21, take that $272 million—the only thing that gives them any job training hope.

Are we buying into that vision? I hope not. We talk about making it an opportunity society. How are you going to make it an opportunity society if you do not say our kids are our priority, jobs are our priority? We want to give people the ability to be productive. How do you do that? I guess there are some here. I think one of the secrets in all this budget stuff —some of my colleagues use the term ''defense spending.'' It is not really defense spending; it is military spending. Lord knows that everybody wants to be patriotic, and we all want to stand by a strong military, because it is still a dangerous world out there. We want to give them what they need to work with.

So one side of the budget goes to those activities—whether there is a firewall, real or not, there. One side of the budget goes to those activities, and the other side has to feed on itself. So we are pitting senior citizens against kids. That is no approach. That is no approach.

Our social fabric depends on our ability to provide jobs. We should be able to provide job training for our young people. The Senator from Oregon said, ''You voted for the first compromise.'' Well, yes, everybody will probably have to give up a little something this time, because we have these huge deficits and we have to get past them. We have to get on a sound fiscal footing. Yes, we are all going to have to tighten our belts a little.

But that means shared sacrifice. It does not mean tax cuts—tax cuts—tax cuts on the one hand and cuts in investment in people on the other. This is not logical. This is not logical.

You say we have to do this to comport with the budget resolution. Well, okay, but the budget resolution is what has the tax cuts in it; and, parenthetically, tax hikes on people who make less than $28,000.

How can we maintain the fabric of this Nation if we are going to exacerbate income disparities like that, if we are going to eat away at people's hope like that, if we are going to buy into the future of the movies that Matt's friends look at? How can we do that?

Again, that is why I am on the floor, and I will yield to the Senator from Minnesota for a question at this time. But that is why we are on the floor here. No, it is not fun to be seen as a ''sticky wicket'' person in the way, standing on the train track, about to get run over. It is not fun. But I do not have a problem doing it.

I yield to the Senator from Minnesota for a question.

Mr. WELLSTONE. Two questions: First of all——

Mr. DOLE. The Senator from Illinois has lost the floor.

The PRESIDING OFFICER. Does the Senator from Illinois yield for a question?

Ms. MOSELEY-BRAUN. I have done that. I yielded for a question.

The PRESIDING OFFICER. The Senator must stay on her feet.

Ms. MOSELEY-BRAUN. During the question, while he is responding to my question?

The PRESIDING OFFICER. Yes. If the Senator does sit again, the Chair will assume that she has relinquished the floor.

Ms. MOSELEY-BRAUN. I thank the Chair for that courtesy.

Mr. WELLSTONE. I have two questions.

First of all, I assume the Senator realizes how pleased I am that the Senator is out here speaking with me. These are very important issues, as the Senator realizes, and it is very important to be out here speaking on these concerns.

Ms. MOSELEY-BRAUN. To the Senator from Minnesota, I not only realize how important it is, but I have just been told I cannot even sit down, so it is going to get tougher by the minute. I understand that.

I think that the sacrifice of standing on my feet, however many hours this is going to take, pales in comparison to the sacrifice of that constituent the Senator read about and talked about this morning who may not be able to pay for heating in the winter in Minnesota, which is almost a fate too horrible to contemplate. Being on my feet pales in comparison to those teenage runaways, disabled teenagers, school dropouts, homeless teenagers, 16- to 21-year-olds.

Standing on my feet helps to save and give them some hope, and to preserve some portion of rationality in this debate about whether they are a priority or not. I am prepared to do that.

Mr. WELLSTONE. Will the Senator yield for another question?

Ms. MOSELEY-BRAUN. I yield for another question.

Mr. WELLSTONE. The Senator was talking about tax cuts. Is the Senator aware that this rescissions package, beyond the first round of about $5 billion in cuts, the real issue is what happens in the years to follow in the outlays?

Does the Senator understand that if we extend this to the future, that actually some of this money that is cut could very well be used—in other words, some of the money that is cut—for nutrition, for fuel assistance programs, for elderly people, or for that meat for children, for the job training program, for education, for counseling assistance to older people to make sure they do not get ripped off by supplemental insurance policies to Medicare? Does the Senator realize that actually some of that money, as we look down the pike, some of these cuts, this money could be used to actually finance the tax cuts which go disproportionally to people on the top?

In other words, what could be going on here if this is the first round, where the rubber meets the road, we have priority programs extremely important to the most vulnerable citizens. Does the Senator realize this money could be used to finance tax cuts for fat cats in the country, the most affluent people?

Ms. MOSELEY-BRAUN. Mr. President, not only am I aware of it, I say to the Senator from Minnesota, I serve on the Senate Finance Committee, and I am very much concerned about, again, the direction. I think that is probably the most significant thing about where we are with this bill.

This bill relates to last year's money, really—the appropriations happened last year. I am just afraid if we go forward and say that it is okay to cut JTPA, education infrastructure, and LIHEAP, assistance for seniors, if we start off that way, it is just going to get worse.

Mr. DOLE. Does the Senator intend to offer an amendment or talk the rest of the afternoon?

Ms. MOSELEY-BRAUN. We have amendments.

Mr. DOLE. When does the Senator intend to offer the amendments?

Ms. MOSELEY-BRAUN. Talking about a timeframe?

Mr. DOLE. We have been on this 2½ hours. The Senator could have read the dictionary in 2½ hours.

Ms. MOSELEY-BRAUN. I have not been able to sit down.

Mr. DOLE. Please do.

Mr. WELLSTONE. Will the Senator yield for a question?

Ms. MOSELEY-BRAUN. I yield for a question.

Mr. WELLSTONE. Perhaps the Senator from Illinois could respond to my concerns. I have amendments. I have said that all along.

The question is whether there could be an agreement. Maybe we could work this out where we could have some assurance that I do not introduce the amendment, and right away the majority leader tables it. I would want there to be time for debate.

Will the Senator from Illinois agree that we are interested in that assurance? Otherwise, what could happen, we could introduce amendments and immediately they could be tabled. I wonder whether the Senator from Illinois would agree to move on to amendments; that it is critically important that there is agreement we have time to debate the amendments. Otherwise, we will introduce the amendments and the majority leader will rise to the floor and move to table, and we will not have any discussion at all.

Does the Senator agree that is critical?

Ms. MOSELEY-BRAUN. I think so. That would be very important. The whole idea is to get a vote on these amendments and to get some discussion on these amendments. I am prepared to put the amendments down if we can get that kind of an understanding with the majority leader.

Mr. DOLE. Will the Senator yield?

Ms. MOSELEY-BRAUN. I cannot yield to the majority leader, but I could yield for a question.

Mr. DOLE. You could yield the floor.

Ms. MOSELEY-BRAUN. No, I cannot.

I say to the majority leader, I would love to yield the floor. I would love to introduce my amendments. I would love to move this process forward. I am not looking forward to just standing here and talking—I would.

But I think the problem is, because I am kind of stuck in this spot, I have not been able to have a discussion about any time arrangement or whether or not we will be able to have discussion and a vote on the amendments, including Senator WELLSTONE's.

So I am searching for a way, within the context of the Senate rules, that I can reach some kind of understanding regarding the procedure without losing my rights to the floor.

Senator WELLSTONE, and I think appropriately—is right. I think at this point, the majority leader, as always, has an interest in moving forward on this. I cannot imagine he would keep us from having a real vote and debate on this amendment. So I will yield to the Senator from Kansas.

The PRESIDING OFFICER. The Chair would say, the Senator from Illinois cannot yield to the Senator from Kansas. She can yield for a question or she can yield the floor.

Ms. MOSELEY-BRAUN. I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senate majority leader is recognized.

Mr. DOLE. Mr. President, I thought we had been debating the amendments the last 2 hours. I have listened to debate on the Low-Income Home Energy Assistance Program and counseling program and the job training program now for 2 hours. I do not know how much debate we need. I think everybody understands precisely what the issues are.

I am prepared to offer the amendment myself. I will offer the amendment. I will offer it all in one amendment, move to table the amendment, and there will be a vote on the amendment, if that satisfies the Senator from Minnesota and the Senator from Illinois. We want to bring this to a conclusion.

Again, let me repeat, I have a couple of options. I understand the President may be trying to reach you on the telephone. That is an option I had not thought of—because I can reach you right on the floor.

This has become the President's bill. He is concerned about the people who suffered in Oklahoma City. He is concerned about the people who suffered in earthquakes in California—as he should be. I think there are 39 States affected by disasters that are going to be affected by this bill, and we are still going to save $9.2 billion. It is a $16 billion bill; we spend about $6.8—but we still save about $9.2 billion.

I have one option, just to call for the regular order, which brings back the Comprehensive Regulatory Reform Act of 1995. The other option is just go out of here, adjourn, recess. I will not bring this bill up again until there is an agreement it will be brought up without any amendments and we will have a vote on it.

But if the two Senators want to frustrate their own President, I do not know why I should complain. Maybe I ought to be happy about it.

But I am concerned. This whole thing should have been settled about 30 days ago. We have been waiting 30 days, the White House has been negotiating with the House and the Senate—it has not been in secret. Everybody has known it. It has been brought up in our caucus. I am certain the Democrats discussed it in their caucus.

It is no surprise when something comes to the floor and it is something Senators had not read. If people voted on only things they read around here it might be a lot better because we would not have so many votes. But I suggest we have reached a point where we are either going to pass this bill or we are going to pull it down. That is going to be up to the Senators from Illinois and Minnesota. They have every right to do what they are doing. I do not quarrel—I do quarrel with the course they are following, because I think it is going to mean we are probably not going to pass this bill. It is not going to go to the President.

I do not want there to be any illusion we are going to jump on this bill as soon as we come back and give them all the time they want for debate. It is not going to happen. We are going to be on regulatory reform and we are going to stay on regulatory reform, and after that we will be on something else. And the longer we wait, the less money we save in this bill. Maybe that is the strategy of the two Senators. If you can wait until the end of the fiscal year, we do not save any money. But neither do you help the victims in Oklahoma City or the victims in California or the victims in some 37 or 38 other States who have been hit by disasters. Nor do you, as pointed out by the Senator from West Virginia and the Senator from Oregon, the two experts here on appropriations—in effect, you are going to be hurting the people in your own States, in Illinois, Minnesota, Kansas, Montana, Washington, New Hampshire, wherever, by frustrating and by delaying this bill.

I do not know how many Senators are left in town. I think that is probably another strategy the two Senators have used. I hope there are 51. But if the two Senators will permit me to, I can offer an amendment, one amendment that would cover everything they have raised; have one vote. We would have low-income home energy assistance, the counseling program, and job training—have one vote on that. I would offer the amendment, then I would move to table my own amendment. But you would have a vote. You would have made your case. You would have fought for principle. And you may succeed. I am not certain.

But my view is—I think the Democratic leader shares this view—we need to move very quickly. We have had 2½ hours. We have had a lot of debate. There has been a lot of debate. I think all these amendments have been debated. I do not know why we need additional debate.

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

The PRESIDING OFFICER (Mr. COCHRAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

Mr. BURNS. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. WARNER. Mr. President, I have got to take a trip to examine——

Mr. BURNS. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. WARNER. Flood damage in Virginia.

The PRESIDING OFFICER. A quorum call is in progress.

The clerk will continue the call of the roll.

The assistant legislative clerk continued with the call of the roll.

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

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

Mr. DOLE. Mr. President, a number of us, including the two leaders, have been trying to figure out some way to accommodate those who have concerns about this bill. But I do not think it is going to happen.

So I am going to propound a unanimous-consent request, the two Senators can object to that, and then I will ask for the regular order and put us back on another bill.

Let me just say, I am not going to bring up the rescissions bill again until there is an agreement we will pass it without any votes. We are trying to accommodate the President of the United States. We are trying to accommodate the House, which passed this bill late last night. More important, we are trying to accommodate people in Oklahoma City who suffered a tremendous tragedy, and a lot of this money would go to help in that area. We are trying to accommodate the people in California who suffered earthquakes. We are trying to accommodate people in 39 other States who have had disaster problems.

Here we are on the floor talking about adding $5.5 billion, or x dollars, which can be done in later appropriations bills or supplementals. This debate does not make any sense to me, and I have been around here a long time.

Obviously, two Senators on a Friday before a recess can frustrate anything, and they have discovered that, and I commend them for it, because now they know every time there is a recess, on a Friday, they can say ''Oh, I can't let this pass, I feel strongly about this.''

We all feel strongly about this, but ask somebody in Oklahoma City and ask somebody in California or ask the President of the United States if we should pass this bill, and he would say yes.

We have dawdled around here for 3 hours. All these things have been debated. It is obvious that the Senator from Illinois and the Senator from Minnesota do not want anything to happen. They can object. But do not come around and say you want to bring the bill up after the recess. It is not going to happen.

Mr. President, I ask unanimous consent that it be in order for me to offer an amendment to the pending bill for Senators WELLSTONE and MOSELEY-BRAUN, the text of which restores the LIHEAP funding, adds back $5.5 billion for insurance counseling, $35 billion for education, and restores $272 million for Job Training Partnership, and that there be 10 minutes for debate divided between Senators WELLSTONE and MOSELEY-BRAUN, at the conclusion of which time the Senate will proceed to vote; that the bill then be advanced to third reading, and passed, the motion to reconsider be laid upon the table, all without intervening action.

The PRESIDING OFFICER. Is there objection?

Mr. WELLSTONE. Reserving the right to object. First of all, let me, one more time, make it crystal clear, Mr. President, that I have an objection to the characterization of discovering on Friday that you can stall. I have been working on the Low-income Housing Energy Assistance Program for a long, long time, as each of my colleagues knows. This is a critically important issue to some of the most vulnerable citizens in my State of Minnesota, a cold weather State.

Second of all, Mr. President, reserving the right to object, I want to make it very clear that when it comes to assistance for California and Oklahoma City, in no way, shape, or form do I intend to be held hostage to that, Mr. President. We are all for that.

Mr. DOLE. I call for the regular order, Mr. President.

Mr. WELLSTONE. Mr. President——

Mr. DOLE. Regular order.

The PRESIDING OFFICER. Is there objection?

Mr. WELLSTONE. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. I call for the regular order.

COMPREHENSIVE REGULATORY REFORM ACT

The PRESIDING OFFICER. The clerk will report the underlying pending business.

A bill (S. 343) to reform the regulatory process, and for other purposes.

The Senate resumed consideration of the bill.

Mr. DOLE. I advise Members that there will be no more votes today. We are back on regulatory reform.

I have been given the authority by a majority of members of the Judiciary Committee and the Governmental Affairs Committee to withdraw the committee reported amendments.

The PRESIDING OFFICER. The amendments are withdrawn.

AMENDMENT NO. 1487

(Purpose: To provide a substitute)

Mr. DOLE. Mr. President, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself, Mr. JOHNSTON, Mr. HATCH, Mr. HEFLIN, Mr. NICKLES, Mr. ROTH, Mr. MURKOWSKI, Mr. BOND, Mr. GRASSLEY, Mr. COVERDELL, Mr. THOMPSON, Mr. CRAIG, Mr. BROWN, Mr. THOMAS, Mr. KYL, Mr. BREAUX, Mrs. HUTCHISON, Mr. ABRAHAM, Mr. GRAMS, and Mr. LOTT, proposes an amendment numbered 1487.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

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

Mr. DOLE. Mr. President, this will be the text which will be amended on Monday, July 10. There will be two amendments. There will be votes, starting at 5 o'clock on Monday.

THE RESCISSIONS BILL

Mr. DOLE. Let me again state this, so there will not be any misunderstanding by the Senators from Illinois and Minnesota.

The next time we bring up the rescissions bill it will be by a unanimous-consent agreement, without any amendments, and with very little debate. They can continue to frustrate this Senate on a Friday afternoon all year long. That is fine with me, because I have to be here anyway.

I think they are doing a disservice to hundreds of thousands of people across America to make a political point. They have that right. Everybody makes political points on the Senate floor. And to say they are not making a political point, I think, would be a stretch.

Where was all the debate when the conference report was passed? Where has been all the concern in the last few days? These Senators know, as well, that this has been undergoing intense scrutiny with the White House, the Democratic and Republican leadership, and they finally got together. The President says pass it. I read his statements a couple of times, the statement of the administration.

Two Senators can frustrate anything. It is too late to file cloture; it is Friday afternoon, which they knew. But that is their right. I do not want to take any rights away from anybody. The day may come when they are trying to pass something on a Friday and somebody will jump up and say they cannot do this. That is the way it goes from time to time.

So I am disappointed. I apologize that we could not pass this bill. I apologize to the many people who will be suffering in the interim because of the efforts by our colleagues. But I cannot change that. They have every right to do what they have done. They objected to the immediate consideration.

Apparently, they did not really want to vote on the amendments in the first place. They had a chance to have a vote on all the amendments. We could have had a vote, but after 3 hours of wasted time, they did not want to vote and they objected. They have that right.

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.

Ms. MOSELEY-BRAUN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. DOLE. I object.

Ms. MOSELEY-BRAUN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. DOLE. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

The assistant legislative clerk continued with the call of the roll.

Ms. MOSELEY-BRAUN. Mr. President, I have a question that I would like to propound, unless the——

The PRESIDING OFFICER. The Senator cannot conduct debate.

Mr. DOLE. You cannot do that.

Ms. MOSELEY-BRAUN. I cannot ask a question because you will not allow the quorum call to be called off.

The PRESIDING OFFICER. The only question in order is to ask that the order for the quorum call be rescinded.

Ms. MOSELEY-BRAUN. I understand that. The majority leader objected to that, so I cannot get to my question of the majority leader.

The PRESIDING OFFICER. The Senator cannot proceed.

Ms. MOSELEY-BRAUN. I was just checking. Thank you very much.

The PRESIDING OFFICER. The clerk will continue to call the roll.

The assistant legislative clerk continued with the call of the roll.

Ms. MOSELEY-BRAUN. Mr. President, is there any way to inquire——

Mr. DOLE. Regular order.

The PRESIDING OFFICER. The only thing in order is for the Senator to ask unanimous consent that the order for the quorum call be rescinded.

Ms. MOSELEY-BRAUN. Is there any way to find out when the majority leader will not object to the quorum call order being rescinded?

Mr. DOLE. Regular order.

The PRESIDING OFFICER. The Senator is violating the rules of debate. She cannot speak unless the quorum call is rescinded.

Ms. MOSELEY-BRAUN. I understand, but I was trying to propound a question to the Chair. I ask that the quorum call——

The PRESIDING OFFICER. The Senator cannot proceed.

The PRESIDING OFFICER. The clerk will continue to call the roll.

The assistant legislative clerk continued with the call of the roll.

Ms. MOSELEY-BRAUN. Mr. President, now?

Mr. DOLE. Mr. President, regular order.

The PRESIDING OFFICER. The Senator cannot proceed. The only item in order is to ask that the quorum be rescinded.

Ms. MOSELEY-BRAUN. Mr. President, I would do that. I was asking the question, whether now is the time that the motion to rescind the quorum call might possibly not be objected to.

The PRESIDING OFFICER. Is the Senator seeking consent to rescind the call for the quorum?

Ms. MOSELEY-BRAUN. Mr. President, yes.

Mr. ASHCROFT. Mr. President, I object.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk continued with the call of the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the following Senators be recognized to speak in the following order for the allotted times: Senator WELLSTONE, 10 minutes; Senator MOSELEY-BRAUN for 10 minutes; Senator ASHCROFT for 10 minutes; Senator BYRD for 10 minutes.

I further ask that following the conclusion of Senator BYRD's statement, the majority leader be recognized to speak and then proceed to various wrap-up items that have been cleared by the two leaders.

Following those items, the Senate would stand in adjournment under the provisions of Senate Concurrent Resolution 20.

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

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

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

THE RESCISSIONS BILL

Mr. WELLSTONE. Mr. President, I shall be very brief and will be followed by the Senator from Illinois.

Mr. President, let me try to give the morning and part of this afternoon some context. We had a bill, which was about 120 pages long, come over from the House at about 9 o'clock today. This was the rescissions package voted on about 10 o'clock last night in the House of Representatives. It is my really strong view as a Senator that it is important to be able to review legislation, especially when we are talking about the cuts that directly affect people's lives. Sometimes, Mr. President, we get into the statistics and numbers and we forget the faces.

I had voted for the rescissions package passed out of the Senate earlier. I voted against the conference report because of changes that had been made. It is no secret to any Senator in here that I feel especially strongly, as do many other Senators feel very strongly, about several programs—but it is not programs. It is really about people.

I spoke about the Low-Income Home Energy Assistance Program, and I had an amendment and wanted to introduce an amendment that would have restored about a 20-percent cut in the LIHEAP. In my State of Minnesota there are 110,000 households and 300,000 people who are depending on this. I come from a cold weather State. It is a small grant, but for many people it is the difference between heating and eating.

I say to the Presiding Officer, the Senator from Idaho, because I know what kind of Senator he is and I think we respect each other whether we agree or disagree, I met with people in their living rooms. I saw the fear in their eyes. I know how strongly these people depend on this assistance, especially in such a cold weather State. And I said I would fight for these people, and that is what I have done. Because what happened last night in this final package is that we did not have the original Senate version, but we cut it 20 percent, some $315 million.

In addition, I fought for a counseling program for elderly people, to make sure they could not be ripped off. It was consumer protection. This was coverage that people asked for in addition to Medicare, to fill in the gap.

Then I discovered there were some additional cuts in dislocated worker programs. The Senator from Illinois spoke eloquently, of course, about a program she had worked on, just a small amount of money for school infrastructure, for kids.

So what I said today was I wanted the opportunity to go through this bill. I wanted an opportunity to talk about it. I wanted an opportunity to introduce amendments. The first amendment would have been offset, and I gave examples of some of the waste in the travel administrative budget in defense. That money would have been transferred so we would not have the same cut in the Low-Income Home Energy Assistance Program.

I must say, Mr. President, looking at this in a slightly larger context, I find it unconscionable. Really, what we might be talking about, as we extend this rescissions bill into the future—this is a grim precedent of where we are going, since this is where the rubber meets the road. We could be seeing the cuts in the outyears for low-income energy assistance, for children, for education, for counseling for seniors to make sure they do not get ripped off with health insurance—all used to finance tax cuts that go in the main to wealthy, high-income people. Cuts in programs for dislocated workers, job training, you name it. All in the name of tax cuts? We do not go after any of the subsidies for the oil companies but we cut low-income energy assistance? We do not go after any of the military contractors, any of the waste there, but we make cuts in low-income energy assistance, job training programs for kids, counseling programs for elderly people, for consumer protection.

To me it was unacceptable.

I just want to respond to one or two points that the majority leader made, and then I will conclude my remarks.

This was not something just done on Friday. I just got this bill. I am not going to be bulldozed over as a Senator. I want to look and see what is in this piece of legislation. That is the responsible thing to do. And it certainly is true that those people, be they elderly people with disabilities, be they children, working poor people who are affected by low-income energy assistance may not have all the clout and make all the money and make all the contributions, deserve representation here in the U.S. Senate.

The cuts, I believe, are unconscionable. So this was not something I just come to on Friday. This has been a priority issue for me as a Senator from a cold weather State where many people are affected by these cuts for a long, long time. And will continue to be so.

Second, I care fiercely about the assistance for people in Oklahoma and California. We will be back to this bill. We all know it. Of course, we will be back to this bill. And, of course, there will be relief, and I have voted for that relief and will continue to do so. We all know we are going to be back on this piece of legislation—and we must. I hope there will be some discussion in the meantime and we can work out some reasonable compromise.

Finally, I have the utmost respect for the manager of the bill, the Senator from Oregon, and certainly for the Senator from West Virginia. But as to what happens in the future, we cannot be bound by the priorities and the parameters of what the House of Representatives is doing in these kinds of budget resolutions. We can make changes next year. I just simply tried to say today, and I will say it over and over again—I will shout it from the mountain top, from the floor of the Senate, if that is what is necessary—that these are distorted priorities. To ask some of the most vulnerable citizens in this country to tighten their belts when they cannot, to cut low-income energy assistance for people in my State, a cold weather State, and not even look for offsets? Not to restore that kind of funding? That is unacceptable to me.

So, I have no doubt that we will be back on this.

My final point would have been that by amendment, I would have on the first amendment talked about other

States, the number of people affected in Missouri, in Kansas, or in Minnesota by low-income housing energy assistance, or Illinois. I would have laid out some important data. I would have talked about real people who are behind these statistics, and I would have talked about offsets.

But in all due respect to the majority leader to come out at the end and say: I will roll them all into one amendment and have 10 minutes and then move to table—I do not legislate that way. I do not know too many Senators who really find that acceptable when it is the issue you have been working on for the people you are trying to represent.

So I hope that we will be back on this bill right away, and we will go forward with the discussion. I hope that we can work out a satisfactory agreement. In any case, I intend to keep on speaking and keep on fighting, not with malice, not with bitterness, but with dignity, and face the policy that I honestly believe in.

I yield the floor.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Thank you very much.

Mr. President, this morning has been difficult for all of us. But I have to say that particularly when some of the pages came over and spoke to me a while ago, I could not help but be reminded of how it is, particularly in this U.S. Senate, in this legislative body, that one person really can make a difference.

And if a person, a Senator, cares deeply about something, then that Senator has the right and the opportunity to make the case, to make a point, and to raise the issue. Sometimes in raising the issue, it results in change. Sometimes it does not. But certainly, raising the issue is of primary and critical importance.

I have not been here long enough. But, at the same time, I am a Senator, and I was elected by my State. I am called on to be the voice for the people who sent me here, and to stand up for interests and concerns of the voters and citizens of my State.

I believe that it is of real importance to raise the fact that the decisions in this bill represent misplaced priorities, that it ought to have been changed, and that the priorities represented ought to have been changed. I mean no disrespect to my colleagues on the committee who came up with this compromise—I know they worked hard and I know they felt strongly and feel strongly about the particulars in this bill. But if anything, that is what legislation represents—ideas. That is what it is. It is an idea. If the idea has a flaw in it, then I think it is our obligation to get up and say there is something wrong with it.

That is why I came to the floor this morning with Senator WELLSTONE. I have and will continue to say that it is wrong to take money away from job training opportunities for our disadvantaged teenagers. I think it is wrong to take money away from senior citizens who may need heating assistance. I think it is wrong to say we are not going to start fixing up some of the schools that make it almost impossible for students to learn.

I also thought that while there are some things about this bill that were good, that we could find the money to take care of these priorities.

I came to the Senate floor with Senator WELLSTONE to try to offer some amendments. But, as you know, the procedures are sometimes convoluted; the procedures are sometimes complex.

The bottom line result was that we were not given an opportunity to actually have a vote on our amendments in the context of the amendment process, and the bill was pulled.

I thought we could go to the bill. I think Senator WELLSTONE is right, that the bill will come back, that we will have another shot at it at some point in time if, indeed, this is the will of the leadership. I certainly did not want—and I know Senator WELLSTONE did not want—to annoy anybody or to put anybody out or to impair anybody's plans for vacation. But we have a responsibility, it seems to me, to do everything that is within our power to speak to the ideas that get floated around here as legislation.

I think this is one of those critical moments, as we start the debate of what kind of march are we going to take down that road to deficit reduction, we must also engage in the debate of how are we going to march down that road? Are we going to march down that road together, as Americans with a shared sacrifice and everybody pitching in, or are we going to march down that road stepping on the backs of the feet of the teenagers, the senior citizens, the poor, the vulnerable, and the people who cannot necessarily speak for themselves?

I tell you, Mr. President, that I believe what happened here this morning, I hope that what happened here this morning, will help to shape the debate about how we go about achieving deficit reduction and how we get on that glidepath to a balanced budget; and that, in having come out here and exercised our rights as legislators, that Senator WELLSTONE and I reached our colleagues on the television sets in their offices, or wherever they are right now, that we reached some people to suggest that as we go down that path, we have to go down that path in a way that recognizes that our future as Americans is inextricably wound together and that we cannot, we must not, take more sacrifice from one group than another; that the contributions ought to be based on the ability to contribute; that we do not call on people who are already hanging on by their fingernails, call on the least able in our society to give the most; and that we can achieve this glidepath recognizing that investment in our people is the single most important investment we can make as Americans.

That I think is what this debate this morning was really about, or what we hoped it would be about. I had hoped to offer two amendments. Senator WELLSTONE also had amendments. We did not get that chance. But I know we will have a chance to do so. I hope we will have a chance to do so on this legislation or some other legislation as we go down this process, as we move toward adjournment.

Mr. President, I say to my colleagues, as we approach these issues, let us recognize that really we do have an obligation to talk to one another and to try to work these issues out in a way that is fair to all Americans—not just some Americans, but every American—including those who do not have the wherewithal to weigh in with lobbyists and the like.

I thank the Chair very much, and I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 10 minutes under the previous unanimous consent order.

Mr. ASHCROFT. I thank the Chair.

THE RESCISSIONS BILL

Mr. ASHCROFT. Mr. President, I am pleased to have this opportunity to make comments about the rescissions bill which has been before us but which has been withdrawn from consideration as a result of the unwillingness on the part of the Senator from Illinois and the Senator from Minnesota to allow amendments to be voted on.

Just moments ago, the Senator from Illinois said that there were amendments which she had prepared which she hoped she would have the opportunity to submit. I recall this morning having listened to the leader ask specifically that amendments be submitted. He asked not only that the Senator from Illinois submit amendments for consideration but asked that the Senator from Minnesota submit amendments for consideration. Over and over again, they would deny that they wanted to submit amendments; they would refuse to submit amendments.

Then I saw the leader, the majority leader, come to this podium and say I have heard the debate and I will craft an amendment which will reflect the concerns of the Senator from Illinois and the Senator from Minnesota, and I will submit that amendment so that we can have a vote so that the Senate can express itself in regard to the amendment, if I can have unanimous consent to do that.

The objections which were heard in this Chamber at that time were the objections from the very Senators who now say they were deprived of an opportunity to forward such concerns and have a vote on their concerns.

I find that to be confusing, and it is troublesome because every effort was made and every deference was given to those individuals in this Chamber to submit their own amendments.

Then absent their own capacity to submit their amendments, the majority leader generously offered to formulate and submit an amendment in their behalf so that there could be a vote reflecting those concerns, and they simply refused to allow those concerns to be reflected in an amendment.

I want the RECORD to be clear on this. Mr. President, the majority leader made the opportunity clear and made it expansive for amendments to be provided here. No amendments were offered.

Second, when the majority leader himself offered in their behalf an amendment and needed unanimous consent in order to so do, they objected to that amendment.

It is clear to me that the opportunity for amending the rescissions package was thorough and substantial, and that the majority leader bent over backwards in order to make those concerns not available as opportunities but to put them in a position and posture whereupon they could be voted. But the objection to that procedure was, in fact, made by those individuals who had later protested that they had not had the opportunity.

Let me just say that we have worked on this issue since early this morning, and that the rescissions bill is a bill, the content of which is well known. In general, it restores $772 million of proposed rescissions and cuts an additional $794 million in the fiscal year 1995 appropriations, for a total rescissions of $16.4 billion. It passed the House by a vote of 276 to 151.

The suggestion by individuals in this Chamber that you could not know what was in this bill, that there had been inadequate information or time for consideration, I do not believe, is an accurate suggestion.

The restored funding included $225 million for safe drinking water, $105 million to the so-called AmeriCorps volunteer program. That is what it costs us just in this bill in increased funding over our previous effort at rescissions to support the President's so-called volunteer program in which he pays each volunteer $15,000 a year. Of course, then it requires a $15,000 commitment to the bureaucracy to support that volunteer program.

There was $220 million in safe/drug free schools restored funding in this rescissions package; $120 million in education and job training that was restored in this rescissions package over the previous rescissions package.

It was interesting to hear objection raised that we are somehow depriving opportunities for job training, and the Senator from Minnesota said this was an unconscionable bill. I wonder if that is the way he views his President's recommendation that this bill be passed and assurance that he would sign the bill if the bill were to be presented to him.

When the Senator from Illinois talked about job training, I wonder if she was referring to the fact that $120 million was restored in this bill in the area of job training and that there was $102 million in community development block grants, and that this measure as a matter of fact had $39 million as an increase in the 1995 appropriations in miscellaneous housing, community and education programs.

Well, I could go on and on. Much was said this morning about a general who had spent $100,000 moving an airplane and asking that he be transported, and I do not think we ought to have generals abusing air travel privileges. That is why I think we ought to support this rescissions bill. This rescissions bill cuts $375 million in Government administration travel. We need to cut that. We need to delete that. And yet under the guise of complaining about travel abuses we have stopped the consideration of a bill which would cut $375 million in Government administrative travel.

I believe that the efforts have been counterproductive in this Chamber today. I believe that they have failed to achieve the purposes which they have stated—as a matter of fact, they have turned in on themselves. And the very things they said they sought to assist—job training, cutting abuses, travel abuses in the administration—as a matter of fact, would have been addressed in this rescissions bill, but we were simply denied the opportunity to consider them today.

They talked about LIHEAP, the energy program. What we really need to talk about today is the fact that we must make progress toward bringing Government spending into balance with Government resources, and in order to do that we are going to have to make some cuts. We are going to have to make some adjustments.

We are looking at the Fourth of July. That is Independence Day. We should be thinking about legislation in the context of independence. We should be thinking about legislation in the context of freeing ourselves from debt. This was an opportunity to free ourselves from expenditures totaling $9.3 billion, with a consensus reached by House leaders, by Senate leaders, by the White House, some way that we could begin to get a handle on the deficit, and we were refused.

One of the reasons is there is no willingness to cut the so-called LIHEAP program. Let us look at what LIHEAP represents.

Back in the 1970's, when energy prices more than doubled, there was a special program to take the sting out of the massive increase in energy costs. This was a special program to help people buy fuel oil for their homes. The price for energy now has gone below where it was before the crisis. And yet while the energy price has gone down, the LIHEAP program has gone up and up and up.

Eventually, if we are going to do what the people of this great Nation sent us here to do—and that is to get Government under control—we are at least going to have to look carefully at programs, the need for which is no longer existent but which grow as a result of the fact that bureaucrats who want to buy the favor of citizens continue to build and build and build the programs.

Mr. President, we have had today an opportunity which is sorely missed—missed because there are those who would have, they said, improved the future for our children. I do not think maintaining debt improves the future for America. Virtually every child born today faces interest payments on the Federal debt of nearly $200,000 over their lifetime. We must not saddle the yet unborn children whose wages are yet unearned with the burden, the incredible burden of that kind of weight, a weight in interest costs on the Federal debt.

We must get it under control. It is time for us to curtail the $4.9 trillion debt of this country, and the first step, the step agreed to by the House in an overwhelming vote, agreed to by the President of the United States, agreed to by the leadership of the Senate, was to make the $9.3 billion downpayment of rescissions.

It has been said loudly and sometimes very sincerely that we maybe did not need a balanced budget amendment. We simply needed to have the capacity to balance the budget. I wonder about our capacity. If we do not have the ability and discipline when we come to a negotiated conclusion about what can be done, what ought to be done to restrict spending, even by a small amount like $9.3 billion as it relates to the trillion dollar budget of this country, I wonder if we have much opportunity for success.

So I heard the debate this morning, the debate of apologies between individuals about, oh, it was terrible that we had to rescind these funds. I am here to say that I do not apologize for rescinding funds, funds that we can no longer spend at the expense of the next generation. It is time for us to be serious about curtailing the debt of the United States of America to save the next generation and their opportunities.

Independence Day is but a few days away. Unfortunately, independence from debt is not that close, but it is time for us to make a beginning.

Mr. President, happy Fourth of July.

The PRESIDING OFFICER. Thank you very much. The Senator's time has expired.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 10 minutes.

COMMENDING SCOTT BATES ON 25 YEARS OF SERVICE TO THE SENATE

Mr. BYRD. Mr. President, I thank the Chair. I rise to commend Scott Bates, our legislative clerk, on his outstanding 25 years of service to the U.S. Senate.

Scott Bates began his career in Washington as a summer intern in the bill clerk's office under Senator John L. McClellan's patronage in 1970. It was the beginning of a most auspicious match for both Scott and the Senate.

From the beginning, politics was in Scott's blood. His father, Paul Bates, served as a member of the Arkansas Legislature. Scott loved politics in school, and he served as a page in both the house and the senate of the Arkansas Legislature.

In 1975, Scott first began working at the Senate desk where he has continued working ever since. His contributions to this body and to its workings have been many and notable.

As the bill clerk of the Senate, Scott was instrumental in developing the first automated recordkeeping system in the Senate, later known as LEGIS. Scott Bates established the current method used here in the Senate for numbering amendments, and he has left his innovative mark on much of the printed material used on the Senate floor to aid us in our work, from rollcall tally sheets to the Senate calendar.

Although public service in general and careers in Washington have fallen out of favor, I believe that Scott Bates' life and work experience present a compelling case against the current cynicism about the many fine people who serve here in the Congress in various capacities. Their names are never in the papers. They experience few public kudos, and yet they work as long hours, probably longer, than we do. They are dedicated, capable, patriotic individuals who represent the best that America produces from all over this Nation.

Scott Bates is a fine example of what I am talking about. He was born and grew up in Pine Bluff, AR, where his parents, Paul and Mae Bates, still reside. As a lad, he participated in the Boy Scouts, achieving the high honor of Eagle Scout. He went farther than I went in the Scouts.

Scott personifies what we politicians like to refer to as ''family values.'' He has always been active in his church and has been married to his wife, Ricki, for 20 years this July. Scott and Ricki have three wonderful children—Lisa, Lori and Paul.

As all of us know, one of Scott's official duties as legislative clerk is to call the roll of the Senate during votes and during quorum calls. To his young son, Paul, this is obviously the most fascinating part of his dad's work. When once asked what his father did for a living, young Paul responded: ''My dad calls other people names.''

And he gets by with it. Nobody quarrels about it. Nobody criticizes this man for calling other people names.

Of course, the calling of the roll is only one small part of Scott's many duties and responsibilities, and he handles them all with aplomb and dignity.

To one of the very best of the many fine individuals who serve their country with distinction as dedicated employees of this body, I extend my heartiest congratulations on 25 years of outstanding service.

Along with the Members of the Senate and the legislative floor staff of the Office of the Secretary of the Senate, among whom Scott Bates is perceived as a leader and as a teacher, I express my hope that he will continue his fine work with the Senate for many more years to come.

Mr. President,

It isn't enough to say in our hearts
That we like a man for his ways;
Nor is it enough that we fill our minds
With psalms of silent praise;
Nor is it enough that we honor a man
As our confidence upward mounts;
As going right up to the man himself
And telling him so that counts.

Then when a man does a deed that you really admire,
Don't leave a kind word unsaid.
For fear to do so might make him vain
And cause him to lose his head.
But reach out your hand and tell him, ''Well done.''
And see how his confidence swells.
It isn't the flowers that we strew on the grave,
It's the word to the living that tells.

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

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

Mr. DOLE. Mr. President, I have a series of short statements that I would like to make. I know the hour is late.

TRIBUTE TO ROBERT W. McCORMICK

Mr. DOLE. Mr. President, I rise today with great pleasure to honor a dedicated public servant on the occasion of his retirement. Mr. Robert W. McCormick, Director of the U.S. Senate Telecommunications Department, has more than 38 years' experience in the field of telecommunications. He served 26 years active duty in the U.S. Army, including 13 years with the White House Communications Agency under four Presidents. During his more than 12 years as Director of the Senate Telecommunications Department, serving under seven Sergeants at Arms, Bob McCormick has been responsible for the planning, research, testing, and delivery of telecommunications equipment and services for all Washington, DC, Senate offices, and the approximately 400 State offices.

While Bob McCormick's accomplishments are too numerous to specifically mention all of them, I would like to highlight a few of his major achievements. He directed the installation of a state-of-the-art digital telephone switch and sets for Washington, DC, offices in 1986–87. Soon thereafter, he oversaw installation of the FaxXchange system; the Senate Voice Mail System; and the Cloakroom and Sergeant at Arms Group Alert systems that are integrated into the telephone system. In 1993, he was given responsibility for the U.S. Capitol Police Radio System and for the Senate's data communications network. Under his leadership, the Capitol Police radio system has been upgraded. Senate data communications are being transmitted by the faster, reliable, and less expensive frame relay service.

During his directorship, he has negotiated approximately a 50-percent reduction in Senate long-distance per-minute rates—for both Washington, DC, and State offices. He has also achieved substantial savings in the cost of data communications by converting to the frame relay network.

There is a saying that when goodness and skill work together, expect a masterpiece. Bob McCormick is a masterpiece. Not only has he been a model public servant, but also he is a devoted husband, father, and grandfather. He is an active member of church and community organizations in Queen Anne's County, MD, where he and his wife, Mary Ann, live on a farm.

I ask my colleagues to join me in thanking Bob McCormick for his years of public service and wishing him well on his retirement.

TRADE NEGOTIATIONS WITH JAPAN

Mr. DOLE. Mr. President, victory was declared on Wednesday in the trade negotiations with Japan. But I think a lot of Americans are wondering ''in favor of which side?''

A lot of Americans are wondering exactly what did the United States get after years of tough talk and threats?

A closer look reveals that after 2½ years of negotiations, the final agreement is vague, unenforceable, nonbinding—in short, it is virtually empty.

Mr. President, Japanese car manufacturers apparently promised to increase production at their transplant operations in the United States. But for the most part, the promised increases may be no more than what was already planned. It is hard to see why the threat of a major trade war was necessary to persuade the Japanese to do what they already had announced.

Mr. President, the U.S. negotiators claimed to have reached landmark agreements in the areas of auto parts and dealerships. But the Japanese immediately issued disclaimers, emphasizing that any commitments were not government commitments, carry no

government backing, and are not enforceable.

The U.S. negotiators announced an estimate of expected increases in sales of auto parts under the agreement. Incredibly, the Japanese negotiator then specifically disavowed the United States estimate. He said the United States estimate was shared ''neither by the minister himself nor by the government of Japan.''

Mr. President, it makes one wonder, who were we negotiating with? One report this morning states that some Japanese officials ''expressed amazement that the U.S. accepted the final deal.''

Is this the ''specific, measurable, concrete'' deal the President promised?

If the estimated increases in parts purchases fail to occur, there are no consequences. If the number of dealerships does not increase, Japan faces no penalties. If the United States estimates in any of these categories do not materialize—well, the Japanese never acknowledged those United States estimates in the first place. And a joint United States-Japan statement adds the ultimate qualifier: Both sides agreed to recognize that ''changes in market conditions may affect the fulfillment of these plans.''

Mr. President, the bottom line is that this agreement does very little, if anything, to address the continuing problem of market access in Japan. After this agreement is in place, Japan will remain the most closed major industrial economy in the world. Japan will remain a sanctuary economy with the lowest level among all industrial nations of import penetration across numerous industry sectors.

This agreement does nothing to address the continuing problem of Japanese cartel-like behavior in their home market. It does nothing to address the restrictive business practices that effectively block United States companies from penetrating the Japanese market. And it does nothing to encourage, not to mention require, the Japanese Government to take any action against those practices.

Mr. President, we went to the brink of a trade war with one of our most important trading partners and would up with vague promises that cannot be enforced. I hope this is not a model for future efforts to get tough against closed foreign markets.

HEARINGS REVEAL CLINTON DRUG STRATEGY FAILING

Mr. DOLE. Mr. President, Congressman BILL ZELIFF has just held 2 days of outstanding hearings on the President's national drug control strategy. I think those hearings were very important, and the American people ought to know what Congressman ZELIFF and his National Security Subcommittee discovered.

You may remember that it was BILL ZELIFF who invited Nancy Reagan and a number of other drug experts from around the country to testify in March of this year, and who held an all-day hearing in April with Dr. Lee Brown, the White House drug czar.

Mrs. Reagan testified that we have to get back on track, and she was right. The fact is that drug use fell each year of the Reagan administration, and up until 1992, it continued to fall. For example, monthly cocaine use dropped from 2.9 million users in 1988 to 1.3 million in 1992. Overall drug use dropped from 22.3 million users in 1985 to 11.4 million users in 1992.

Drug use has gone up with 17 and 18 year olds, 15 and 16 year olds, 13 and 14 year olds. Now we are spending less on drug interdiction programs in this administration.

But, as Congressman Zeliff's hearings highlighted, drug use since 1993 has been steadily rising. A 1994 survey of 51,000 kids showed use of LSD, non-LSD hallucinogens, stimulants, and marijuana all up. Cocaine street prices continue to fall, while cocaine emergency room admissions are at historically high levels. In 1994, twice the number of 8th graders were experimenting with marijuana than in 1991, and daily use by seniors was up 50 percent between December 1993 and December 1994.

During his hearings, Congressman Zeliff also turned up these disturbing facts:

First, the head of DEA, Administrator Constantine, admitted that exploding drug use in this country and international drug cartels should be seen as our No. 1 national security threat. Administrator Constantine also admitted that rising casual drug use among U.S. kids is a timebomb waiting to explode.

Second, the President's interdiction coordinator, Admiral Kramek, admitted that his office, which is supposed to coordinate the whole Nation's drug interdiction effort, has just six full-time employees—and that the administration's interdiction effort has been cut for 3 straight years.

Third, officials at the DEA, the President's interdiction coordinator, and the head of U.S. Customs all suggest that President Clinton's drug strategy is not fulfilling stated expectations.

Fourth, the General Accounting Office has released a report confirming that the administration's anti-drug strategy in the source countries is badly managed, poorly coordinated among agencies, and holds low priority in key embassies, including the U.S. Embassy in Mexico—despite the fact that 70 percent of the cocaine coming into the United States comes over the border with Mexico.

Mr. President, I want to commend Chairman Zeliff for convening these important hearings. The hearings are a wake-up call to all of us in Congress that we must regain the offensive and renew our commitment to the war on drugs.

AMERICA'S 219TH BIRTHDAY

Mr. DOLE. Mr. President, next Tuesday, in homes, neighborhoods, and communities across the country, Americans will celebrate Independence Day.

And since the Senate will not be in session on America's birthday, I wanted to take a minute today to share some very meaningful words with my colleagues.

The words are not mine. Rather, they were first written in 1955, as a public relations advertisement for what is now the Norfolk Southern Corp. The words have been updated slightly since that time, and they eloquently encompass what America is all about.

I was born on July 4, 1776, and the Declaration of Independence is my birth certificate. The bloodlines of the world run in my veins, because I offered freedom to the oppressed. I am many things, and many people. I am the Nation . . .

I am Nathan Hale and Paul Revere. I stood at Lexington and fired the shot heard around the world. I am Washington, Jefferson, and Patrick Henry. I am John Paul Jones, the Green Mountain Boys and Davy Crockett. I am Lee and Grant and Abe Lincoln.

I remember the Alamo, the Maine and Pearl Harbor. When freedom called I answered and stayed until it was over, over there. I left my heroic dead in Flanders Fields, on the rock of Corregidor, on the bleak slopes of Korea, and in the steaming jungles of Vietnam.

I am the Brooklyn Bridge, the wheat fields of Kansas, and the granite hills of Vermont. I am the coalfields of the Virginias and Pennsylvania, the fertile lands of the west, the Golden Gate and the Grand Canyon. I am Independence Hall, the Monitor and the Merrimac.

I am big. I sprawl from the Atlantic to the Pacific . . . my arms reach out to embrace Alaska and Hawaii. Three million square miles throbbing with industry. I am millions of farms. I am forest, field, mountain and desert. I am quiet villages—and cities that never sleep.

You can look at me and see Ben Franklin walking down the streets of Philadelphia with his breadloaf under his arm. You can see Betsy Ross with her needle. You can see the lights of Christmas, and hear the strains of ''Auld Lang Syne'' as the calendar turns.

I am Babe Ruth and the World Series. I am 110,000 schools and colleges, and 330,000 churches where my people worship God as they think best. I am a ballot dropped in a box, the roar of a crowd in a stadium, and the voice of a choir in a cathedral. I am an editorial in a newspaper and a letter to a congressman.

I am Eli Whitney and Stephen Foster. I am Tom Edison, Albert Einstein, and Billy Graham. I am Horace Greeley, Will Rogers, and the Wright brothers. I am George Washington Carver, Jonas Salk, and Martin Luther King.

I am Longfellow, Harriet Beecher Stowe, Walt Whitman and Thomas Paine.

Yes, I am the Nation, and these are the things that I am. I was conceived in freedom and, God willing, in freedom I will spend the rest of my days.

May I possess always the integrity, the courage, and the strength to keep myself unshackled, to remain a citadel of freedom, and a beacon of hope to the world.

Mr. President, I know all Senators join with me in wishing America a happy 219th birthday.

REVIEW OF 104TH CONGRESS

Mr. DOLE. Finally, Mr. President, we have now completed 6 months work in the U.S. Senate and the Congress.

Mr. President, as we prepare to return to our States for the July 4 recess, I wanted to take just a minute to review the last 6 months, and to look ahead to the 6 that remain in this year.

When Republicans asked Americans to put Congress under new management for the first time in 40 years, Mr. President, we promised that we were a different way of doing business. We promised we would not stand for the status quo. We promised we would bring change to Capitol Hill.

We have kept those promises. We have kept our word. We have brought change to Capitol Hill.

One change we brought was in our work load. In past sessions, Congress would convene in January, and then take it easy for a month or two. This Congress put an end to that. We hit the ground running.

From January 5 through June 28, the Senate has been in session for 106 days, meeting for a total of 933 hours and 52 minutes—that is 21 more days and nearly 350 more hours than the Senate spent in session from January 5 through June 30, 1993—the first 6 months of the fist session of the 103d Congress.

What has the Senate accomplished in that time? Well, one thing we have not done is pass more legislation than the previous Senate. And that is a good thing. Because the people did not send us here to pass more laws that mean more regulations and more Government. They sent us here to rein in the Federal bureaucracy, and to return power to States, to communities, and to the people.

And that is exactly what we have done.

we began by leading by example, passing the Congressional Accountability Act, which will subject Congress to the same laws we impose on everybody else.

We put an end to the practice of sending Federal mandates to our States and local Governments, but not sending along the money to pay for them.

We passed the Paperwork Reduction Act, which will help to reduce redtape.

We passed the line-item veto legislation, which will result in the reduction of unnecessary Federal spending.

We took the first step to reforming a civil litigation system that is out of balance, out of control, and out of common sense.

In the wake of the terrible tragedy in Oklahoma city, we moved quickly to pass antiterrorism legislation. Legislation that we can be just as proud of 10 years from now, as we are today, and legislation that included historic habeas corpus reform.

We passed a telecommunications bill that reduces Government interference in that fast growing industry.

And, of course, we passed a historic budget resolution that sets America on a 7 year path to a balanced budget.

This is just a partial list of legislation we have passed this session. All in all, not a bad start.

And let me assure the American people it is just that. A start. Republicans know we have much to do before the end of this first session.

This includes regulatory reform. Welfare reform. A tough anticrime bill. A congressional gift ban and lobby reform. And the appropriations bills, which will offer final proof that we are serious about balancing the budget. And speaking of that, we have not given up on passing the balanced budget amendment.

Teddy Roosevelt once said that ''the best prize life has to offer is the chance to work hard at work worth doing.'' I guarantee to my colleagues that over the next 6 months we'll have an opportunity to win that best prize, because we will continue to work hard at work worth doing. The American people deserve no less.

Mr. President, I ask unanimous consent that a listing of some of the important legislation adopted by the Senate this session be printed in the RECORD following my remarks.

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

BILLS CONSIDERED AND PASSED IN THE SENATE (104TH CONGRESS)

H.R. 1(S. 2), Congressional Accountability.
H.R. 421, Alaska Native Claims Settlement.
H.R. 483, Medicare Select.
H.R. 517, Chacoan Outliers Protection Act.
H.R. 831, Self-Employed Health Insurance.
H.R. 889, Emergency Supplemental and Recissions.
H.R. 956, Common Sense Legal Reform.
H.R. 1158, Emergency Supplemental/Disaster Relief.
H.R. 1240, Sex Crimes Against Children Prevention Act.
H.R. 1345, D.C. Financial Responsibility and Management Act.
H.R. 1380, Truth in Lending.
H.R. 1421, Statute References and Jurisdictional Changes.
S. Con. Res. 13, Budget Resolution (Domenici).
S. 1, Unfunded Mandates.
S. 4, Line Item Veto.
S. 103, Lost Creek Land Exchange Act.
S. 178, Reauthorization Act of 1995.
S. 184, Rare Disease Research Act.
S. 219, Regulatory Transition.
S. 244, Paperwork Reduction Act.
S. 257, Veterans of Foreign Wars (South Korea).
S. 268, Triploid Grass Carp Certification Inspections.
S. 273, Amend Section 61h–6, of Title 2, U.S. Code.
S. 349, Navajo-Hopi Relocation Housing Program.
S. 377, Elementary/Secondary Education (Indian Education).
S. 395, Alaska Power Administration.
S. 440, National Highway System Designation Act.
S. 441, Indian Child Protection and Family Violence Protection.
S. 464, Reporting Deadlines.
S. 510, Native Americans Programs Act (Reauthorization).
S. 523, Colorado River Basin Salinity Control Act.
S. 532, Clarifying Rules Governing Venue.
S. 534, Interstate Transportation Solid Waste.
S. 652, Telecommunications.
S. 735, Terrorism.
S. 962, Extension, Middle East Peace Facilitation.
S. Con. Res. 67, FY96 Budget Resolution Conference Report.

Mr. DOLE. Mr. President, I might add, that list does not include many of the nominations we have acted on, too.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent there be a period for the transaction of morning business not to exceed 10 minutes each.

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

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF PROPOSED LEGISLATION ENTITLED ''THE SAVING LAW ENFORCEMENT OFFICERS' LIVES ACT OF 1995''—MESSAGE FROM THE PRESIDENT—PM 60

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on the Judiciary.

To the Congress of the United States:

Today I am transmitting for your immediate consideration and passage the ''Saving Law Enforcement Officers' Lives Act of 1995.'' This Act would limit the manufacture, importation, and distribution of handgun ammunition that serves little sporting purpose, but which kills law enforcement officers. The details of this proposal are described in the enclosed section-by-section analysis.

Existing law already provides for limits on ammunition based on the specific materials from which it is made. It does not, however, address the problem of excessively powerful ammunition based on its performance.

Criminals should not have access to handgun ammunition that will pierce the bullet-proof vests worn by law enforcement officers. That is the standard by which so-called ''cop-killer'' bullets are judged. My proposal would

limit the availability of this ammunition.

The process of designating such ammunition should be a careful one and should be undertaken in close consultation with all those who are affected, including representatives of law enforcement, sporting groups, the industries that manufacture bullet-proof vests and ammunition, and the academic research community. For that reason, the legislation requires the Secretary of the Treasury to consult with the appropriate groups before regulations are promulgated. The legislation also provides for congressional review of the proposed regulations before they take effect.

This legislation will save the lives of law enforcement officers without affecting the needs of legitimate sporting enthusiasts. I urge its prompt and favorable consideration by the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 30, 1995*.

REPORT ON PROGRESS CONCERNING EMIGRATION LAWS AND POLICIES OF THE RUSSIAN FEDERATION—MESSAGE FROM THE PRESIDENT—PM 61

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

On September 21, 1994, I determined and reported to the Congress that the Russian Federation is in full compliance with the freedom of emigration criteria of sections 402 and 409 of the Trade Act of 1974. This action allowed for the continuation of most-favored-nation (MFN) status for Russia and certain other activities without the requirement of a waiver.

As required by law, I am submitting an updated Report to Congress concerning the emigration laws and policies of the Russian Federation. You will find that the report indicates continued Russian compliance with U.S. and international standards in the area of emigration.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 30, 1995*.

MESSAGES FROM THE HOUSE

At 9:54 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, which it requests the concurrence of the Senate:

H.R. 1944. An act making emergency supplemental appropriations for additional disaster assistance, for antiterrorism initiatives, for assistance in the recovery from the tragedy that occurred at Oklahoma City, and making rescissions for the fiscal year ending September 30, 1995, and for other purposes.

The message also announced that the House has passed the following bill; without amendment:

S. 962. An act to extend authorities under the Middle East Peace Facilitation Act of 1994 until August 15, 1995.

ENROLLED BILL SIGNED

At 1:52 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 962. An act to extend authorities under the Middle East Peace Facilitation Act of 1994 until August 15, 1995.

The enrolled bill was signed on June 30, 1995, by the President pro tempore (Mr. THURMOND).

At 3:01 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolutions, without amendment:

S. Con. Res. 19. Concurrent resolution to correct the enrollment of the bill H.R. 483.

S. Con. Res. 20. Concurrent resolution providing for a conditional recess or adjournment of the Senate on Thursday, June 29, 1995, or Friday, June 30, 1995, until Monday, July 10, 1995, and a conditional adjournment of the House on the legislative day of Friday, June 30, 1995, until Monday, July 10, 1995.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 483) to amend title XVIII of the Social Security Act to permit Medicare Select policies to be offered in all States, and for other purposes.

The message further announced that pursuant to section 211(B)(f), Public Law 101—515 as amended by section 260001, Public Law 103–322, the minority leader appoints Mr. Darryl Jones of Upper Marlboro, MD, from private life, representing law enforcement officers to the National Commission to Support Law Enforcement on the part of the House.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on June 30, 1995 he had presented to the President of the United States, the following enrolled bill:

S. 962. An act to extend authorities under the Middle East Peace Facilitation Act of 1994 until August 15, 1995.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1138. A communication from the Secretary of Energy, transmitting, pursuant to law, the report entitled ''Energy Efficient Environmental Program for Pollution Prevention in Industry''; to the Committee on Energy and Natural Resources.

EC–1139. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report entitled ''Outer Continental Shelf Lease Sales: Evaluation of Bidding Results and Competition''; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 638. A bill to authorize appropriations for United States insular areas, and for other purposes (Rept. No. 104–101).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services.

Vicent Reed Ryan, Jr., of Texas, to be a Member of the Board of Directors of the Panama Canal Commission.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PRYOR (for himself, Mr. HATCH, Mr. BREAUX, and Mr. LEAHY):

S. 1006. A bill to amend the Internal Revenue Code of 1986 to simplify the pension laws, and for other purposes; to the Committee on Finance.

By Mr. KERRY:

S. 1007. A bill to restrict the closure of Coast Guard small boat stations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. INOUYE:

S. 1008. A bill to amend title 10, United States Code, to provide for appointments to the military service academies by the Resident Representative to the United States for the Commonwealth of the Northern Mariana Islands; to the Committee on Armed Services.

By Mr. D'AMATO:

S. 1009. A bill to prohibit the fraudulent production, sale, transportation, or possession of fictitious items purporting to be valid financial instruments of the United States, foreign governments, States, political subdivisions, or private organizations, to increase the penalties for counterfeiting violations, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

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

S. 1010. A bill to amend the ''unit of general local government'' definition for Federal payments in lieu of taxes to include unorganized boroughs in Alaska and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CRAIG (for himself, Mr. HEFLIN, Mr. LUGAR, and Mr. LEAHY):

S. 1011. A bill to help reduce the cost of credit to farmers by providing relief from antiquated and unnecessary regulatory burdens

for the Farm Credit System, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 1012. A bill to extend the time for construction of certain FERC licensed hydro projects; to the Committee on Energy and Natural Resources.

By Mr. CONRAD (for himself and Mr. DORGAN):

S. 1013. A bill to amend the Act of August 5, 1965, to authorize the Secretary of the Interior to acquire land for the purpose of exchange for privately held land for use as wildlife and wetland protection areas, in connection with the Garrison diversion unit project, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. NICKLES:

S. 1014. A bill to improve the management of royalties from Federal and Outer Continental Shelf oil and gas leases, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. JOHNSTON:

S. Res. 146. A resolution designating the week beginning November 19, 1995, and the week beginning on November 24, 1996, as ''National Family Week'', and for other purposes; to the Committee on the Judiciary.

By Mr. THURMOND:

S. Res. 147. A resolution designating the weeks beginning September 24, 1995, and September 22, 1996, as ''National Historically Black Colleges and Universities Week'', and for other purposes; to the Committee on the Judiciary.

By Mr. HELMS:

S. Res. 148. A resolution expressing the sense of the Senate regarding the arrest of Harry Wu by the Government of the People's Republic of China; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PRYOR (for himself, Mr. HATCH, Mr. BREAUX and Mr. LEAHY): S. 1006. A bill to amend the Internal Revenue Code of 1986 to simplify the pension laws, and for other purposes; to the Committee on Finance.

THE PENSION SIMPLIFICATION ACT OF 1995

Mr. PRYOR. Mr. President, today I rise to introduce the Pension Simplification Act of 1995. This very important legislation is designed to simplify the tax laws governing our Nation's private retirement system.

This legislation is the result of the efforts of many, and these efforts date back to March of 1990 when I first held hearings in the Finance subcommittee on private retirement plans.

Later, in the summer of 1990, I introduced the Employee Benefits Simplification Act, S. 2901. As a matter of history, many experts, including pension planners for small and large businesses, logged countless hours to help me develop this legislation, and many organizations pushed to get this legislation enacted into law.

In the 102d Congress, I reintroduced this legislation as the Employee Benefits Simplification and Expansion Act of 1991. In early 1992, this legislation was included in the Tax Fairness and Economic Growth Act of 1992, which was H.R. 4210, and which was passed by the Congress, but it was vetoed by President Bush for reasons not associated with this particular piece of the overall tax bill.

During the summer of 1992, portions of the simplification effort were passed as part of the 1992 Unemployment Compensation Act. This legislation was then designed to liberalize the rollover rules which allow the worker the ability to take his pension benefits with him or her when they change jobs.

Later that year, the remainder of the simplification bill was included as part of the Revenue Act of 1992, which was H.R. 11, also passed by Congress, also vetoed by President Bush for reasons not related to the substance of this legislation.

Since that time, there has been no tax bill which could include the as-yet-unpassed provisions of the simplification effort.

Today, Mr. President, I am very happy to be joined by Senator ORRIN HATCH of Utah, Senator BREAUX of Louisiana, and Senator LEAHY of Vermont in introducing this legislation as the Pension Simplification Act of 1995. This bill includes many of the provisions passed two times by Congress in 1992, but it also includes some very new and important provisions, which evidences our continuing effort to simplify the very complex and arcane pension rules. To some, this in itself is an extremely arcane issue, but to small businesses across our great country it is a critical part of doing business. And it is that part of business which provides for savings and retirement funds ultimately for millions of employees.

This act is the next significant step toward reducing the costs associated with providing pension benefits. The legislation achieves this result by eliminating many of the complexities and the inconsistencies in the private pension system which will in turn promote the establishment of new pension plans by both large and small companies.

While this legislation affects both small and large businesses, who provide retirement plans for their workers, new provisions in this bill specifically target complex and costly rules affecting small business, and there is very good reason for this action in this legislation.

In 1993, 83 percent of the companies with 100 or more employees offered some type of retirement plan. In contrast, in businesses with fewer than 25 employees, only 19 percent of those firms had an employer-provided pension plan available to them, and only 15 percent of these employees even participated in those plans.

The major factor contributing to this dismal statistic is the sky-high per-participant cost of establishing and maintaining a pension plan for small business. The Pension Simplification Act alleviates the high-cost barriers for small business by creating a tax credit which can be applied toward the start-up costs of providing a new plan for employers with 50 or fewer employees. Of course, this is geared toward and focused on small business.

Next, the legislation slashes extensive annual nondiscrimination testing requirements for firms where no employee is highly compensated. These provisions, Mr. President, combined with the broad simplification provisions for all plans, will significantly reduce the costs of starting up and maintaining a retirement plan. Thus, this bill we are introducing today encourages private retirement savings for our Nation's small business worker.

Mr. President, rather than continuing a discussion of the many detailed provisions of the Pension Simplification Act of 1995, I ask unanimous consent that a 5-page summary of the legislation and a copy of the Pension Simplification Act of 1995 be printed in the RECORD.

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

S. 1006

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Pension Simplification Act of 1995''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

TITLE I—SIMPLIFICATION OF NONDISCRIMINATION PROVISIONS

SEC. 101. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES; REPEAL OF FAMILY AGGREGATION.

(a) IN GENERAL.—Paragraph (1) of section 414(q) (defining highly compensated employee) is amended to read as follows:

''(1) IN GENERAL.—The term 'highly compensated employee' means any employee who—

''(A) was a 5-percent owner at any time during the year or the preceding year,

''(B) had compensation for the preceding year from the employer in excess of $80,000, or

''(C) was the most highly compensated officer of the employer for the preceding year.

The Secretary shall adjust the $80,000 amount under subparagraph (B) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter beginning October 1, 1995.''

(b) SPECIAL RULE WHERE NO EMPLOYEE HAS COMPENSATION OVER SPECIFIED AMOUNT.—Paragraph (2) of section 414(q) is amended to read as follows:

''(2) SPECIAL RULE IF NO EMPLOYEE HAS COMPENSATION OVER SPECIFIED AMOUNT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), if a defined benefit plan or a defined contribution plan meets the requirements of sections 401(a)(4) and 410(b) with respect to the availability of contributions, benefits, and other plan features, then for all other purposes, subparagraphs (A) and (C) of paragraph (1) shall not apply to such plan.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to a plan to the extent provided in regulations that are prescribed by the Secretary to prevent the evasion of the purposes of this paragraph.''

(c) REPEAL OF FAMILY AGGREGATION RULES.—

(1) IN GENERAL.—Paragraph (6) of section 414(q) is hereby repealed.

(2) COMPENSATION LIMIT.—Paragraph (17)(A) of section 401(a) is amended by striking the last sentence.

(3) DEDUCTION.—Subsection (l) of section 404 is amended by striking the last sentence.

(d) CONFORMING AMENDMENTS.—

(1) Paragraphs (4), (5), (8), and (12) of section 414(q) are hereby repealed.

(2)(A) Section 414(r) is amended by adding at the end the following new paragraph:

''(9) EXCLUDED EMPLOYEES.—For purposes of this subsection, the following employees shall be excluded:

''(A) Employees who have not completed 6 months of service.

''(B) Employees who normally work less than 17½ hours per week.

''(C) Employees who normally work not more than 6 months during any year.

''(D) Employees who have not attained the age of 21.

''(E) Except to the extent provided in regulations, employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer.

Except as provided by the Secretary, the employer may elect to apply subparagraph (A), (B), (C), or (D) by substituting a shorter period of service, smaller number of hours or months, or lower age for the period of service, number of hours or months, or age (as the case may be) specified in such subparagraph.''

(B) Subparagraph (A) of section 414(r)(2) is amended by striking ''subsection (q)(8)'' and inserting ''paragraph (9)''.

(3) Section 1114(c)(4) of the Tax Reform Act of 1986 is amended by adding at the end the following new sentence: ''Any reference in this paragraph to section 414(q) shall be treated as a reference to such section as in effect before the Pension Simplification Act of 1995.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995, except that in determining whether an employee is a highly compensated employee for years beginning in 1996, such amendments shall be treated as having been in effect for years beginning in 1995.

SEC. 102. DEFINITION OF COMPENSATION FOR SECTION 415 PURPOSES.

(a) GENERAL RULE.—Section 415(c)(3) (defining participant's compensation) is amended by adding at the end the following new subparagraph:

''(D) CERTAIN DEFERRALS INCLUDED.—For purposes of this section, the terms 'compensation' and 'earned income' shall include—

''(i) any elective deferral (as defined in section 402(g)(3)), and

''(ii) any amount which is contributed by the employer of the election of the employee and which is not includible in the gross income of the employee under section 125 or 457.''

(b) CONFORMING AMENDMENTS.—

(1) Section 414(q)(7) is amended to read as follows:

''(7) COMPENSATION.—For purposes of this subsection, the term 'compensation' has the meaning given such term by section 415(c)(3).''

(2) Section 414(s)(2) is amended by inserting ''not'' after ''elect'' in the text and heading thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 103. MODIFICATION OF ADDITIONAL PARTICIPATION REQUIREMENTS.

(a) GENERAL RULE.—Section 401(a)(26)(A) (relating to additional participation requirements) is amended to read as follows:

''(A) IN GENERAL.—In the case of a trust which is a part of a defined benefit plan, such trust shall not constitute a qualified trust under this subsection unless on each day of the plan year such trust benefits at least the lesser of—

''(i) 50 employees of the employer, or

''(ii) the greater of—

''(I) 40 percent of all employees of the employer, or

''(II) 2 employees (or if there is only 1 employee, such employee).''

(b) SEPARATE LINE OF BUSINESS TEST.—Section 401(a)(26)(G) (relating to separate line of business) is amended by striking ''paragraph (7)'' and inserting ''paragraph (2)(A) or (7)''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1995.

SEC. 104. NONDISCRIMINATION RULES FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS AND MATCHING CONTRIBUTIONS.

(a) ALTERNATIVE METHODS OF SATISFYING SECTION 401(k) NONDISCRIMINATION TESTS.—Section 401(k) (relating to cash or deferred arrangements) is amended by adding at the end the following new paragraph:

''(11) ALTERNATIVE METHODS OF MEETING NONDISCRIMINATION REQUIREMENTS.—

''(A) IN GENERAL.—A cash or deferred arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement—

''(i) meets the contribution requirements of subparagraph (B) or (C), and

''(ii) meets the notice requirements of subparagraph (D).

''(B) MATCHING CONTRIBUTIONS.—

''(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement, the employer makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount equal to—

''(I) 100 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 3 percent of the employee's compensation, and

''(II) 50 percent of the elective contributions of the employee to the extent that such elective contributions exceed 3 percent but do not exceed 5 percent of the employee's compensation.

''(ii) RATE FOR HIGHLY COMPENSATED EMPLOYEES.—The requirements of this subparagraph are not met if, under the arrangement, the matching contribution with respect to any elective contribution of a highly compensated employee at any level of compensation is greater than that with respect to an employee who is not a highly compensated employee.

''(iii) ALTERNATIVE PLAN DESIGNS.—If the matching contribution with respect to any elective contribution at any specific level of compensation is not equal to the percentage required under clause (i), an arrangement shall not be treated as failing to meet the requirements of clause (i) if—

''(I) the level of an employer's matching contribution does not increase as an employee's elective contributions increase, and

''(II) the aggregate amount of matching contributions with respect to elective contributions not in excess of such level of compensation is at least equal to the amount of matching contributions which would be made if matching contributions were made on the basis of the percentages described in clause (i).

''(C) NONELECTIVE CONTRIBUTIONS.—The requirements of this subparagraph are met if,

under the arrangement, the employer is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to at least 3 percent of the employee's compensation.

''(D) NOTICE REQUIREMENT.—An arrangement meets the requirements of this paragraph if, under the arrangement, each employee eligible to participate is, within a reasonable period before any year, given written notice of the employee's rights and obligations under the arrangement which—

''(i) is sufficiently accurate and comprehensive to appraise the employee of such rights and obligations, and

''(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

''(E) OTHER REQUIREMENTS.—

''(i) WITHDRAWAL AND VESTING RESTRICTIONS.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to all employer contributions (including matching contributions).

''(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless such requirements are met without regard to subsection (l), and, for purposes of subsection (l), employer contributions under subparagraph (B) or (C) shall not be taken into account.

''(F) OTHER PLANS.—An arrangement shall be treated as meeting the requirements under subparagraph (A)(i) if any other plan maintained by the employer meets such requirements with respect to employees eligible under the arrangement.''

(b) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions) is amended by redesignating paragraph (10) as paragraph (11) and by adding after paragraph (9) the following new paragraph:

''(10) ALTERNATIVE METHOD OF SATISFYING TESTS.—

''(A) IN GENERAL.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

''(i) meets the contribution requirements of subparagraph (B) or (C) of subsection (k)(11),

''(ii) meets the notice requirements of subsection (k)(11)(D), and

''(iii) meets the requirements of subparagraph (B).

''(B) LIMITATION ON MATCHING CONTRIBUTIONS.—The requirements of this subparagraph are met if—

''(i) matching contributions on behalf of any employee may not be made with respect to an employee's contributions or elective deferrals in excess of 6 percent of the employee's compensation,

''(ii) the level of an employer's matching contribution does not increase as an employee's contributions or elective deferrals increase, and

''(iii) the matching contribution with respect to any highly compensated employee at a specific level of compensation is not greater than that with respect to an employee who is not a highly compensated employee.''

(c) YEAR FOR COMPUTING NONHIGHLY COMPENSATED EMPLOYEE PERCENTAGE.—

(1) CASH OR DEFERRED ARRANGEMENTS.—Clause (ii) of section 401(k)(3)(A) is amended—

(A) by striking ''such year'' and inserting ''the plan year'', and

(B) by striking ''for such plan year'' and inserting ''the preceding plan year''.

(2) MATCHING AND EMPLOYEE CONTRIBUTIONS.—Section 401(m)(2)(A) is amended—

(A) by inserting ''for such plan year'' after ''highly compensated employee'', and

(B) by inserting ''for the preceding plan year'' after ''eligible employees'' each place it appears in clause (i) and clause (ii).

(d) SPECIAL RULE FOR DETERMINING AVERAGE DEFERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—

(1) Paragraph (3) of section 401(k) is amended by adding at the end the following new subparagraph:

''(E) For purposes of this paragraph, in the case of the first plan year of any plan, the amount taken into account as the actual deferral percentage of nonhighly compensated employees for the preceding plan year shall be—

''(i) 3 percent, or

''(ii) if the employer makes an election under this subclause, the actual deferral percentage of nonhighly compensated employees determined for such first plan year.''

(2) Paragraph (3) of section 401(m) is amended by adding at the end thereof the following: ''Rules similar to the rules of subsection (k)(3)(E) shall apply for purposes of this subsection.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

TITLE II—SIMPLIFIED DISTRIBUTION RULES

SEC. 201. REPEAL OF 5-YEAR INCOME AVERAGING FOR LUMP-SUM DISTRIBUTIONS.

(a) IN GENERAL.—Subsection (d) of section 402 (relating to taxability of beneficiary of employees' trust) is amended to read as follows:

''(d) TAXABILITY OF BENEFICIARY OF CERTAIN FOREIGN SITUS TRUSTS.—For purposes of subsections (a), (b), and (c), a stock bonus, pension, or profit-sharing trust which would qualify for exemption from tax under section 501(a) except for the fact that it is a trust created or organized outside the United States shall be treated as if it were a trust exempt from tax under section 501(a).''

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (D) of section 402(e)(4) (relating to other rules applicable to exempt trusts) is amended to read as follows:

''(D) LUMP-SUM DISTRIBUTION.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'lump sum distribution' means the distribution or payment within one taxable year of the recipient of the balance to the credit of an employee which becomes payable to the recipient—

''(I) on account of the employee's death,

''(II) after the employee attains age 59½,

''(III) on account of the employee's separation from service, or

''(IV) after the employee has become disabled (within the meaning of section 72(m)(7)),

from a trust which forms a part of a plan described in section 401(a) and which is exempt from tax under section 501 or from a plan described in section 403(a). Subclause (III) of this clause shall be applied only with respect to an individual who is an employee without regard to section 401(c)(1), and subclause (IV) shall be applied only with respect to an employee within the meaning of section 401(c)(1). For purposes of this clause, a distribution to two or more trusts shall be treated as a distribution to one recipient. For purposes of this paragraph, the balance to the credit of the employee does not include the accumulated deductible employee contributions under the plan (within the meaning of section 72(o)(5)).

''(ii) AGGREGATION OF CERTAIN TRUSTS AND PLANS.—For purposes of determining the balance to the credit of an employee under clause (i)—

''(I) all trusts which are part of a plan shall be treated as a single trust, all pension plans maintained by the employer shall be treated as a single plan, all profit-sharing plans maintained by the employer shall be treated as a single plan, and all stock bonus plans maintained by the employer shall be treated as a single plan, and

''(II) trusts which are not qualified trusts under section 401(a) and annuity contracts which do not satisfy the requirements of section 404(a)(2) shall not be taken into account.

''(iii) COMMUNITY PROPERTY LAWS.—The provisions of this paragraph shall be applied without regard to community property laws.

''(iv) AMOUNTS SUBJECT TO PENALTY.—This paragraph shall not apply to amounts described in subparagraph (A) of section 72(m)(5) to the extent that section 72(m)(5) applies to such amounts.

''(v) BALANCE TO CREDIT OF EMPLOYEE NOT TO INCLUDE AMOUNTS PAYABLE UNDER QUALIFIED DOMESTIC RELATIONS ORDER.—For purposes of this paragraph, the balance to the credit of an employee shall not include any amount payable to an alternate payee under a qualified domestic relations order (within the meaning of section 414(p)).

''(vi) TRANSFERS TO COST-OF-LIVING ARRANGEMENT NOT TREATED AS DISTRIBUTION.—For purposes of this paragraph, the balance to the credit of an employee under a defined contribution plan shall not include any amount transferred from such defined contribution plan to a qualified cost-of-living arrangement (within the meaning of section 415(k)(2)) under a defined benefit plan.

''(vii) LUMP-SUM DISTRIBUTIONS OF ALTERNATE PAYEES.—If any distribution or payment of the balance to the credit of an employee would be treated as a lump-sum distribution, then, for purposes of this paragraph, the payment under a qualified domestic relations order (within the meaning of section 414(p)) of the balance to the credit of an alternate payee who is the spouse or former spouse of the employee shall be treated as a lump-sum distribution. For purposes of this clause, the balance to the credit of the alternate payee shall not include any amount payable to the employee.''

(2) Section 402(c) (relating to rules applicable to rollovers from exempt trusts) is amended by striking paragraph (10).

(3) Paragraph (1) of section 55(c) (defining regular tax) is amended by striking ''shall not include any tax imposed by section 402(d) and''.

(4) Paragraph (8) of section 62(a) (relating to certain portion of lump-sum distributions from pension plans taxed under section 402(d)) is hereby repealed.

(5) Section 401(a)(28)(B) (relating to coordination with distribution rules) is amended by striking clause (v).

(6) Subparagraph (B)(ii) of section 401(k)(10) (relating to distributions that must be lump-sum distributions) is amended to read as follows:

''(ii) LUMP-SUM DISTRIBUTION.—For purposes of this subparagraph, the term 'lump-sum distribution' means any distribution of the balance to the credit of an employee immediately before the distribution.''

(7) Section 406(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(8) Section 407(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(9) Section 691(c) (relating to deduction for estate tax) is amended by striking paragraph (5).

(10) Paragraph (1) of section 871(b) (relating to imposition of tax) is amended by striking ''section 1, 55, or 402(d)(1)'' and inserting ''section 1 or 55''.

(11) Subsection (b) of section 877 (relating to alternative tax) is amended by striking ''section 1, 55, or 402(d)(1)'' and inserting ''section 1 or 55''.

(12) Section 4980A(c)(4) is amended—

(A) by striking ''to which an election under section 402(d)(4)(B) applies'' and inserting ''(as defined in section 402(e)(4)(D)) with respect to which the individual elects to have this paragraph apply'',

(B) by adding at the end the following new flush sentence:

''An individual may elect to have this paragraph apply to only one lump-sum distribution.'', and

(C) by striking the heading and inserting:

''(4) SPECIAL ONE-TIME ELECTION.—''.

(13) Section 402(e) is amended by striking paragraph (5).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) RETENTION OF CERTAIN TRANSITION RULES.—Notwithstanding any other provision of this section, the amendments made by this section shall not apply to any distribution for which the taxpayer elects the benefits of section 1122 (h)(3) or (h)(5) of the Tax Reform Act of 1986. For purposes of the preceding sentence, the rules of sections 402(c)(10) and 402(d) of the Internal Revenue Code of 1986 (as in effect before the amendments made by this Act) shall apply.

SEC. 202. REPEAL OF $5,000 EXCLUSION OF EMPLOYEES' DEATH BENEFITS.

(a) IN GENERAL.—Subsection (b) of section 101 is hereby repealed.

(b) CONFORMING AMENDMENT.—Subsection (c) of section 101 is amended by striking ''subsection (a) or (b)'' and inserting ''subsection (a)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 203. SIMPLIFIED METHOD FOR TAXING ANNUITY DISTRIBUTIONS UNDER CERTAIN EMPLOYER PLANS.

(a) GENERAL RULE.—Subsection (d) of section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended to read as follows:

''(d) SPECIAL RULES FOR QUALIFIED EMPLOYER RETIREMENT PLANS.—

''(1) SIMPLIFIED METHOD OF TAXING ANNUITY PAYMENTS.—

''(A) IN GENERAL.—In the case of any amount received as an annuity under a qualified employer retirement plan—

''(i) subsection (b) shall not apply, and

''(ii) the investment in the contract shall be recovered as provided in this paragraph.

''(B) METHOD OF RECOVERING INVESTMENT IN CONTRACT.—

''(i) IN GENERAL.—Gross income shall not include so much of any monthly annuity payment under a qualified employer retirement plan as does not exceed the amount obtained by dividing—

''(I) the investment in the contract (as of the annuity starting date), by

''(II) the number of anticipated payments determined under the table contained in clause (iii) (or, in the case of a contract to which subsection (c)(3)(B) applies, the number of monthly annuity payments under such contract).

''(ii) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) and (3) of subsection (b) shall apply for purposes of this paragraph.

''(iii) NUMBER OF ANTICIPATED PAYMENTS.—

''If the age of the primary annuitant on the annuity starting date is:	The number of anticipated payments is:
Not more than 55	300
More than 55 but not more than 60	260
More than 60 but not more than 65	240
More than 65 but not more than 70	170
More than 70	120

''(C) ADJUSTMENT FOR REFUND FEATURE NOT APPLICABLE.—For purposes of this paragraph, investment in the contract shall be determined under subsection (c)(1) without regard to subsection (c)(2).

''(D) SPECIAL RULE WHERE LUMP SUM PAID IN CONNECTION WITH COMMENCEMENT OF ANNUITY PAYMENTS.—If, in connection with the commencement of annuity payments under any qualified employer retirement plan, the taxpayer receives a lump sum payment—

''(i) such payment shall be taxable under subsection (e) as if received before the annuity starting date, and

''(ii) the investment in the contract for purposes of this paragraph shall be determined as if such payment had been so received.

''(E) EXCEPTION.—This paragraph shall not apply in any case where the primary annuitant has attained age 75 on the annuity starting date unless there are fewer than 5 years of guaranteed payments under the annuity.

''(F) ADJUSTMENT WHERE ANNUITY PAYMENTS NOT ON MONTHLY BASIS.—In any case where the annuity payments are not made on a monthly basis, appropriate adjustments in the application of this paragraph shall be made to take into account the period on the basis of which such payments are made.

''(G) QUALIFIED EMPLOYER RETIREMENT PLAN.—For purposes of this paragraph, the term 'qualified employer retirement plan' means any plan or contract described in paragraph (1), (2), or (3) of section 4974(c).

''(2) TREATMENT OF EMPLOYEE CONTRIBUTIONS UNDER DEFINED CONTRIBUTION PLANS.—For purposes of this section, employee contributions (and any income allocable thereto) under a defined contribution plan may be treated as a separate contract.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in cases where the annuity starting date is after December 31, 1995.

SEC. 204. REQUIRED DISTRIBUTIONS.

(a) IN GENERAL.—Section 401(a)(9)(C) (defining required beginning date) is amended to read as follows:

''(C) REQUIRED BEGINNING DATE.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'required beginning date' means April 1 of the calendar year following the later of—

''(I) the calendar year in which the employee attains age 70½, or

''(II) the calendar year in which the employee retires.

''(ii) EXCEPTION.—Subclause (II) of clause (i) shall not apply—

''(I) except as provided in section 409(d), in the case of an employee who is a 5-percent owner (as defined in section 416) with respect to the plan year ending in the calendar year in which the employee attains age 70½, or

''(II) for purposes of section 408 (a)(6) or (b)(3).

''(iii) ACTUARIAL ADJUSTMENT.—In the case of an employee to whom clause (i)(II) applies who retires in a calendar year after the calendar year in which the employee attains age 70½, the employee's accrued benefit shall be actuarially increased to take into account the period after age 70½ in which the employee was not receiving any benefits under the plan.

''(iv) EXCEPTION FOR GOVERNMENTAL AND CHURCH PLANS.—Clauses (ii) and (iii) shall not apply in the case of a governmental plan or church plan. For purposes of this clause, the term 'church plan' means a plan maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B)).''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1995.

TITLE III—TARGETED ACCESS TO PENSION PLANS FOR SMALL EMPLOYERS

SEC. 301. CREDIT FOR PENSION PLAN START-UP COSTS OF SMALL EMPLOYERS.

(a) ALLOWANCE OF CREDIT.—Section 38(b) (defining current year business credit) is amended by striking ''plus'' at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting '', plus'', and by adding at the end the following new paragraph:

''(12) the small employer pension plan start-up cost credit.''

(b) SMALL EMPLOYER PENSION PLAN START-UP COST CREDIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

''SEC. 45C. SMALL EMPLOYER PENSION PLAN START-UP COST CREDIT.

''(a) AMOUNT OF CREDIT.—For purposes of section 38—

''(1) IN GENERAL.—The small employer pension plan start-up cost credit for any taxable year is an amount equal to the qualified start-up costs of an eligible employer in establishing a qualified pension plan.

''(2) AGGREGATE LIMITATION.—The amount of the credit under paragraph (1) for any taxable year shall not exceed $1,000, reduced by the aggregate amount determined under this section for all preceding taxable years of the taxpayer.

''(b) QUALIFIED START-UP COSTS; QUALIFIED PENSION PLAN.—For purposes of this section—

''(1) QUALIFIED START-UP COSTS.—The term 'qualified start-up costs' means any ordinary and necessary expenses of an eligible employer which—

''(A) are paid or incurred in connection with the establishment of a qualified pension plan, and

''(B) are of a nonrecurring nature.

''(2) QUALIFIED PENSION PLAN.—The term 'qualified pension plan' means—

''(A) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a), or

''(B) a simplified employee pension (as defined in section 408(k)).

''(c) ELIGIBLE EMPLOYER.—For purposes of this section—

''(1) IN GENERAL.—The term 'eligible employer' means an employer which—

''(A) had an average daily number of employees during the preceding taxable year not in excess of 50, and

''(B) did not make any contributions on behalf of any employee to a qualified pension plan during the 2 taxable years immediately preceding the taxable year.

''(2) PROFESSIONAL SERVICE EMPLOYERS EXCLUDED.—Such term shall not include an employer substantially all of the activities of

which involve the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting.

''(d) SPECIAL RULES.—For purposes of this section—

''(1) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (n) or (o) of section 414 shall be treated as one person.

''(2) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowable under this chapter for any qualified start-up costs for which a credit is allowable under subsection (a).''

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d) is amended by adding at the end the following new paragraph:

''(7) NO CARRYBACK OF PENSION CREDIT.—No portion of the unused business credit for any taxable year which is attributable to the small employer pension plan start-up cost credit determined under section 45C may be carried back to a taxable year ending before the date of the enactment of section 45C.''

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45C. Small employer pension plan start-up cost credit.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to costs incurred after the date of the enactment of this Act in taxable years ending after such date.

SEC. 302. MODIFICATIONS OF SIMPLIFIED EMPLOYEE PENSIONS.

(a) INCREASE IN NUMBER OF ALLOWABLE PARTICIPANTS FOR SALARY REDUCTION ARRANGEMENTS.—Section 408(k)(6)(B) is amended by striking ''25'' each place it appears in the text and heading thereof and inserting ''100''.

(b) REPEAL OF PARTICIPATION REQUIREMENT.—

(1) IN GENERAL.—Section 408(k)(6)(A) is amended by striking clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(2) CONFORMING AMENDMENTS.—Clause (ii) of section 408(k)(6)(C) and clause (ii) of section 408(k)(6)(F) are each amended by striking ''subparagraph (A)(iii)'' and inserting ''subparagraph (A)(ii)''.

(c) ALTERNATIVE TEST.—Clause (ii) of section 408(k)(6)(A), as redesignated by subsection (b)(1), is amended by adding at the end the following new flush sentence:

''The requirements of the preceding sentence are met if the employer makes contributions to the simplified employee pension meeting the requirements of sections 401(k)(11) (B) or (C), 401(k)(11)(D), and 401(m)(10)(B).''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 303. EXEMPTION FROM TOP-HEAVY PLAN REQUIREMENTS.

(a) EXEMPTION FROM TOP-HEAVY PLAN REQUIREMENTS.—Section 416(g) (defining top-heavy plans) is amended by adding at the end the following new paragraph:

''(3) EXEMPTION FOR CERTAIN PLANS.—A plan shall not be treated as a top-heavy plan if, for such plan year, the employer has no highly compensated employees (as defined in section 414(q)) by reason of section 414(q)(2).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1995.

SEC. 304. TAX-EXEMPT ORGANIZATIONS ELIGIBLE UNDER SECTION 401(k).

(a) GENERAL RULE.—Clause (ii) of section 401(k)(4)(B) is amended to read as follows:

''(ii) any organization described in section 501(c)(3) which is exempt from tax under section 501(a).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after December 31, 1995, but shall not apply to any cash or deferred arrangement to which clause (i) of section 1116(f)(2)(B) of the Tax Reform Act of 1986 applies.

SEC. 305. REGULATORY TREATMENT OF SMALL EMPLOYERS.

(a) IN GENERAL.—Section 7805(f) (relating to review of impact of regulations on small business) is amended by adding at the end the following new subparagraph:

''(4) SPECIAL RULE FOR PENSION REGULATIONS.—

''(A) IN GENERAL.—Any regulation proposed to be issued by the Secretary which relates to qualified pension plans shall not take effect unless the Secretary includes provisions to address any special needs of the small employers.

''(B) QUALIFIED PENSION PLAN.—For purposes of this paragraph, the term 'qualified pension plan' means—

''(i) any plan which includes a trust described in section 401(a) which is exempt from tax under section 501(a), or

''(ii) any simplified employee pension (as defined in section 408(k)).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to regulations issued after the date of the enactment of this Act.

TITLE IV—PAPERWORK REDUCTION

SEC. 401. REPEAL OF COMBINED SECTION 415 LIMIT.

(a) IN GENERAL.—Section 415(e) (relating to limitation in case of defined benefit plan and defined contribution plan for same employee) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 415(b)(5) is amended by striking ''and subsection (e)''.

(2) Section 415(f)(1) is amended by striking '', (c), and (e)'' and inserting ''and (c)''.

(3) Section 415(g) is amended by striking ''subsections (e) and (f)'' and inserting ''subsection (f)''.

(4) Section 415(k)(2)(A) is amended—

(A) by striking clause (i) and inserting:

''(i) any contribution made directly by an employee under such arrangement shall not be treated as an annual addition for purposes of subsection (c), and'', and

(B) by striking ''subsections (c) and (e)'' in clause (ii) and inserting ''subsection (c)''.

(5) Section 416(h) is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 402. DUTIES OF SPONSORS OF CERTAIN PROTOTYPE PLANS.

(a) IN GENERAL.—The Secretary of the Treasury may, as a condition of sponsorship, prescribe rules defining the duties and responsibilities of sponsors of master and prototype plans, regional prototype plans, and other Internal Revenue Service preapproved plans.

(b) DUTIES RELATING TO PLAN AMENDMENT, NOTIFICATION OF ADOPTERS, AND PLAN ADMINISTRATION.—The duties and responsibilities referred to in subsection (a) may include—

(1) the maintenance of lists of persons adopting the sponsor's plans, including the updating of such lists not less frequently than annually,

(2) the furnishing of notices at least annually to such persons and to the Secretary or the Secretary's delegate, in such form and at such time as the Secretary shall prescribe,

(3) duties relating to administrative services to such persons in the operation of their plans, and

(4) other duties that the Secretary considers necessary to ensure that—

(A) the master and prototype, regional prototype, and other preapproved plans of adopting employers are timely amended to meet the requirements of the Internal Revenue Code of 1986 or of any rule or regulation of the Secretary, and

(B) adopting employers receive timely notification of amendments and other actions taken by sponsors with respect to their plans.

TITLE V—MISCELLANEOUS SIMPLIFICATION

SEC. 501. TREATMENT OF LEASED EMPLOYEES.

(a) GENERAL RULE.—Subparagraph (C) of section 414(n)(2) (defining leased employee) is amended to read as follows:

''(C) such services are performed under significant direction or control by the recipient.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1995, but shall not apply to any relationship determined under an Internal Revenue Service ruling issued before the date of the enactment of this Act pursuant to section 414(n)(2)(C) of the Internal Revenue Code of 1986 (as in effect on the day before such date) not to involve a leased employee.

SEC. 502. PLANS COVERING SELF-EMPLOYED INDIVIDUALS.

(a) AGGREGATION RULES.—Section 401(d) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended to read as follows:

''(d) CONTRIBUTION LIMIT ON OWNER-EMPLOYEES.—A trust forming part of a pension or profit-sharing plan which provides contributions or benefits for employees some or all of whom are owner-employees shall constitute a qualified trust under this section only if, in addition to meeting the requirements of subsection (a), the plan provides that contributions on behalf of any owner-employee may be made only with respect to the earned income of such owner-employee which is derived from the trade or business with respect to which such plan is established.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 503. ELIMINATION OF SPECIAL VESTING RULE FOR MULTIEMPLOYER PLANS.

(a) IN GENERAL.—Paragraph (2) of section 411(a) (relating to minimum vesting standards) is amended—

(1) by striking ''subparagraph (A), (B), or (C)'' and inserting ''subparagraph (A) or (B)''; and

(2) by striking subparagraph (C).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after the earlier of—

(1) the later of—

(A) January 1, 1996, or

(B) the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 1998.

Such amendments shall not apply to any individual who does not have more than 1 hour of service under the plan on or after the 1st day of the 1st plan year to which such amendments apply.

SEC. 504. FULL-FUNDING LIMITATION OF MULTIEMPLOYER PLANS.

(a) FULL-FUNDING LIMITATION.—Section 412(c)(7)(C) (relating to full-funding limitation) is amended—

(1) by inserting ''or in the case of a multiemployer plan,'' after ''paragraph (6)(B),'', and

(2) by inserting ''AND MULTIEMPLOYER PLANS'' after ''PARAGRAPH (6)(B)'' in the heading thereof.

(b) VALUATION.—Section 412(c)(9) is amended—

(1) by inserting ''(3 years in the case of a multiemployer plan)'' after ''year'', and

(2) by striking ''ANNUAL VALUATION'' in the heading and inserting ''VALUATION''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 505. ALTERNATIVE FULL-FUNDING LIMITATION.

(a) IN GENERAL.—Subsection (c) of section 412 (relating to minimum funding standards) is amended by redesignating paragraphs (8) through (12) as paragraphs (9) through (13), respectively, and by adding after paragraph (7) the following new paragraph:

''(8) ALTERNATIVE FULL-FUNDING LIMITATION.—

''(A) GENERAL RULE.—An employer may elect the full-funding limitation under this paragraph with respect to any defined benefit plan of the employer in lieu of the full-funding limitation determined under paragraph (7) if the requirements of subparagraphs (C) and (D) are met.

''(B) ALTERNATIVE FULL-FUNDING LIMITATION.—The full-funding limitation under this paragraph is the full-funding limitation determined under paragraph (7) without regard to subparagraph (A)(i)(I) thereof.

''(C) REQUIREMENTS RELATING TO PLAN ELIGIBILITY.—

''(i) IN GENERAL.—The requirements of this subparagraph are met with respect to a defined benefit plan if—

''(I) as of the 1st day of the election period, the average accrued liability of participants accruing benefits under the plan for the 5 immediately preceding plan years is at least 80 percent of the plan's total accrued liability,

''(II) the plan is not a top-heavy plan (as defined in section 416(g)) for the 1st plan year of the election period or either of the 2 preceding plan years, and

''(III) each defined benefit plan of the employer (and each defined benefit plan of each employer who is a member of any controlled group which includes such employer) meets the requirements of subclauses (I) and (II).

''(ii) FAILURE TO CONTINUE TO MEET REQUIREMENTS.—

''(I) If any plan fails to meet the requirement of clause (i)(I) for any plan year during an election period, the benefits of the election under this paragraph shall be phased out under regulations prescribed by the Secretary.

''(II) If any plan fails to meet the requirement of clause (i)(II) for any plan year during an election period, such plan shall be treated as not meeting the requirements of clause (i) for the remainder of the election period.

If there is a failure described in subclause (I) or (II) with respect to any plan, such plan (and each plan described in clause (i)(III) with respect to such plan) shall be treated as not meeting the requirements of clause (i) for any of the 10 plan years beginning after the election period.

''(D) REQUIREMENTS RELATING TO ELECTION.—The requirements of this subparagraph are met with respect to an election if—

''(i) FILING DATE.—Notice of such election is filed with the Secretary (in such form and manner and containing such information as the Secretary may provide) by January 1 of any calendar year, and is effective as of the 1st day of the election period beginning on or after January 1 of the following calendar year.

''(ii) CONSISTENT ELECTION.—Such an election is made for all defined benefit plans maintained by the employer or by any member of a controlled group which includes the employer.

''(E) TERM OF ELECTION.—Any election made under this paragraph shall apply for the election period.

''(F) OTHER CONSEQUENCES OF ELECTION.—

''(i) NO FUNDING WAIVERS.—In the case of a plan with respect to which an election is made under this paragraph, no waiver may be granted under subsection (d) for any plan year beginning after the date the election was made and ending at the close of the election period with respect thereto.

''(ii) FAILURE TO MAKE SUCCESSIVE ELECTIONS.—If an election is made under this paragraph with respect to any plan and such an election does not apply for each successive plan year of such plan, such plan shall be treated as not meeting the requirements of subparagraph (C) for the period of 10 plan years beginning after the close of the last election period for such plan.

''(G) DEFINITIONS.—For purposes of this paragraph—

''(i) ELECTION PERIOD.—The term 'election period' means the period of 5 consecutive plan years beginning with the 1st plan year for which the election is made.

''(ii) CONTROLLED GROUP.—The term 'controlled group' means all persons who are treated as a single employer under subsection (b), (c), (m), or (o) of section 414.''

(b) ALTERATION OF DISCRETIONARY REGULATORY AUTHORITY.—Subparagraph (D) of section 412(c)(7) is amended by striking ''provide—'' and all that follows through ''(iii) for'' and inserting ''provide for''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1997.

(2) TRANSITION PERIOD.—In the case of a plan with respect to which a transition period election is made under section 412(c)(8)(D)(ii) of the Internal Revenue Code of 1986 (as added by this section), the amendments made by this section shall take effect on July 1, 1996.

SEC. 506. AFFILIATED EMPLOYERS.

(a) IN GENERAL.—For purposes of Treasury Regulations section 1.501(c)(9)–2(a)(1), a group of employers shall be deemed to be affiliated if they are substantially all section 501(c)(12) organizations which perform services (or with respect to which their members perform services) which are the same or are directly related to each other.

(b) SECTION 501(c)(12) ORGANIZATION.—For purposes of this section, the term ''section 501(c)(12) organization'' means—

(1) any organization described in section 501(c)(12) of the Internal Revenue Code of 1986,

(2) any organization providing a service which is the same as a service which is (or could be) provided by an organization described in paragraph (1),

(3) any organization described in paragraph (4) or (6) of section 501(c) of such Code, but only if at least 80 percent of the members of the organization are organizations described in paragraph (1) or (2), and

(4) any organization which is a national association of organizations described in paragraph (1), (2), or (3).

An organization described in paragraph (2) (but not in paragraph (1)) shall not be treated as a section 501(c)(12) organization with respect to a voluntary employees' beneficiary association unless a substantial number of employers maintaining such association are described in paragraph (1).

(c) EFFECTIVE DATE.—The provisions of this section shall apply to years beginning after December 31, 1995.

SEC. 507. TREATMENT OF GOVERNMENTAL PLANS UNDER SECTION 415.

(a) COMPENSATION LIMIT.—Subsection (b) of section 415 is amended by adding immediately after paragraph (10) the following new paragraph:

''(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL PLANS.—In the case of a governmental plan (as defined in section 414(d)), subparagraph (B) of paragraph (1) shall not apply.''

(b) TREATMENT OF CERTAIN EXCESS BENEFIT PLANS.—

(1) IN GENERAL.—Section 415 is amended by adding at the end the following new subsection:

''(m) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—

''(1) GOVERNMENTAL PLAN NOT AFFECTED.—In determining whether a governmental plan (as defined in section 414(d)) meets the requirements of this section, benefits provided under a qualified governmental excess benefit arrangement shall not be taken into account. Income accruing to a governmental plan (or to a trust that is maintained solely for the purpose of providing benefits under a qualified governmental excess benefit arrangement) in respect of a qualified governmental excess benefit arrangement shall constitute income derived from the exercise of an essential governmental function upon which such governmental plan (or trust) shall be exempt from tax under section 115.

''(2) TAXATION OF PARTICIPANT.—For purposes of this chapter—

''(A) the taxable year or years for which amounts in respect of a qualified governmental excess benefit arrangement are includible in gross income by a participant, and

''(B) the treatment of such amounts when so includible by the participant,

shall be determined as if such qualified governmental excess benefit arrangement were treated as a plan for the deferral of compensation which is maintained by a corporation not exempt from tax under this chapter and which does not meet the requirements for qualification under section 401.

''(3) QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENT.—For purposes of this subsection, the term 'qualified governmental excess benefit arrangement' means a portion of a governmental plan if—

''(A) such portion is maintained solely for the purpose of providing to participants in the plan that part of the participant's annual benefit otherwise payable under the terms of the plan that exceeds the limitations on benefits imposed by this section,

''(B) under such portion no election is provided at any time to the participant (directly or indirectly) to defer compensation, and

''(C) benefits described in subparagraph (A) are not paid from a trust forming a part of such governmental plan unless such trust is maintained solely for the purpose of providing such benefits.''

(2) COORDINATION WITH SECTION 457.—Subsection (e) of section 457 is amended by adding at the end the following new paragraph:

''(14) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—Subsections (b)(2) and (c)(1) shall not apply to any qualified governmental excess benefit arrangement (as defined in section 415(m)(3)), and benefits provided under such an arrangement shall not be taken into account in determining whether any other plan is an eligible deferred compensation plan.''

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 457(f) is amended by striking the word ''and'' at the end of subparagraph (C), by striking the period after subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) a qualified governmental excess benefit arrangement described in section 415(m).''

(c) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS.—Paragraph (2) of section 415(b) is amended by adding at the end the following new subparagraph:

''(I) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS PROVIDED UNDER GOVERNMENTAL PLANS.—Subparagraph (B) of paragraph (1), subparagraph (C) of this paragraph, and paragraph (5) shall not apply to—

''(i) income received from a governmental plan (as defined in section 414(d)) as a pension, annuity, or similar allowance as the result of the recipient becoming disabled by reason of personal injuries or sickness, or

''(ii) amounts received from a governmental plan by the beneficiaries, survivors, or the estate of an employee as the result of the death of the employee.''

(d) REVOCATION OF GRANDFATHER ELECTION.—

(1) IN GENERAL.—Subparagraph (C) of section 415(b)(10) is amended by adding at the end the following new clause:

''(ii) REVOCATION OF ELECTION.—An election under clause (i) may be revoked not later than the last day of the third plan year beginning after the date of the enactment of this clause. The revocation shall apply to all plan years to which the election applied and to all subsequent plan years. Any amount paid by a plan in a taxable year ending after the revocation shall be includible in income in such taxable year under the rules of this chapter in effect for such taxable year, except that, for purposes of applying the limitations imposed by this section, any portion of such amount which is attributable to any taxable year during which the election was in effect shall be treated as received in such taxable year.''

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 415(b)(10) is amended by striking ''This'' and inserting:

''(i) IN GENERAL.—This''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), (c), and (d) shall apply to taxable years beginning on or after the date of the enactment of this Act. The amendments made by subsection (e) shall apply with respect to revocations adopted after the date of the enactment of this Act.

(2) TREATMENT FOR YEARS BEGINNING BEFORE DATE OF ENACTMENT.—A governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) shall be treated as satisfying the requirements of section 415 of such Code for all taxable years beginning before the date of the enactment of this Act.

SEC. 508. TREATMENT OF DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.

(a) SPECIAL RULES FOR PLAN DISTRIBUTIONS.—Paragraph (9) of section 457(e) (relating to other definitions and special rules) is amended to read as follows:

''(9) BENEFITS NOT TREATED AS MADE AVAILABLE BY REASON OF CERTAIN ELECTIONS, ETC.—

''(A) TOTAL AMOUNT PAYABLE IS $3,500 OR LESS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to receive such amount (or the plan may distribute such amount without the participant's consent) if—

''(i) such amount does not exceed $3,500, and

''(ii) such amount may be distributed only if—

''(I) no amount has been deferred under the plan with respect to such participant during the 2-year period ending on the date of the distribution, and

''(II) there has been no prior distribution under the plan to such participant to which this subparagraph applied.

A plan shall not be treated as failing to meet the distribution requirements of subsection (d) by reason of a distribution to which this subparagraph applies.

''(B) ELECTION TO DEFER COMMENCEMENT OF DISTRIBUTIONS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to defer commencement of distributions under the plan if—

''(i) such election is made after amounts may be available under the plan in accordance with subsection (d)(1)(A) and before commencement of such distributions, and

''(ii) the participant may make only 1 such election.''

(b) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—Subsection (e) of section 457, as amended by section 507(c)(2), is amended by adding at the end the following new paragraph:

''(15) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—The Secretary shall adjust the $7,500 amount specified in subsections (b)(2) and (c)(1) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter beginning October 1, 1994.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 509. CONTRIBUTIONS ON BEHALF OF DISABLED EMPLOYEES.

(a) ALL DISABLED PARTICIPANTS RECEIVING CONTRIBUTIONS.—Section 415(c)(3)(C) is amended by adding at the end the following: ''If a defined contribution plan provides for the continuation of contributions on behalf of all participants described in clause (i) for a fixed or determinable period, this subparagraph shall be applied without regard to clauses (ii) and (iii).''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 510. DISTRIBUTIONS UNDER RURAL COOPERATIVE PLANS.

(a) DISTRIBUTIONS FOR HARDSHIP OR AFTER A CERTAIN AGE.—Section 401(k)(7) is amended by adding at the end the following new subparagraph:

''(C) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—A rural cooperative plan which includes a qualified cash or deferred arrangement shall not be treated as violating the requirements of section 401(a) or of paragraph (2) merely by reason of a hardship distribution or a distribution to a participant after attainment of age 59½. For purposes of this section, the term 'hardship distribution' means a distribution described in paragraph (2)(B)(i)(IV) (without regard to the limit of its application to profit-sharing or stock bonus plans).''

(b) DEFINITION OF RURAL COOPERATIVE PLANS.—

(1) PUBLIC UTILITY DISTRICTS.—Clause (i) of section 401(k)(7)(B) (defining rural cooperative) is amended to read as follows:

''(i) any organization which—

''(I) is engaged primarily in providing electric service on a mutual or cooperative basis, or

''(II) is engaged primarily in providing electric service to the public in its area of service and which is exempt from tax under this subtitle or which is a State or local government (or an agency or instrumentality thereof), other than a municipality (or an agency or instrumentality thereof).''

(2) RELATED ORGANIZATIONS.—Subparagraph (B) of section 401(k)(7), as amended by paragraph (1), is amended by striking clause (iv) and inserting the following new clauses:

''(iv) an organization which is a national association of organizations described in any other clause of this subparagraph, or

''(v) any other organization which provides services which are related to the activities or operations of an organization described in clause (i), (ii), (iii), or (iv), but only in the case of a plan with respect to which substantially all of the organizations maintaining it are described in clause (i), (ii), (iii), or (iv).''

(c) EFFECTIVE DATES.—

(1) DISTRIBUTIONS.—The amendments made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) RURAL COOPERATIVE.—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 1984.

SEC. 511. SPECIAL RULES FOR PLANS COVERING PILOTS.

(a) GENERAL RULE.—

(1) Subparagraph (B) of section 410(b)(3) is amended to read as follows:

''(B) in the case of a plan established or maintained by one or more employers to provide contributions or benefits for air pilots employed by one or more common carriers engaged in interstate or foreign commerce or air pilots employed by carriers transporting mail for or under contract with the United States Government, all employees who are not air pilots.''

(2) Paragraph (3) of section 410(b) is amended by striking the last sentence and inserting the following new sentence: ''Subparagraph (B) shall not apply in the case of a plan which provides contributions or benefits for employees who are not air pilots or for air pilots whose principal duties are not customarily performed aboard aircraft in flight.''

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to years beginning after December 31, 1995.

SEC. 512. TENURED FACULTY.

(a) IN GENERAL.—Section 457(e)(11) is amended by inserting ''eligible faculty voluntary retirement incentive pay,'' after ''disability pay,''.

(b) DEFINITION.—Section 457(e), as amended by sections 507(c)(2) and 508(b), is amended by adding at the end the following new paragraph:

''(16) DEFINITION OF ELIGIBLE FACULTY VOLUNTARY RETIREMENT INCENTIVE PAY.—For purposes of this section, the term 'eligible faculty voluntary retirement incentive pay' means payments under a plan established for employees serving under contracts of unlimited tenure (or similar arrangements providing for unlimited tenure) at an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) which—

''(A) provides—

''(i) payment to employees electing to retire during a specified period of time of limited duration, or

''(ii) payment to employees who elect to retire prior to normal retirement age,

''(B) provides that the total amount of payments to an employee does not exceed the equivalent of twice the employee's annual compensation (within the meaning of section 415(c)(3)) during the year immediately preceding the employee's termination of service, and

''(C) provides that all payments to an employee must be completed within 5 years after the employee's termination of service.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 513. UNIFORM RETIREMENT AGE.

(a) DISCRIMINATION TESTING.—Paragraph (5) of section 401(a) (relating to special rules relating to nondiscrimination requirements) is amended by adding at the end the following new subparagraph:

''(F) SOCIAL SECURITY RETIREMENT AGE.—For purposes of testing for discrimination under paragraph (4)—

''(i) the social security retirement age (as defined in section 415(b)(8)) shall be treated as a uniform retirement age, and

''(ii) subsidized early retirement benefits and joint and survivor annuities shall not be treated as being unavailable to employees on the same terms merely because such benefits or annuities are based in whole or in part on an employee's social security retirement age (as so defined).''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 514. UNIFORM PENALTY PROVISIONS TO APPLY TO CERTAIN PENSION REPORTING REQUIREMENTS.

(a) IN GENERAL.—

(1) Paragraph (1) of section 6724(d) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by inserting after subparagraph (B) the following new subparagraph:

''(C) any statement of the amount of payments to another person required to be made to the Secretary under—

''(i) section 408(i) (relating to reports with respect to individual retirement accounts or annuities), or

''(ii) section 6047(d) (relating to reports by employers, plan administrators, etc.).''

(2) Paragraph (2) of section 6724(d) is amended by striking ''or'' at the end of subparagraph (S), by striking the period at the end of subparagraph (T) and inserting a comma, and by inserting after subparagraph (T) the following new subparagraphs:

''(U) section 408(i) (relating to reports with respect to individual retirement plans) to any person other than the Secretary with respect to the amount of payments made to such person, or

''(V) section 6047(d) (relating to reports by plan administrators) to any person other than the Secretary with respect to the amount of payments made to such person.''

(b) MODIFICATION OF REPORTABLE DESIGNATED DISTRIBUTIONS.—

(1) SECTION 408.—Subsection (i) of section 408 (relating to individual retirement account reports) is amended by inserting ''aggregating $10 or more in any calendar year'' after ''distributions''.

(2) SECTION 6047.—Paragraph (1) of section 6047(d) (relating to reports by employers, plan administrators, etc.) is amended by adding at the end thereof the following new sentence: ''No return or report may be required under the preceding sentence with respect to distributions to any person during any year unless such distributions aggregate $10 or more.''

(c) QUALIFYING ROLLOVER DISTRIBUTIONS.—Section 6652(i) is amended—

(1) by striking ''the $10'' and inserting ''$100'', and

(2) by striking ''$5,000'' and inserting ''$50,000''.

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6047(f) is amended to read as follows:

''(1) For provisions relating to penalties for failures to file returns and reports required under this section, see sections 6652(e), 6721, and 6722.''

(2) Subsection (e) of section 6652 is amended by adding at the end the following new sentence: ''This subsection shall not apply to any return or statement which is an information return described in section 6724(d)(1)(C)(ii) or a payee statement described in section 6724(d)(2)(V).''

(3) Subsection (a) of section 6693 is amended by adding at the end the following new sentence: ''This subsection shall not apply to any report which is an information return described in section 6724(d)(1)(C)(i) or a payee statement described in section 6724(d)(2)(U).''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to returns, reports, and other statements the due date for which (determined without regard to extensions) is after December 31, 1995.

SEC. 515. NATIONAL COMMISSION ON PRIVATE PENSION PLANS.

(a) IN GENERAL.—Chapter 77 is amended by adding at the end the following new section:

''SEC. 7524. NATIONAL COMMISSION ON PRIVATE PENSION PLANS.

''(a) ESTABLISHMENT.—There is hereby established a commission to be known as the National Commission on Private Pension Plans (in this section referred to as the 'Commission').

''(b) MEMBERSHIP.—

''(1) The Commission shall consist of—

''(A) 6 members to be appointed by the President;

''(B) 6 members to be appointed by the Speaker of the House of Representatives; and

''(C) 6 members to be appointed by the Majority Leader of the Senate.

''(2) The appointments made pursuant to subparagraphs (B) and (C) of paragraph (1) shall be made in consultation with the chairmen of the committees of the House of Representatives and the Senate, respectively, having jurisdiction over relevant Federal pension programs.

''(c) DUTIES AND FUNCTIONS OF COMMISSION; PUBLIC HEARINGS IN DIFFERENT GEOGRAPHICAL AREAS; BROAD SPECTRUM OF WITNESSES AND TESTIMONY.—

''(1) It shall be the duty and function of the Commission to conduct the studies and issue the report required by subsection (d).

''(2) The Commission (and any committees that it may form) may conduct public hearings in order to receive the views of a broad spectrum of the public on the status of the Nation's private retirement system.

''(d) REPORT TO THE PRESIDENT AND CONGRESS; RECOMMENDATIONS.—The Commission shall submit to the President, to the Majority Leader and the Minority Leader of the Senate, and to the Majority Leader and the Minority Leader of the House of Representatives a report no later than September 1, 1996, reviewing existing Federal incentives and programs that encourage and protect private retirement savings. The final report shall also set forth recommendations where appropriate for increasing the level and security of private retirement savings.

''(e) TIME OF APPOINTMENT OF MEMBERS; VACANCIES; ELECTION OF CHAIRMAN; QUORUM; CALLING OF MEETINGS; NUMBER OF MEETINGS; VOTING; COMPENSATION AND EXPENSES.—

''(1)(A) Members of the Commission shall be appointed for terms ending on September 1, 1996.

''(B) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the vacant position was first filled.

''(2) The Commission shall elect 1 of its members to serve as Chairman of the Commission.

''(3) A majority of the members of the Commission shall constitute a quorum for the transaction of business.

''(4) The Commission shall meet at the call of the Chairman.

''(5) Decisions of the Commission shall be according to the vote of a simple majority of those present and voting at a properly called meeting.

''(6) Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

''(f) EXECUTIVE DIRECTOR AND ADDITIONAL PERSONNEL; APPOINTMENT AND COMPENSATION; CONSULTANTS.—

''(1) The Commission shall appoint an Executive Director of the Commission. In addition to the Executive Director, the Commission may appoint and fix the compensation of such personnel as it deems advisable. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

''(2) The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

''(g) TIME AND PLACE OF HEARINGS AND NATURE OF TESTIMONY AUTHORIZED.—In carrying out its duties, the Commission, or any duly organized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters for which it has a responsibility under this section, as the Commission or committee may deem advisable.

''(h) DATA AND INFORMATION FROM OTHER AGENCIES AND DEPARTMENTS.—

''(1) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to carry out its responsibilities.

''(2) Upon request of the Commission, any such department or agency shall furnish any such data or information.

''(i) SUPPORT SERVICES BY GENERAL SERVICES ADMINISTRATION.—The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1995 and 1996, such sums as may be necessary to carry out this section.

''(k) DONATIONS ACCEPTED AND DEPOSITED IN TREASURY IN SEPARATE FUND; EXPENDITURES.—

''(1) The Commission is authorized to accept donations of money, property, or personal services. Funds received from donations shall be deposited in the Treasury in a separate fund created for this purpose. Funds appropriated for the Commission and donated funds may be expended for such purposes as official reception and representation expenses, public surveys, public service announcements, preparation of special papers, analyses, and documentaries, and for such other purposes as determined by the Commission to be in furtherance of its mission to review national issues affecting private pension plans.

''(2) Expenditures of appropriated and donated funds shall be subject to such rules and regulations as may be adopted by the Commission and shall not be subject to Federal procurement requirements.

''(l) PUBLIC SURVEYS.—The Commission is authorized to conduct such public surveys as it deems necessary in support of its review of national issues affecting private pension plans and, in conducting such surveys, the Commission shall not be deemed to be an ''agency'' for the purpose of section 3502 of title 44, United States Code.''

(b) CONFORMING AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

''Sec. 7524. National Commission on Private Pension Plans.''

SEC. 516. DATE FOR ADOPTION OF PLAN AMENDMENTS.

If any amendment made by this Act requires an amendment to any plan, such plan amendment shall not be required to be made before the first day of the first plan year beginning on or after January 1, 1997, if—

(1) during the period after such amendment takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment, and

(2) such plan amendment applies retroactively to such period.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), this section shall be applied by substituting ''1999'' for ''1997''.

PENSION SIMPLIFICATION ACT OF 1995

The Pension Simplification Act will provide greater access to our private pension system by reducing the costs of providing pension benefits. The Act achieves this result by eliminating many of the unnecessary complexities in the Tax Code. While the Act affects both large and small employers, special provisions target small business where sponsorship of a plan by an employer, and employee participation, is historically very low.

1. Simplification of the Definition of ''Highly Compensated Employee''. Current law requires an employer to identify HCEs using a 7-part test in order to ensure that HCEs do not disproportionately benefit under the plan. The bill proposes a simpler 3-part test to achieve this goal. Under the proposal, an employee is an HCE if the employee (1) was a 5-percent owner at any time during the year or preceding year, (2) has compensation for the preceding year in excess of $80,000 (indexed), or (3) was the highest-paid officer during the year (see #10 below which provides an exception to this rule for certain small businesses).

2. Repeal of the Family Aggregation Rules. The family aggregation rules greatly complicate the application of the nondiscrimination tests, particularly for family-owned or operated businesses, and may unfairly reduce retirement benefits for the family members who are not HCEs. The bill eliminates the rule that requires certain HCEs and their family members to be treated as a single employee.

3. Simplify the Definition of ''Compensation'' under Section 415. The general limit on a participant's annual contributions is based on that individuals's taxable compensation. The result is that pre-tax employee contributions (e.g., to cafeteria plans) reduce the participant's taxable compensation, and in turn, their section 415 contribution limit. This rule makes it difficult to communicate in advance the section 415 limit and it leads to many inadvertent violations. Under the bill, pre-tax employee contributions would be counted as compensation under section 415.

4. Exempt Defined Contribution Plans from the Minimum Participation Rule. Every qualified plan currently must cover at least 50 employee or, in smaller companies, 40% of all employees of the employer. This rule is intended to prevent the use of individual defined benefit plans to give high paid employees better benefits than those provided to others under a separate plan. Because the abuses addressed by the rule are unlikely to arise in the context of defined contribution plans, the rule adds unnecessary administrative burden and complexity for defined contribution plans; therefore, the bill repeals the rule for these plans.

5. Section 401(k) Safe Harbor. Current law requires complicated, annual comparisons between the level of contributions to 401(k) plans made by HCEs and non-highly compensated employees. First, the Act will eliminate end-of-year adjustments caused by employee population changes during the year by providing a rule that the maximum contribution for HCEs is determined by reference to NHCEs for the preceding, rather than the current year. Second, the bill provides two 401(k) plan designs which if offered by the employer, will qualify the employer for a special safe harbor, thus eliminating the need to do several annual, complex discrimination tests that apply to traditional plans.

6. Simplify Taxation of Annuity Distributions. A simplified method for determining the nontaxable portion of an annuity payment, similar to the current simplified alternative, would become the required method. Taxpayers would no longer be compelled to do calculations under multiple methods in order to determine the most advantageous approach. Under the simplified method, the portion of an annuity payment that would be nontaxable is generally equal to the employees's total after-tax contributions, divided by the number of anticipated payments listed in a table (based on the employee's age as of the annuity starting date).

7. Repeal Rule Requiring Employer Plans to Commence Minimum Distributions before Retirement. The Act repeals the current law rule requiring distribution of benefits after a participant reaches age 70½, even if he or she does not retire. However, the current law rule will continue to apply to 5% owners.

8. Eliminate the Section 415(e) Combined Plan Limit. Section 415(e) applies an overall limit on benefits and contributions with respect to an individual who participates in both a defined contribution plan and defined benefit plan maintained by the same employer. These rules are extremely complicated, and very burdensome to administer because they require maintaining compensation and contribution records for *all* employees for *all* years of service. Further, the test is duplicative in that there are other provisions in the Code which safeguard against an individual accruing excessive retirement benefits on a tax-favored basis.

9. Repeal 5-year Income Averaging for Lump-Sum Distributions. The bill repeals the special rule that allows a plan participant to calculate the current year tax on a lump-sum pension distribution as if the amount were received over a 5-year period. This special rule, designed to prevent unfair ''bunching'' of income, is no longer needed because of liberalized rollover rules enacted in 1992 (originally part of the Pension Simplification Act) which allow for partial distributions from a plan.

10. Targeting Small Business. Retirement plan coverage among employees of small employers is dismally low. The cost of establishing a retirement plan is, in a significant way, disproportionately high for small employers. The following provisions will help to alleviate these barriers:

Tax Credit for Start-Up Costs. Employers with less than 50 employees that have not maintained a qualified retirement plan at any time during the immediately preceding two years, would be eligible for an income tax credit (up to $1000) equal to the cost of establishing a qualified plan.

Elimination of the One-High-Paid Officer Rule. The highest paid officer of an employer is considered an HCE under current law. This rule is unfair for small employers with low-wage workforces. For example, the highest paid officer of a small employer may earn an amount less than $66,000 yet that employee must be treated as highly compensated. The result is that the nondiscrimination rules severely limit his or her benefits. Thus many small employers decide not to offer plans. The bill provides that no owners or employees would be treated as highly compensated unless they received compensation in excess of $80,000.

Salary Reduction Simplified Employee Pensions (SEPs). The Act adds the two design-based safe harbors, discussed in #5 above, as methods of satisfying the nondiscrimination requirements for SEPs. Further, the Act provides that SEPs may be established by employers with 100 or fewer employees, instead of current law (25 or fewer employees), and the Act repeals the requirement that at least half of eligible employees actually participate in a salary reduction SEP.

Exemption from Top Heavy Plan Requirements. Under the Act, if no employee makes over $80,000 (indexed) in the preceding year, the top heavy plan requirements do not apply for that year.

11. Permit Tax Exempt Organizations to Maintain 401(k) Plans. Except for certain plans established before July 2, 1986, an organization exempt from income tax is not allowed to maintain a 401(k) plan. This rule prevents many tax-exempt organizations from offering their employees retirement benefits on a salary reduction basis. The bill provides that tax exempt organizations (except section 501(c)(3)s which may currently provide 403(b) plans) may provide 401(k) plans to their employees.

12. Leased Employees. Generally, the bill defines an employee as a ''leased employee'' of a service recipient only if the services are performed by the individual under the control of the recipient. This simplified ''control test'' replaces the complicated, 4-part ''historically performed test.''

13. Vesting for Multi-Employer Plans. The bill conforms vesting requirements for multi-employer plans to vesting requirements for all other qualified plans. Thus, the current law 10-year vesting rule for collectively bargained plans would be repealed and such plans would be required to comply with general vesting rules.

14. Full-Funding Limitations for Multi-Employer Plans. The bill simplifies the calculation of the full funding limitation for multi-employer plans, and requires actuarial valuations be performed at least every 3 years, instead of every year.

15. Alternative Full-Funding Limitation. current law provides a formula which limits pension contributions an employer may make to a plan, in order to prevent overfunding. The bill provides the Secretary of Treasury authority to allow employers some flexibility in determining the full-funding limitation.

16. Volunteer Employees' Beneficiary Association (VEBA). Current regulations require that employees eligible to participate in a VEBA share an employment-related common bond. The bill clarifies this requirement by specifying that an employment-related common bond includes employer affiliation where employers are in the same line of business; they act jointly to perform tasks that are integral to the activities of each of them; and that such joint activities are sufficiently extensive that the maintenance of a common VEBA is not a major part of such joint activities.

17. Government Plans. The limitations on contributions and benefits present special problems for plans maintained by State and local governments due to the special nature of the involvement and operation of such governments. The Act addresses these problems by providing (1) section 457 does not apply to excess benefit plans maintained by State or local governments, (2) the compensation limit on benefits under a defined benefit plan does not apply to plans maintained by a State or local government, and (3) the defined benefit pension plan limits do

not apply to certain disability and survivor benefits provided under State and local government plans.

Further, because of the unique characteristics of the State and local government employee plans, many long-tenured and relatively low-paid employees may be eligible to receive benefits in excess of their average compensation. Therefore, the Act provides that the current law 100% of compensation limit does not apply to plans maintained by State and local governments.

18. State and Local Government Deferred Compensation (Section 457) Plans. The Act makes 3 changes to Section 457 plan rules: (1) it indexes the dollar limit on deferrals; (2) it permits in-service distributions from accounts of less than $3,500 if there has been no amount deferred with respect to the account for 2 years and if there has been no prior distribution under this cash-out rule; and (3) it permits an additional election as to the time distributions must begin under the plan. These changes are designed to make Section 457 plan participants treated more like private plan participants.

19. Rural Cooperatives. Unlike all other section 401(k) plans, rural cooperative 401(k) plans are not permitted to make in-service distributions for hardship or after age 59½. The Act treats rural cooperative plans the same as all other 401(k) plans. The Act also clarifies the definition of a ''rural cooperative'' for purposes of determining eligibility to offer a 404(k) plan.

20. Rules for Plans Covering Pilots. The Act applies the same discrimination testing rules to pensions maintained for airland pilots, whether or not the plans are collectively-bargained. Thus, under the rules, employees who are not air pilots may be excluded from consideration in testing whether the plan satisfies the minimum coverage requirements.

21. Eligible Faculty Voluntary Retirement Incentive Plans. The Act modifies the ''risk of forfeiture'' rule governing the timing of tax liability to allow qualifying future payments under an eligible faculty voluntary retirement incentive plan to be taxes when received, as opposed to at the time the participant becomes entitled to them.

22. Uniform Retirement Act/Social Security Retirement Age. The bill recognizes that plans use age 65 as a ''normal retirement age'' in part because it is Social Security's ''normal retirement age.'' Because the ''normal retirement age'' is scheduled to increase under the Social Security law, the bill provides that for purposes of the general nondiscrimination rule, the Social Security retirement age is a uniform retirement age.

23. Blue-Ribbon Commission. The bill establishes a blue-ribbon commission which will identify the long-term goals for private retirement savings. The 18-member commission would consist of 6 members appointed by the President; 6 by the Speaker of the House; and 6 by the Senate Majority Leader.

Mr. PRYOR. Mr. President, this month I was extremely gratified when President Clinton unveiled his approach to simplify the pension rules. Many of the provisions in this legislation are also in this particular Pension Simplification Act of 1995 that I am introducing today and am joined with by my colleagues, Senators HATCH, BREAUX, and LEAHY.

I wish to thank our colleagues for helping us in this matter. I commend the President for focusing on this very important cause affecting small businesses throughout our country. I believe that by working together with our Republican colleagues on the other side of the aisle and with our President, all of us together this year can enact this legislation into law. Should we do this, small businesses across America would be extremely grateful. It is important that this legislation have support from both sides, Mr. President, and I am happy to have Senator HATCH, my fellow member of the Finance Committee, as a lead cosponsor on this bill. I wish to thank him for joining us, and I look forward to working with him on this very important legislation.

Mr. President, these new pension simplification provisions affecting small business have already been strongly endorsed by three important small business organizations:

The National Federation of Independent Business, the U.S. Chamber of Commerce, and the Small Business Council of America.

I ask unanimous consent that a copy of these letters of endorsement from these very distinguished organizations be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SMALL BUSINESS COUNCIL
OF AMERICA
Overland Park, KS.

Re Pension simplification bill.

Hon. DAVID PRYOR,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR PRYOR: The Small Business Council of America strongly endorses the new pension simplification legislation which will streamline the country's voluntary retirement plan system and encourage savings. We particularly appreciate the provisions that target the Nation's small businesses. There is no question that these provisions will give small businesses greater access to the retirement plan system than they have had over the last decade.

We have watched with approval your unceasing drive to revive the retirement plan system. Of particular importance to our members is the repeal of family aggregation, the institution of voluntary safe harbors for 401(k) plans and the tax credit for start up costs, the recognition that for many small businesses there is no such thing as a highly compensated employee, the return of 401(a)(26) to its original purpose and the repeal of the complicated 415(e) fraction. All of these changes, as well as others set forth in the bill, will dramatically improve the existing retirement plan system. By making the system user friendly, more small businesses will sponsor retirement plans. Easing administrative burdens will reduce the costs of maintaining retirement plans particularly for small businesses.

Retirement plans sponsored by small businesses operate under a stringent and excessively complicated statutory and regulatory system. These limitations and rules are now so complicated that the costs of sponsoring a retirement plan often outweigh the benefits that a small business can reasonably expect to obtain. By making the changes called for in this legislation, with a few additional changes, the costs incurred by small businesses sponsoring retirement plans will be brought back into line. The Small Business Council of America, with its technical expertise in the small business retirement plan area, believes that the changes contemplated by this legislation will significantly improve the country's voluntary retirement plan system.

Sincerely yours,

PAULA A. CALIMAFDE.

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
Washington, DC, June 27, 1995.

Hon. DAVID PRYOR,
U.S. Senate, Washington, DC.

DEAR SENATOR PRYOR: On behalf of the more than 600,000 members of the National Federation of Independent Business (NFIB), I wish to indicate our strong support for your legislation, The Pension Simplification Act of 1995.

NFIB believes that simplification of the regulations and reduction in the costs associated with retirement plans are of vital importance to American small business. Almost two-thirds of NFIB members strongly support pension simplification and the 1995 White House Conference on Small Business ranked pension simplification number seven out of sixty. Your legislation will increase the chances that small employers will set-up retirement plans, enabling their employees and themselves to provide for a secure retirement.

Three out of every four small businesses currently do not have retirement plans. Until small employers offer pension plans, many American workers will not be covered for their retirement outside of individual savings and Social Security.

An NFIB Education Foundation study revealed that one-third of small businesses which recently terminated their retirement plans, did so because of changing and complex regulations. Enabling small employers to implement a retirement plan without complex participation and non-discrimination rules as well as clarifying the definition of highly compensated employees will provide small employers with incentives to offer plans.

I also want to commend you for including a tax credit for small businesses equal to the cost of establishing a qualified retirement plan. And finally, NFIB supports your proposal to prohibit the IRS from issuing retirement plan regulations unless the regulation includes a section addressing the needs of small employers.

Small business owners purchase pensions coverage the same way they purchase other employee benefits. The lower the costs—in time, trouble and dollars—the more likely employers will participate. We look forward to working with you to achieve its passage.

Sincerely,

JACK FARIS,
Presdient.

CHAMBER OF COMMERCE
OF THE UNITED STATES OF AMERICA
Washington, DC, June 29, 1995.

Hon. DAVID H. PRYOR,
U.S. Senate, Washington, DC.

DEAR SENATOR PRYOR: On behalf of the U.S. Chamber of Commerce Federation of 215,000 businesses, 3,000 state and local chambers of commerce. 1,200 trade and professional associations, and 72 American Chambers of Commerce abroad, I commend you for introducing the ''Pension Simplification Act of 1995.''

The American business community is encouraged by your efforts to simplify the highly complex and overly burdensome private pension laws. We are especially pleased that many of the proposed changes in the legislation target small employers, providing incentives for small businesses to sponsor retirement plans.

As you know, the time has come to reverse the decade-old assault on private pensions,

and to enact sensible reform legislation that encourages employers to sponsor retirement plans for their employees. This legislation provides a solid framework for such reforms by making meaningful changes to many of the Internal Revenue Code provisions that currently hinder the private pension system. While the introduction of this legislation is a good start, there is much more that can and should be done to ensure that pension reform provides truly meaningful opportunities for increased savings through employer-sponsored pension plans.

The Chamber appreciates your leadership on this issue. We look forward to working with you and other members of Congress to ensure that the goals of simplifying our nation's pension laws and providing incentives for plan sponsorship are not lost as this legislation moves through Congress.

Sincerely,

R. BRUCE JOSTEN.

Mr. PRYOR. Mr. President, finally, in the coming days, I will be asking our colleagues to look closely at the Pension Simplification Act and join me in cosponsoring this effort. It is a bipartisan effort.

The bottom line is that it will increase retirement savings for workers in our country, especially those who work in small firms which, of course, is so critical to America's future.

Mr. HATCH. Mr. President, I am pleased to join with my distinguished colleague, Senator PRYOR, to introduce the Pension Simplification Act of 1995. I commend Senator PRYOR for the work he has done on this issue over the past few years.

I would also like to compliment President Clinton for his efforts in this area. We welcome the administration's suggestions on this issue.

Mr. President, simplification of this complex area of the tax law is long overdue. In 1974, the Employee Retirement Income Security Act [ERISA] was passed into law. The original intent of Congress for this act was, as the name implies, to provide security for private sector retirees. However, almost all of the laws and regulations governing private sector pensions that have been added since that time have had the completely opposite effect.

Since 1980, Congress has passed an average of one law per year affecting private sector pensions. As the rules and regulations governing pension plans have multiplied, defined benefit pension plans have become less and less attractive to employers, As a result, pension plan terminations have consistently outpaced the growth of new plans.

My colleague, Senator PRYOR, has tried to get Congress to act on pension simplification for the past 5 years. Meanwhile, an alarming number of pension plans have been terminated. Over the past 5 years, over 40,000 employee defined benefit plans have been terminated, affecting the retirement savings of more than 3 million Americans.

Pension regulation has directly affected the retirement security of millions of working Americans. The migration of employers away from defined benefit pension plans and toward defined contribution plans is a direct result of increased regulation. Employers prefer defined contribution plans because such plans are easier to administer and do not have the complex, burdensome rules that govern defined benefit plans. This movement away from defined benefit plans has effectively shifted the risks of the retirement plan investments from employers to employees.

At a time when the long-term adequacy of our Social Security Program is in question, we should be encouraging private sector retirement saving, not crippling pension plans with more and more regulation. The pension system provides a vital source of funding for the retirement needs of our nation's workforce. Over 41 million working Americans currently enrolled in private sector pension plans would directly benefit from pension simplification.

As unfortunate as the number of terminations of pension plans have been, Mr. President, the real tragedy of pension law complexity is at the small business level. Much of the burden of current pension law has fallen squarely on the shoulders of America's small businesses. Many small businesses simply cannot afford to establish pension plans for their employees.

Even if a small firm is able to establish a pension plan, current law throws up barriers to keeping the plan qualified for tax deferral treatment. Small businesses simply do not have the resources necessary to comply with all of the tests and antidiscrimination rules demanded by current law.

As a result of the heavy regulation of pension plans, lack of retirement plan sponsorship has left employees of small businesses out in the cold. Retirement plans are simply not an option for small employers because of the high cost to establish and administer them. In 1993, only 19 percent of employers with fewer than 25 employees sponsored a pension plan.

Thus, small businesses are placed at a competitive disadvantage to larger firms by our current pension law. Not only do the compliance costs take away from a small firm's profitability, but the firm's ability to attract high-quality employees is also impaired. Employees seeking retirement security prefer to work for a large company that can much more easily provide a pension plan over a small firm that cannot provide such security.

Mr. President, the Pension Simplification Act will provide relief to employers that are laboring under our outmoded and inflexible regulations to provide retirement plans for their employees. This act will restore flexibility to our pension laws and thus encourage employers, including small businesses, to offer and maintain retirement plans that are vital to the retirement security of our Nation's work force.

The Pension Simplification Act contains several provisions which will provide the relief that will result in retirement security for working Americans.

This bill introduces safe harbor rules for 401(k) plans that will help employers know whether or not their plans are qualified for tax-deferred treatment. The complex compliance tests required by current law will be eliminated.

A strong disincentive to offer defined benefit pension plans will be removed by simplifying the method for determining the nontaxable portion of annuity payments. Thus, employers would no longer have to make complex calculations to determine whether offering a defined benefit or a defined contribution plan is more advantageous.

The Pension Simplification Act also benefits State and local government pension plans by clarifying the application of the benefit limitation rules and by allowing these employers to establish 401(k)-type plans.

This bill also removes many of the burdens that small businesses face when trying to provide retirement programs for their employees. The Pension Simplification Act will make it easier for small businesses to provide retirement security for millions of Americans by providing a tax credit for starting a new pension plan. The bill also removes the complex discrimination rules for small employers and exempts small businesses from the minimum participation rules.

Mr. President, this bill targets a complex and confusing area of law. However, our goal is quite simple—increased retirement security for American workers.

The Pension Simplification Act is great bill, I urge my colleagues to join Senator PRYOR and me in supporting this important piece of legislation.

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

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

SECTION-BY-SECTION ANALYSIS OF THE PENSION SIMPLIFICATION ACT OF 1995

TITLE I—SIMPLIFICATION OF THE NONDISCRIMINATION PROVISIONS

Sec. 101. Definition of Highly Compensated Employee (HCE)

In general, under present law, an employee is treated as highly compensated with respect to a year if during the year or the preceding year the employee (1) was a 5-percent owner of the employer, (2) received more than $75,000 (indexed at $100,000 for 1995) in annual compensation from the employer, (3) received more than $50,000 (indexed at $66,000 for 1995) in annual compensation from the employer and was a member of the top 20 percent of employees by compensation, or (4) was an officer of the employer who received compensation greater than $45,000 (indexed at $60,000 for 1995). If, for any year, no officer has compensation in excess of $60,000, then the highest paid officer of the employer for such year is treated as an HCE.

Under present law, all family members of (1) a 5-percent owner, or (2) a HCE in the group consisting of the 10 highest paid HCEs

are treated as a single HCE and all the compensation of the family members is treated as compensation of the HCE.

The bill provides that an employee is highly compensated with respect to a year if the employee (1) was a 5-percent owner of the employer at any time during the year or the preceding year, or (2) has compensation for the preceding year in excess of $80,000 (adjusted for cost-of-living increases using a base period beginning October 1, 1995 (sec. 415(d)), or (3) was the most highly compensated officer of the employer for the preceding year.

The bill provides that the dollar limit applicable for any year is the amount in effect for the calendar year with respect to which compensation is determined under the bill. For example, assume HCEs are being determined for the 1997 plan year in the case of a calendar year plan. Under the bill, 1996 compensation is used to make this determination, and the $80,000 figure for 1996, is the applicable dollar limit for the 1997 plan year (rather than the $80,000 figure as adjusted for 1997).

Under the bill, no employee would be treated as highly compensated in a year unless he or she received compensation from the employer during the preceding year in excess of $80,000. This proposal would apply to officers and to 5-percent owners. It targets small businesses where pension coverage is very low. For detailed discussion, see Title III, Targeted Access for Employees of Small Employers, section 302, page 17.

The bill repeals the family aggregation rules.

This provision is effective for years beginning after December 31, 1995, except that for purposes of determining whether an employee is an HCE in years beginning after December 31, 1995, the provision is effective for years beginning after December 31, 1994. Thus, for example, in determining whether an employee is highly compensated for 1996 with respect to calendar year plan, the determination is to be based on whether the employee had compensation during 1995 in excess of $80,000 (not $66,000 which may have been the applicable amount for the employee in 1995 prior to this bill).

Sec. 102. Definition of compensation under Section 415

Generally under present law, the section 415 limits with respect to an individual are based in part on the individual's taxable compensation. The general limit on a participant's annual additions under a defined contribution plan is the lesser of $30,000 or 25% of the participant's taxable compensation.

For example, assume a plan participant has a $20,000 salary. The 25% of compensation limit would generally permit the participant to have an annual addition of $5,000 (25% $20,000). However, because pre-tax employee contributions to a cafeteria plan would reduce the employee's taxable compensation from $20,000, any such contributions would also reduce the participant's section 415 limit. Moreover, contributions to a 401(k) plan, and other types of pre-tax employee contributions, would further reduce the participant's taxable compensation and section 415 limit.

The effect of pre-tax employee contributions makes it difficult to communicate in advance the section 415 limit applicable to each employee; this issue also leads to numerous inadvertent violations of section 415. Moreover, the reduction of the section 415 limit caused by pre-tax employee contributions primarily affects nonhighly compensated employees; this is so in part because section 125 contributions generally do not vary with compensation and thus have a proportionately smaller effect on higher paid employees.

Under the proposal, pre-tax employee contributions described in sections 402(g), 125, or 457 would be counted as compensation for purposes of section 415. In previous Pension Simplification bills this provision was limited to state and local governmental plans, however, the bill expands the provision to all plans.

Sec. 103. Modification of Additional Participation Requirements

Under present law, a plan is not a qualified plan unless it benefits no fewer than the lesser of (1) 50 employees or (2) 40 percent of all employees of an employer (sec. 401(a)(26)). This minimum participation rule cannot be satisfied by aggregating comparable plans, but can be applied separately to different lines of business of the employer. A line of business of the employer does not qualify as a separate line of business unless it has at least 50 employees. Also, certain employees may be disregarded in applying the rules.

The bill provides that the minimum participation rule applies only to defined benefit pension plans. In addition, the bill provides that a defined benefit plan does not satisfy the rule unless it benefits no fewer than the lesser of (1) 50 employees or (2) the greater of (a) 40 percent of all employees of the employer or (b) 2 employees (or 1 employee if there is only 1 employee). The separate line of business and excludable employee rules apply as under present law.

In the case of an employer with only 2 employees, a plan satisfies the present-law minimum participation rule if the plan covers 1 employee. However, under the bill, a plan satisfies the minimum participation rule only if it covers both employees.

The provision is effective for years beginning after December 31, 1995.

Sec. 104. Nondiscrimination Rules for Qualified Cash or Deferred Arrangements

a. In general: The bill modifies the present-law nondiscrimination test applicable to elective deferrals and employer matching and after-tax employee contributions to provide that the maximum permitted ADP or ACP for HCEs for the year is determined by reference to the ADP or ACP for nonhighly compensated employees for the preceding, rather than the current year. In the case of the first plan year of the plan, the ADP or ACP of nonhighly compensated employees for the previous year is deemed to be 3 percent or, at the election of the employer, the actual ADP or ACP for such plan year.

b. Section 401(k) Safe Harbor: Under present law, the special nondiscrimination test applicable to elective deferrals under qualified cash or deferred arrangements (401(k)s) is satisfied if the actual deferral percentage (ADP) under a cash or deferral arrangement for eligible HCEs for a plan year is equal to or less than either (1) 125 percent of the ADP of all non-highly compensated employees eligible to defer under the arrangement, or (2) the lesser of 200 percent of the ADP of all eligible nonhighly compensated employees or such ADP plus 2 percentage points (section 401(k)). The ADP for a group of employees is the average of the ratios (calculated separately for each employee in the group) of the contributions paid to the plan on behalf of the employee to the employee's compensation.

A cash or deferred arrangement that satisfies the special nondiscrimination test is deemed to satisfy the nondiscrimination requirement applicable to qualified plans with respect to the amount of contribution or benefits (section 401(a)(4)).

In addition, under present law, a special nondiscrimination test is applied to employer matching contributions and after-tax employee contributions (section 401(m)). This special nondiscrimination test is similar to the special nondiscrimination test in section 401(k).

An employer matching contribution means (1) any employer contribution made on behalf of an employee on account of an employee contribution made by such employee, and (2) any employer contribution made on behalf of an employee on account of an employee's elective deferral.

The bill adds alternative methods of satisfying the special nondiscrimination requirements applicable to elective deferrals and employer matching contributions. Under these safe harbor rules, a cash or deferred arrangement is treated as satisfying the ADP test if the plan of which the arrangement is a part (or any other plan of the employer maintained with respect to the employees eligible to participate in the cash or deferred arrangement) meets (1) one of two contribution requirements and (2) a notice requirement. These safe harbors permit a plan to satisfy the special nondiscrimination tests through plan design, rather than through the testing of actual contributions.

A plan satisfies the contribution requirements under the safe harbor rule for qualified cash or deferred arrangements if the plan either (1) satisfies a matching contribution requirement or (2) the employer makes a contribution to the plan of at least 3 percent of an employee's compensation on behalf of each nonhighly compensated employee who is eligible to participate in the arrangement without regard to whether the employee makes an elective contribution under the arrangement. Under both tests, contributions may also be made to highly compensated employees.

A plan satisfies the matching contribution requirement if, under the arrangement: (1) the employer makes a matching contribution on behalf of each nonhighly compensated employee that is not less than (a) 100 percent of the employee's elective contributions up to 3 percent of compensation and (b) 50 percent of the employee's elective contributions from 3 to 5 percent of compensation; and (2) the level of match for highly compensated employees is not greater than the match rate for nonhighly compensated employees.

Alternatively, if the matching contribution requirement is not satisfied at some level of employee compensation, the requirement is deemed to be satisfied if (1) the level of employer matching contributions does not increase as employee elective contributions increase and (2) the aggregate amount of matching contributions with respect to elective contributions up to that level of compensation at least equals the amount of matching contributions required under the general safe harbor rule.

Under the safe harbor, an employee's rights to employer matching contributions or nonelective contributions used to meet the contribution requirements are required to be 100 percent vested.

An arrangement does not satisfy the contribution requirements with respect to nonelective contributions unless the requirements are met without regard to the permitted disparity rules (sec. 401(1)), and nonelective contributions used to satisfy the contribution requirements are not taken into account for purposes of determining whether a plan of the employer satisfies the permitted disparity rules. It is intended that the rule applies to matching contributions as well.

Employer matching and nonelective contributions used to satisfy the contribution requirements of the safe harbor rules are subject to the restrictions on withdrawals

that apply to an employee's elective deferrals under a qualified cash or deferred arrangement (sec. 401(k)(2)(B)).

The notice requirement is satisfied if each employee eligible to participate in the arrangement is given written notice within a reasonable period before any year of the employee's rights and obligations under the arrangement. This notice must be sufficiently accurate and comprehensive to apprise the employee of his or her rights and obligations and must be written in a manner calculated to be understood by the average employee eligible to participate.

c. Alternative method of satisfying special nondiscrimination test for matching contributions: The bill provides a safe harbor method of satisfying the special nondiscrimination test applicable to employer matching contributions. Under this safe harbor, a plan is treated as meeting the special nondiscrimination test with respect to matching contributions if (1) the plan meets the contribution and notice requirements applicable under the safe harbor method of satisfying the special nondiscrimination requirement for qualified cash or deferred arrangements, and (2) the plan satisfies a special limitation on matching contributions. After-tax employee contributions continue to be tested separately under the present ACP test, taking into account both employee contributions and employer matches in calculating contribution percentages.

The limitation on matching contributions is satisfied if (1) matching contributions on behalf of any employee may not be made with respect to employee contributions or elective deferrals in excess of 6 percent of compensation and (2) the level of an employer's matching contribution does not increase as an employee's contributions or elective deferrals increase.

TITLE II.—SIMPLIFIED DISTRIBUTION RULES

Under present law, distributions from tax-favored retirement arrangements are generally includable in gross income when received, however special rules apply in certain circumstances.

For example, certain distributions from tax-favored retirement arrangements attributable to contributions prior to January 1, 174, could qualify for treatment as long-term capital gains.

Under present law, a taxpayer may elect to have 5-year forward averaging apply to a lump-sum distribution from a qualified plan. Such an election may be made with respect to a distribution received on or after the employee attains age 59½ and only one election may be made with respect to an employee.

Prior to the Tax Reform Act of 1986, 10-year forward averaging was available with respect to lump-sum distributions. The Tax Reform Act replaced 10-year averaging with 5-year averaging and phased out capital gains treatment. The Tax Reform Act provided transition rules which generally preserved prior-law treatment in the case of certain distributions with respect to individuals who attained age 50 before January 1, 1986.

Under present law, a taxpayer is not required to include in gross income amounts received in the form of a lump-sum distribution to the extent that the amounts are attributable to net unrealized appreciation in employer securities. Such unrealized appreciation is includable in income when the securities are sold.

The bill eliminates 5-year averaging for lump sum distributions from qualified plans, repeals the $5000 employer-provided death benefit exclusion, and simplifies the basis recovery rules applicable to distributions from qualified plans. In addition, the bill modifies the rule that generally requires all participants to commence distributions by age 70½.

Sec. 201. Repeal of 5-Year Income Averaging for Lump-Sum Distributions

The bill repeals the special 5-year forward averaging rule. The original intent of the income averaging rules for pension distributions was to prevent a bunching of taxable income because a taxpayer received all of the benefits in a qualified plan in a single taxable year. Liberalization of the rollover rules enacted in 1992, as originally part of this bill, increases the flexibility of taxpayers in determining the time of the income inclusion of pension distributions, and eliminates the need for special rules to prevent bunching of income.

The bill preserves the transition rules for 10 year averaging adopted in the Tax Reform Act; in addition, the repeal of 5-year averaging is not applicable to individuals eligible for those transition rules. The bill also retains the present-law treatment of net unrealized appreciation on employer securities and generally retains the definition of lump-sum distribution solely for such purpose.

The provisions are effective with respect to distributions after December 31, 1995.

Sec. 202. Simplified Method for Taxing Annuity Distribution Under Certain Employer Plans

Under the bill, the portion of an annuity distribution from a qualified retirement plan, qualified annuity, or tax-sheltered annuity that represents nontaxable return of basis generally is determined under a method similar to the present-law simplified alternative method provided by the IRS. Under the simplified method provided in the bill, the portion of each annuity payment that represents nontaxable return of basis generally is equal to the employee's total investment in the contract as of the annuity starting date, divided by the number of anticipated payments determined by reference to the age of the participant listed in the table set forth in the bill. The number of anticipated payments listed in the table is based on the employee's age on the annuity starting date. If the number of payments is fixed under the terms of the annuity, that number is to be used instead of the number of anticipated payments listed in the table.

The simplified method does not apply if the primary annuitant has attained age 75 on the annuity starting date unless there are fewer than 5 years of guaranteed payments under the annuity. If in connection with commencement of annuity payments, the recipient receives a lump-sum payment that is not part of the annuity stream, such payment is taxable under the rules relating to annuities (section 72) as if received before the annuity starting data, and the investment in the contract used to calculate the simplified exclusion ratio for the annuity payments is reduced accordingly.

As under present law, in no event will the total amount excluded from income as nontaxable return of basis be greater than the recipient's total investment in the contract.

Sec. 203. Required Distributions

Under present law, distributions under all qualified plans, IRAs, tax-sheltered custodial accounts and annuities, and eligible deferred compensation plans of State and local governments are required to begin no later than April 1 of the calendar year following the calendar year in which the participant or owner attains age 70½, without regard to the actual date of separation from service. In the case of church plans and governmental plans, distributions are required to begin no later than the later of the April 1 date described above or April 1 of the calendar year following the calendar year in which the participant retires.

The bill repeals the rule that requires all participants in qualified plans to commence distributions by age 70½ without regard to whether the participant is still employed by the employer, and therefore, generally replaces it with the rule in effect prior to the Tax Reform Act. Thus, under the bill, distributions are required to begin by April 1 of the calendar year following the later of (1) the calendar year in which the employee attains age 70½, or (2) the calendar year in which the employee retires. In the case of a 5-percent owner of the employer, distributions are required to begin no later than April 1 of the calendar year following the year in which the 5-percent owner attains age 70½. Distributions from an IRA are required to begin no later than April 1 of the calendar year following the year in which the IRA owner attains age 70½.

In addition, in the case of an employee (other than a 5-percent owner) who retires in a calendar year after attaining age 70½, the bill requires the employee's accrued benefit to be actuarially increased to take into account the period after age 70½ in which the employee was not receiving benefits under the plan. Thus, under the bill, the employee's accrued benefit is required to reflect the value of benefits that the employee would have received if the employee had retired at age 70½ and began receiving benefits at that time.

The actuarial adjustment rules does not apply, under the bill, in the case of a governmental plan or church plan.

This provision applies to years beginning after December 31, 1995.

TITLE III.—TARGETED ACCESS FOR EMPLOYEES OF SMALL EMPLOYERS.

Sec. 301. Tax Credit for the Cost of Establishing a Plan for Small Employers

Retirement plan coverage among employees of small employers is dismally low. The cost of establishing a retirement plan is, in a significant way, disproportionately high for small employers. Many costs of plan establishment—plan design, plan drafting, application for IRS approval—are relatively fixed. Accordingly, the per-employee costs can be much higher for a small employer than for a large employer.

Under the proposal, employers with 50 or fewer employees, that have not maintained a qualified retirement plan at any time during the immediately preceding two years, would be eligible for an income tax credit (up to a maximum of $1,000) equal to the cost of establishing a qualified retirement plan.

Sec. 302. Elimination of the One-High-Paid-Officer Rule

Under present law, the term highly compensated employee includes the employer's highest paid officer even if no employee in the plan receives over $45,000 (indexed to $60,000 in 1995).

The application of the highest paid officer rule is unfair for small employers with low-wage workforces. For example, the highest paid officer of a small employer may earn less than $66,000, yet that employee is highly compensated under this rule. If the same individual less than $66,000 working for a large employer with numerous highly paid employees, that individual would not be defined as highly compensated.

Because the individual described above is considered highly compensated, the nondiscrimination rules can severely limit his or her benefits (such as 401(k) contributions). In fact, due to the way the nondiscrimination rules work, these limitations are actually more restrictive for the $30,000-a-year HCE of a small employer than they are for the $150,000-a-year executive of a large employer. These limitations can, in turn, result in the small employer deciding not to establish a plan or deciding to terminate an existing plan.

Under the bill, no employee would be treated as highly compensated in a year unless he or she received compensation from the employer during the preceding year in excess of $80,000. This proposal would apply not only to officers but also to 5-percent owners.

This proposal would, however, be subject to two conditions. First, the proposal would not apply to any plan maintained by the employer unless the plan makes all contributions, benefits, and other plan features available on a nondiscriminatory basis. For this purpose, 5-percent owners would be treated as highly compensated; if there are no 5-percent owners, the highest paid officer for the preceding year would be an HCE.

The purpose of the conditions set forth above is to prevent abuse. The conditions would, for example, prevent an employer from establishing a plan solely (or primarily) for the owner.

The second condition is that this proposal would not apply to the extent provided in regulations. The purpose of this second condition is to prevent business owners from avoiding HCE status by treating an amount as compensation that is less than reasonable compensation.

This provision is effective for years beginning after December 31, 1995, except that for purposes of determining whether an employee is an HCE in years beginning after December 31, 1995, the provision is effective for years beginning after December 31, 1994. Thus, for example, in determining whether an employee is highly compensated for 1996 with respect to a calendar year plan, the determination is to be based on whether the employee had compensation during 1995 in excess of $80,000 (not $66,000 which may have been the applicable amount for the employee in 1995 prior to this bill).

Sec. 303. Salary Reduction Simplified Employee Pensions

Under present law, a simplified employee pension (SEP) is an individual retirement plan established with respect to an employee that meets certain requirements. Employers with 25 or fewer employees may provide that contributions to a SEP maybe made on a salary reduction basis.

The bill conforms the eligibility requirements for SEP participation to the rules applicable to pension plans generally by providing that contributions to a SEP must be made with respect to each employee who has at least one year of service with the employer.

The bill adds alternative methods of satisfying the special nondiscrimination requirements for SEPs applicable to elective deferrals and employer matching contributions. These are the same alternative methods or ''safe harbors'' discussed in Title I.-section 104 above, relating to 401(k) plans.

Further, the bill modifies the rules relating to salary reducion SEPs by providing that such SEPs may be established by employers with 100 or fewer employees.

The bill also repeals the requirement that at least half of eligible employees actually participate in a salary reduction SEP.

The provision applies to years beginning after December 31, 1995.

Sec. 304. Exemption From Top Heavy Plan Requirements

In general, under present law, a top-heavy plan is required to satisfy special requirements regarding vesting, minimum benefits or contributions, and section 415. The requirements regarding minimum benefits or contributions are particularly burdensome. For example, a small employer may maintain a plan that permits employees to make section 401(k) contributions and that provides matching contributions on behalf of employees who make the section 401(k) contributions. Generally, if such a plan is top-heavy, all non-key employees must receive nonelective contributions equal to at least 3% of compensation, even though the plan does not otherwise provide for nonelective contributions.

The top-heavy plan rules were intended to address situations where an excessive percentage of a plan's retirement benefits is attributable to the highly paid executives and owners of the business. However, the rules actually apply more broadly and are applicable to small businesses where none of the owners and officers of the business is highly paid. In these cases, the top-heavy plan rules place a burden on middle-income individuals solely because they are owners or officers of a small business.

Under the bill, if no employee makes over $80,000 (as provided in the bill's new definition of ''highly compensated employee'') in the preceding year, the top-heavy plan requirements do not apply for that year.

Sec. 305. Tax Exempt Organizations Eligible Under Section 401(k)

Under present law, tax-exempt organizations are generally prohibited from establishing qualified cash or deferred arrangements (401(k)s). Because of this limitation, many such employers are precluded from maintaining broad-based, funded, elective deferral arrangements for their employees.

The bill allows tax-exempt organizations (other than 501(c)(3)s, State and Local governments, and their agencies and instrumentalities who have available salary deferral arrangements) to maintain 401(k)s.

The provision applies to years beginning after December 31, 1995.

Sec. 306. Regulatory Treatment of Small Employers

Unlike large employers, small employers often do not have the resources to monitor and affect the development of regulations relating to qualified retirement plans. Accordingly, such regulations often do not take into account the unique circumstances of small employers.

Under the bill, no IRS regulation relating to a qualified retirement plan could become effective unless the regulation includes a section addressing the special needs of small employers.

The provision is effective for regulations issued after date of enactment.

TITLE V.—PAPERWORK REDUCTION.

Sec. 401. Repeal Section 415(e)

Section 415(e) applies an overall limit on benefits and contributions with respect to an individual who participates in both a defined contribution plan and a defined benefit plan maintained by the same employer. These rules are extremely complicated. They are also very burdensome to administer because they require maintaining compensation and contribution records for all employees for all years of service.

The section 415(e) limit is not the only limit in the Code that safeguards against an individual accruing excessive retirement benefits on a tax-favored basis. For example, section 401(a)(17) provides for limitations on compensation that can be taken into account for benefits and contributions to qualified plans; section 401 provides extensive nondiscrimination rules; and section 415 provides limits on contributions paid to and benefits paid from qualified plans. Taken in combination, these provisions sufficiently constrain excessive tax-favored benefits accruing to highly compensated employees. In addition, a 15% ''excess distribution'' penalty achieves many of the same goals as Section 415(e).

Because Section 415(e) is both cumbersome and duplicative, the bill repeals this provision.

The provision is effective for years beginning after December 31, 1995.

Sec. 402. Duties of Sponsors of Certain Prototype Plans

The IRS master and prototype program is an administrative program under which trade and professional associations, banks, insurance companies, brokerage houses, and other financial institutions can obtain IRS approval of model retirement plan language and then make these preapproved plans available for adoption by the customers, investors, or association members.

Master and prototype plans reduce the costs and burdens of administering plans, especially for small to medium sized employers, and improve IRS administration of plan rules.

Today, a majority of employer-provided qualified plans are approved master and prototype plans. Further expansion of the program is desirable, but statutory authority should be given to the IRS to define the duties of master and prototype sponsors before the program becomes more widely utilized.

The bill authorizes the IRS to define the duties of organizations that sponsor master and prototype, regional prototype, and other preapproved plans, including mass submitters. The provision's purpose is to protect employers against the loss of qualification merely because they are unaware of the need to arrange for certain administrative services, or the unavailability of professional assistance from parties familiar with the sponsor's plan. The bill should not be construed as creating fiduciary relationships or responsibilities under Title I of ERISA that would not exist in the absence of the provision.

TITLE V.—MISCELLANEOUS PROVISIONS

Sec. 501. Treatment of Leased Employees

Under present law, an individual performing services is treated as a leased employee of a service recipient for certain employee benefit purposes if (1) the individual is not a common law employee of the service recipient, (2) the services are provided pursuant to an agreement between the recipient and any other person, (3) the individual performs services for the recipient on a substantially full-time basis for a period of at least one year, and (4) the services are of a type historically performed in the business field of the recipient by employees.

The bill replaces the historically performed test with a control test. Thus, under the bill, an individual is a leased employee of a service recipient only if the services are performed by the individual under the control of the recipient.

The provision is effective for taxable years beginning after December 31, 1995.

Sec. 501. Plans Covering Self-Employed Individuals

Prior to the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) different rules applied to retirement plans maintained by incorporated employers and unincorporated employers (such as partnerships and sole proprietors). In general, plans maintained by unincorporated employers were subject to special rules in addition to the other qualification requirements of the Code. TEFRA eliminated most, but not all, of this disparity.

Under present law, certain special aggregation rules apply to plans maintained by owner-employers that do not apply to other qualified plans (sec. 401(d) (1) and (2)). The bill eliminates these special rules.

The provision applies to years beginning after December 31, 1995.

Sec. 503. Elimination of Special Vesting Rule for Multiemployer Plans

Under present law, except in the case of multiemployer plans, a plan is not a qualified plan unless a participant's employer-

provided benefit vests at least as rapidly as under 1 of 2 alternative minimum vesting schedules. A plan satisfies the first schedule if a participant acquires a nonforfeitable right to 100 percent of the participant's accrued benefit derived from employer contributions upon the participant's completion of 5 years of service.

A plan satisfies the second schedule if a participant has a nonforfeitable right to at least 20 percent of the participant's accrued benefit derived from employer contributions after 3 years of service, 40 percent at the end of 4 years of service, 60 percent at the end of 5 years of service, 80 percent a the end of 6 years of service, and 100 percent at the end of 7 years of service.

In the case of a multiemployer plan, a participant's accrued benefit derived from employer contributions is required to be 100 percent vested no later than upon the participant's completion of 10 years of service. This special rule applies only to employees covered by the plan pursuant to a collective bargaining agreement.

The bill conforms the vesting rules for multiemployer plans to the rules applicable to other qualified plans.

The provision is effective for plan years beginning on or after the earlier of (1) the later of January 1, 1996, or the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates, or (2) January 1, 1998, with respect to participants with an hour of service after the effective date.

Sec. 504. Full Funding Limitation of Multi-Employer Plans

Under present law, a deduction is allowed (within limits) for employer contributions to a qualified pension plan. No deduction is allowed for contributions in excess of the full funding limit. The full funding limit is the excess, if any, of (1) the lesser of (a) the accrued liability under the plan (including normal cost) or (b) 150 percent of a plan's current liability, over (2) the lesser of (a) the fair market value of the plan's assets or (b) the actuarial value of the plan's assets.

Plans subject to the minimum funding rules are required to make an actuarial valuation of the plan not less frequently than annually.

The bill provides that the 150 percent of current liability limitation does not apply to multi-employer plans. Consistent with this change, the bill also repeals the present law annual valuation requirement for multi-employer plans and applies the prior law requirement that valuations be performed at least every 3 years.

The provision applies to years beginning after December 31, 1995.

Sec. 505. Alternative full-funding limitation

The Secretary may, under regulations, adjust the 150-percent figure contained in the full funding limitation to take into account the average age (and length of service, if appropriate) of the participants in the plan (weighed by the value of their benefits under the plan). In addition, the Secretary is authorized to prescribe regulations that apply, in lieu of the 150 percent of current liability limitation, a different full funding limitation based on factors other than current liability. The Secretary may exercise this authority only in a manner so that in the aggregate, the effect on Federal budge receipts is substantially identical to the effect of the 150-percent full funding limitation.

The bill provides that an employer may elect to disregard the 150-percent limitation if each plan in the employer's control group is not top-heavy and the average accrued liability of active participants under the plan for the immediately preceding 5 plan years is at least 80-percent of the plan's total accrued liability (the ''alternative full funding limitation''). The Secretary is required to adjust the 150-percent full funding limitation (in the manner specified under the bill) for employers that do not use the alternative full funding limit to ensure that the election by employers to disregard the 150-percent limit does not result in a substantial reduction in Federal revenues for any fiscal year.

Under the bill, employers electing to apply the alternative limitation generally must notify the Secretary by January 1 of the calendar year preceding the calendar year in which the election period begins. The provision is effective on January 1, 1997.

Sec. 506. Affiliation Requirements for Employers Jointly Maintaining a VEBA

Treasury regulations require that employees eligible to participate in a voluntary employees' beneficiary association (''VEBA'') share an employment-related common bond. Under the regulations, employees employed by a ''common employer (or affiliated employers)'' are considered to have such a bond.

Under the bill, employers are considered affiliated for purposes of the VEBA rules if (1) such employers are in the same line of business, (2) the employers act jointly to perform tasks that are integral to the activities of each of the employers, and (3) such joint activities are sufficiently extensive that the maintenance of a common VEBA is not a major part of such joint activities.

Under the bill, employers are considered affiliated, for example, in the following circumstances: the employers participating in the VEBA are in the same line of business and belong to an association that provides to its members a significant amount of each of the following services: (1) research and development relating to the members' primary activity; (2) education and training of members' employees; and (3) public relations. In addition, the employers are sufficiently similar (e.g., subject to similar regulatory requirements) that the association's services provide material assistance to all of the employers. The employers also demonstrate the importance of their joint activities by having meetings at least annually attended by substantially all of the employers. Finally, the employers maintain a common retirement plan.

On the other hand, it is not intended that the mere existence of a trade association is a sufficient basis for the member-employees to be considered affiliated, even if they are in the same line of business. It is also not sufficient if the trade association publishes a newsletter and provides significant public relations services, but only provides nominal amounts, if any, of other services integral to the employers' primary activity.

A group of employers are also not considered affiliated under the bill by virtue of the membership of their employees in a professional association.

This bill is intended as a clarification of present law, but is not intended to create any inference as to whether any part of the Treasury regulations affecting VEBAs, other than the affiliated employer rule, is or is not present law.

Sec. 507. Treatment of Certain Governmental Plans under Section 415

Under present law, the limitations on benefits and contributions (section 415) generally apply to plans maintained by State and local governments.

Under present law, unfunded deferred compensation plans maintained by State and local government employers are subject to certain limitations (sec. 457). For example, such plans generally may not permit deferred compensation in excess of $7,500 in a single year.

The limitations on contributions and benefits present special problems for plans maintained by State and local governments due to the special nature of the involvement and operation of such governments.

The bill addresses these problems by providing that (1) section 457 does not apply to excess benefit plans maintained by a State or local government, (2) the compensation limitation on benefits under a defined benefit pension plan does not apply to plans maintained by a State or local government, and (3) the defined benefit pension plan limits do not apply to certain disability and survivor benefits provided under such plans. Excess plans maintained by a State or local government are subject to the same tax rules applicable to such plans maintained by private employers.

Under present law, benefits under a defined benefit plan generally may not exceed 100 percent of the participant's average compensation. However, because of the unique characteristics of State and local government employee plans, many long-tenured and relatively low-paid employees may be eligible to receive benefits in excess of their average compensation as a result of cost-of-living increases. The bill provides that the 100 percent of compensation limitation does not apply to plans maintained by State and local governments.

The provision is effective for taxable years beginning on or after the date of enactment. Governmental plans are treated as if in compliance with the requirements of section 415 for years beginning on or before the date of enactment.

Sec. 508. Treatment of Deferred Compensation Plans of State and Local Governments and Tax-Exempt Organizations

Under a section 457 plan, an employee who elects to defer the receipt of current compensation will be taxed on the amounts deferred when such amounts are paid or made available. The maximum annual deferral under such a plan is the lesser of (1) $7500 or (2) 33½ percent of compensation (net of the deferral).

In general, amounts deferred under a section 457 plan may not be made available to an employee before the earlier of (1) the calendar year in which the participant attains age 70½, (2) when the participant is separated from service with the employer, or (3) when the participant is faced with an unforeseeable emergency. Amounts that are made available to an employee upon separation from service are includable in gross income in the taxable year in which they are made available.

Under present law, benefits under a section 457 plan are not treated as made available if the participant may elect to receive a lump sum payable after separation from service and within 60 days of the election. This exception to the general rules is available only if the total amount payable to the participant under the plan does not exceed $3500 and no additional amounts may be deferred under the plan with respect to the participant.

The bill makes three changes. First, the bill permits in-service distributions of accounts that do not exceed $3500 if no amount has been deferred under the plan with respect to the account for 2 years and there has been no prior distribution under this cash-out rule.

Second, the bill increases the number of elections that can be made with respect to the time distributions must begin under the plan. The bill provides that the amount payable to a participant under a 457 plan is not to be treated as made available merely because the participant may elect to defer commencement of distributions under the plan if (1) the election is made after amounts may be distributed under the plan but before

the actual commencement of benefits, and (2) the participant makes only 1 such additional election. This additional election is permitted without the need for financial hardship, and the election can only be to a date that is after the date originally selected by the participant.

Finally, the bill provides for indexing of the dollar limit on deferrals.

The provisions are effective for taxable years beginning after the date of enactment.

Sec. 509. Contributions on Behalf of Disabled Employees

Under present law, special limitations on contributions to a defined contribution plan apply in the case of certain disabled participants. In particular, the compensation of a disabled participant in a defined contribution plan is treated, for purposes on the limitations or contributions and benefits, as the compensation the participant received before becoming disabled if (1) the participant is permanently and totally disabled (within the meaning of sec. 22(c)(3)), (2) the participant is not a highly compensated employee, and (3) the employer elects to have this special rule apply.

The bill makes requirements (2) and (3) inapplicable if the defined contribution plan provides for the continuation of contributions on behalf of all participants who are permanently and totally disabled.

It is not intended, however, that an employer be able to provide contributions on behalf of all disabled participants only during certain years so as to favor highly compensated participants over nonhighly compensated participants. Accordingly, if an employer provides for contributions on behalf of all disabled participants and subsequently amends its plan to delete such contributions, the plan shall cease to be qualified if the timing of the amendment results in discrimination in favor of highly compensated participants.

The provision applies to years beginning after December 31, 1995.

Sec. 510. Technical Clarifications of Section 401(k) for Rural Cooperative Plans

Under present law, a qualified section 401(k) arrangement must be a part of one of the following: a profit-sharing or stock bonus plan, a pre-ERISA money purchase plan, or a rural cooperative plan.

A ''rural cooperative plan'' is defined generally to mean a defined contribution pension plan that is maintained by a rural cooperative. with respect to rural electric cooperatives, a rural cooperative is generally defined to mean any organization that (1) is tax-exempt or is a State or local government, and (2) ''is engaged primarily in providing electric service on a mutual or cooperative basis.''

Present law was clearly intended to permit the rural electric cooperatives to continue to maintain their section 401(k) plan. However, there are two technical issues that should be clarified in order to better achieve this objective.

First, in the vast majority of states, rural electric systems are organized as cooperatives. However, in some states, some utilities are organized as public power districts. Public power districts are subdivisions of a state that provide electric service. Thus, they would clearly fall within the definition of a rural cooperative but for the requirement that a rural cooperative provide electric service ''on a mutual or cooperative basis.''

This requirement is not further defined in the statute or regulations. Accordingly, some concern is warranted with respect to whether a public power district satisfies this requirement since they are political subdivisions of a state and do not have the member ownership traditionally required for mutual or cooperative status.

Secondly, many rural electric cooperatives participate in a multiple employer money purchase pension plan that contains a section 401(k) arrangement. This multiple employer plan must fit within the definition of a rural cooperative plan in order for the section 401(k) arrangement to be qualified. An issue therefore arises due to the fact that the definition of a ''rural cooperative'' does not include taxable cooperatives. Although the vast majority of rural electric cooperatives are tax-exempt, some within these multiple employer plans are taxable. It is unclear whether this would cause the section 401(k) arrangement in the multiple employer plan to fail to be qualified with respect to the participating taxable cooperatives.

The bill clarifies both of these potential problems by providing that the definition of a ''rural cooperative'' would be modified to include, in addition, any other organization that is providing electric service. However, this expansion of the definition would only apply with respect to section 401(k) plans in which substantially all of the employers fit within the present-law definition of a rural cooperative. This limitation prevents unintended expansion of the term ''rural cooperative plan.''

In addition, under present law, unlike all other section 401(k) plans (other than certain pre-ERISA plans), rural cooperative plans are not permitted to make in-service distributions for hardship or after age 59-½. Under the proposal, rural cooperative plans would be permitted to make such distributions after the date of enactment.

Sec. 511. Rules for Plans Covering Pilots

Under present law, employees covered by a collective bargaining agreement are excluded from consideration in testing whether a qualified retirement plan satisfies the minimum coverage and non discrimination requirements (section 410(b)(3)). Similarly, in the case of a plan established pursuant to a collective bargaining agreement between airline pilots and one or more employers, all employees not covered by the collective bargaining agreement are disregarded for purposes of testing whether the plan satisfies the minimum coverage and nondiscrimination requirements (section 410(b)(3)(B)). This provision applies only in the case of a plan that provides contributions or benefits for employees whose principal duties are customarily performed abroad aircraft in flight. Thus, a collectively bargained plan covering only airline pilots in tested separately from employees who are not air pilots.

The bill provides that, in the case of a plan established to provide contributions or benefits for air pilots employed by one or more common carriers engaged in interstate or foreign commerce on air pilots employed by carriers transporting mail for or under contract with the United States Government, all employees who are not air pilots are excluded from consideration in testing whether the plan satisfies the minimum coverage requirements (whether or not they are covered by a collective bargaining agreement).

The provision is effective for years beginning after December 31, 1995.

Sec. 512. Tenured Faculty

Present law section 457 governs and provides limits for nonqualified deferred compensation arrangements of a governmental or tax-exempt employers. Under section 457(f), an individual is taxed on the value of the benefits under an ineligible arrangement when there is no risk of forfeiture of the benefit, rather than when any benefit is received. Risk of forfeiture is generally tied to the performance of future services. For example, if an employer adopted an early retirement incentive to pay a yearly supplement of $10,000 over 5 years, the retiree will be taxed on the present value of the full $50,000 in the year of retirement notwithstanding the fact that he only received a payment of $10,000.

Under the bill, ''eligible faculty voluntary retirement incentive plans'' are not subject to the taxation provisions of section 457(f). Payments under such plans will be taxed when they are made available to participants, rather than when a risk of forfeiture lapses. An ''eligible faculty voluntary retirement incentive plan'' means a plan established for employees serving under contracts of unlimited tenure at an institution of higher learning. Total benefits under the contract cannot exceed two times annual compensation, and all payments must be completed over a five-year period.

The provision is effective for years beginning after December 31, 1995.

Sec. 513. Uniform Retirement Age

A qualified plan generally must provide that payment of benefits under the plan must begin no later than 60 days after the end of the plan year in which the participant reaches age 65. Also, for purposes of the vesting and benefit accrual rules, normal retirement age generally can be no later than age 65. For purposes of applying the limits on contributions and benefits (section 415), social security retirement age is generally used as retirement age. The social security retirement age as used for such purposes is presently age 65, but is scheduled to gradually increase.

The bill provides that for purposes of the general nondiscrimination rule, the social security retirement age is a uniform retirement age and that subsidized early retirement benefits and joint and survivor annuities are not treated as not being available to employees on the same terms merely because they are based on an employee's social security retirement age.

The provision is effective for years beginning after December 31, 1995.

Sec. 514. Reports of Pension and Annuity Payments

The penalty reform provisions of the Omnibus Budget Reconciliation Act of 1989 revised the penalties imposed for failures to file correct and timely information returns to IRS, and to provide statements to payees. This revised penalty structure applies to 18 different types of reportable payments. Section 6724(d)(1).

However, this developed structure does not apply to reports of pension and annuity payments required under section 6047(d). It also does not apply to certain reports required by sections 408(i) and 408(*l*) relating to IRAs and SEPs.

The bill provides that the definition of ''information return'' under section 6724(d) includes reports of pension and annuity payments required by section 6047(d), and any report required under subsection (i) or (*l*) of section 408.

Similarly, the definition of ''payee statement'' under section 6724(d)(2) is amended to include reports of pension and annuity payments required by section 6047(d) and any report required under subsection (i) or (*l*) of section 408. The bill provides that section 6652(e) is amended to delete reports of designated distributions from the scope of its $25 per day penalty.

Under present law, interest and dividend payments do not have to be reported if less than $10 is paid to a person in any year. Miscellaneous income need not be reported unless it exceeds $600. However, the law currently contains no dollar threshold for reports of ''designated distributions''—primarily pension and annuity payments. The bill provides a $10 reporting threshold for designated distributions.

Sec. 515. National Commission on Private Pension Plans

In 1974, Congress first recognized the importance of the Federal Government taking an active role in creating a system where American workers could earn private pension benefits to supplement Social Security and ensuring that promised pension benefits are paid. It did this by passing the Employment Retirement Income Security Act (ERISA).

Today, our private pension system works by delivering trillions of dollars to retiring American workers. However, since its enactment in 1974, ERISA has become more and more complex, and the administrative costs of maintaining a pension plan has risen substantially.

The bill will authorize the Commission (six members appointed by the President, six by the Speaker of the House, and six by the Senate Majority Leader) to review existing Federal incentives and programs that encourage and protect private retirement savings and set forth recommendations where appropriate for increasing the level and security of private retirement savings.

Sec. 516. Date for Adoption of Plan Amendments

The bill provides that any plan amendment required by the bill are not required to be made before the first plan year beginning on or after January 1, 1997, if the plan is operated in accordance with the applicable provision and the amendment is retroactive to the effective date of the applicable provision. In the case of state and local governmental plans, plan requirements are required to be made on the first plan year beginning on or after January 1, 1999.

By Mr. INOUYE:

S. 1008. A bill to amend title 10, United States Code, to provide for appointments to the military service academies by the Resident Representative to the United States for the Commonwealth of the Northern Mariana Islands; to the Committee on Armed Services.

TITLE 10 AMENDMENT LEGISLATION

• Mr. INOUYE. Mr. President, today I am introducing a bill to amend title 10, United States Code, to provide for appointments to the military service academies by the Resident Representative for the Commonwealth of the Northern Mariana Islands. I think it is important that students from the Commonwealth of the Northern Mariana Islands have an opportunity to be trained at our military academies and serve in our Armed Forces. This bill would enable that to occur. I ask unanimous consent that the text of the bill appear in the RECORD.

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

S. 1008

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

Section 1. Appointments to military service academies by the resident representative to the United States for the commonwealth of the northern mariana islands.

(a) UNITED STATES MILITARY ACADEMY.—

(1) APPOINTMENT AUTHORITY.—Subsection (a) of section 4342 of title 10, United States Code, is amended by striking out the sentence following the clauses of such subsection and inserting in lieu thereof the following:

''(10) One cadet from the Commonwealth of the Northern Mariana Islands, nominated by the Resident Representative to the United States for the Commonwealth of the Northern Mariana Islands.

Each person specified in clauses (3) through (10) who is entitled to nominate a candidate for admission to the Academy may nominate a principal candidate and nine alternates for each vacancy that is available to the person under this subsection.''.

(2) DOMICILE OF CADETS.—Subsection (f) of such section is amended to read as follows:

''(f) Each candidate for admission nominated under clauses (3) through (10) of subsection (a) must be domiciled—

''(1) in the State, or in the congressional district, from which the candidate is nominated; or

''(2) in the District of Columbia, Puerto Rico, American Samoa, Guam, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, if the candidate is nominated from one of those places.''.

(3) CONFORMING AMENDMENTS.—(A) Subsection (d) of such section is amended by striking out ''(9)'' and inserting in lieu thereof ''(10)''.

(B) Section 4343 of such title is amended by striking out ''(8) of section 4342(a)'' in the second sentence and inserting in lieu thereof ''(10) of section 4342(a)''.

(b) UNITED STATES NAVAL ACADEMY.—

(1) APPOINTMENT AUTHORITY.—Subsection (a) of section 6954 of title 10, United States Code, is amended by striking out the sentence following the clauses of such subsection and inserting in lieu thereof the following:

''(10) One from the Commonwealth of the Northern Mariana Islands, nominated by the Resident Representative to the United States for the Commonwealth of the Northern Mariana Islands.

Each person specified in clauses (3) through (10) who is entitled to nominate a candidate for admission to the Academy may nominate a principal candidate and nine alternates for each vacancy that is available to the person under this subsection.''.

(2) DOMICILE OF MIDSHIPMEN.—Subsection (b) of section 6958 of such title is amended to read as follows:

''(b) Each candidate for admission nominated under clauses (3) through (10) of section 6954(a) of this title must be domiciled—

''(1) in the State, or in the congressional district, from which the candidate is nominated; or

''(2) in the District of Columbia, Puerto Rico, American Samoa, Guam, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, if the candidate is nominated from one of those places.''.

(3) CONFORMING AMENDMENT.—(A) Section 6954(d) of such title is amended by striking out ''(9)'' and inserting in lieu thereof ''(10)''.

(B) Section 6956(b) of such title is amended by striking out ''(8) of section 6954(a)'' in the second sentence and inserting in lieu thereof ''(10) of section 6954(a)''.

(c) UNITED STATES AIR FORCE ACADEMY.—

(1) APPOINTMENT AUTHORITY.—Subsection (a) of section 9342 of title 10, United States Code, is amended by striking out the sentence following the clauses of such subsection and inserting in lieu thereof the following:

''(10) One cadet from the Commonwealth of the Northern Mariana Islands, nominated by the Resident Representative to the United States for the Commonwealth of the Northern Mariana Islands.

Each person specified in clauses (3) through (10) who is entitled to nominate a candidate for admission to the Academy may nominate a principal candidate and nine alternates for each vacancy that is available to the person under this subsection.''.

(2) DOMICILE OF CADETS.—Subsection (f) of such section is amended to read as follows:

''(f) Each candidate for admission nominated under clauses (3) through (10) of subsection (a) must be domiciled—

''(1) in the State, or in the congressional district, from which the candidate is nominated; or

''(2) in the District of Columbia, Puerto Rico, American Samoa, Guam, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, if the candidate is nominated from one of those places.''.

(3) CONFORMING AMENDMENTS.—(A) Subsection (d) of such section is amended by striking out ''(9)'' and inserting in lieu thereof ''(10)''.

(B) Section 9343 of such title is amended by striking out ''(8) of section 9342(a)'' in the second sentence and inserting in lieu thereof ''(10) of section 9342(a)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the nomination of candidates for appointment to the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy for classes entering the academies after the date of the enactment of this Act.•

By Mr. D'AMATO:

S. 1009. A bill to prohibit the fraudulent production, sale, transportation, or possession of fictitious items purporting to be valid financial instruments of the United States, foreign governments, States, political subdivisions, or private organizations, to increase the penalties for counterfeiting violations, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE FINANCIAL INSTRUMENTS ANTI-FRAUD ACT OF 1995

• Mr. D'AMATO. Mr. President, I am today introducing the Financial Instruments Anti-Fraud Act of 1995.

This legislation combats the use of factitious financial instruments to defraud individual investors, banks, pension funds, and charities. These fictitious instruments have been called many names, including prime bank notes, prime bank derivatives, prime bank guarantees, Japanese yen bonds, Indonesian promissory notes, U.S. Treasury warrants, and U.S. dollar notes. Fictitious financial instruments have caused hundreds of millions of dollars in losses.

Mr. President, these frauds have been perpetrated by antigovernment groups such as the Posse Comitatus and ''We the People,'' which use fictitious financial instruments to fund their violent activities. In the wake of the terrible tragedy in Oklahoma City, I hope my colleagues will support legislation that will cut the purse strings of these organizations.

Because these fictitious instruments are not counterfeits of any existing negotiable instrument, Federal prosecutors have determined that the manufacture, possession, or utterance of these instruments does not violate the counterfeit or bank fraud provisions contained in chapters 25 and 65 of title 18 of the United States Code. The perpetrators of these frauds can be prosecuted under existing Federal law only

if they used the mails or wires, or violated the bank fraud statute.

Mr. President, we have worked closely with the Treasury Department and various U.S. Attorneys' Offices to prepare the Financial Instruments Anti-Fraud Act of 1995. This bill makes it a violation of Federal law to possess, pass, utter, publish, or sell, with intent to defraud, any items purporting to be negotiable instruments of the U.S. Government, a foreign government, a State entity, or a private entity. It closes a loophole in Federal counterfeiting law.

Fictitious financial instruments are typically produced in very large denominations and purport to offer very high rates of return. Promoters of these schemes claim that they have exclusive access to secret wholesale markets paying 25 percent or more to investors. The June 13, 1994, issue of Business Week reported that innocent investors, including the National Council of Churches and Salvation Army, lost hundreds of millions of dollars in a scam involving bogus guarantees issued by the Czech Republic's Banka Bohemia.

Mr. President, organized terrorist and militia groups are distributing do-it-yourself kits that provide the materials and instructions for members of such organizations to produce phony money order and securities. These antisocial groups seek to undermine the soundness of the U.S. financial system, and to raise funds to advance their violent, radical agenda. They claim, for example, that the IRS is a tool of Zionist international bankers and advocate violent confrontation with Federal law enforcement agents.

Drug traffickers also rely on fictitious financial investment instruments. Some West African organized criminal syndicates, for instance, use these instruments to fund their thriving heroin trade.

In addition to combating the use of fictitious financial investment instruments, this legislation correct a technical error that occurred when the Congress enacted the Counterfeit Deterrence Act of 1992. Congress intended this bill to increase penalties for counterfeit violations. As a result of a drafting error, however, the 1992 legislation actually lowered criminal penalties for counterfeiting.

This bill imposes criminal penalties for the production and sale of fictitious instruments. These penalties are identical to those imposed for counterfeiting. Criminals found guilty under these sections will fact up to 25 years in prison.

Mr. President, I strongly urge passage of the Financial Instruments Anti-Fraud Act of 1995.●

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

S. 1010. A bill to amend the ''unit of general local government'' definition for Federal payments in lieu of taxes to include unorganized boroughs in Alaska and for other purposes; to the Committee on Labor and Human Resources.

PILT LEGISLATION

● Mr. STEVENS. Mr. President, Alaska shoulders more than its fair share of the Federal lands. Federal lands are costly to State and local governments, which cannot impose a property tax on the Federal Government. Also, we are not able to develop the Federal lands to produce jobs and strengthen our economy.

The Payments In Lieu of Taxes [PILT] program provides Federal funds to local governments which have tax-exempt Federal lands within their boundaries. PILT funding is designed to relieve the fiscal burden on local governments which Federal lands impose by severely reducing the property tax base. Under the act directing PILT payments, the Secretary of the Interior makes annual payments to each unit of general local government within which Federal lands are located.

Despite Alaska's stature as the largest State in the Union and despite the millions of Federal acres in Alaska, Alaska is currently only the 10th highest PILT recipient. This is because the definition of ''unit of general local government'' includes only organized boroughs and certain independent cities in Alaska. Yet over 60 percent of Alaska and 60 percent of the Federal lands are located outside of any organized borough.

I cannot over-emphasize this point. Only 40 percent of the Federal lands in Alaska are located in organized boroughs. Over half of the Federal lands in Alaska, 60 percent, are not currently considered in determining PILT payments to Alaska. Therefore, hundreds of poor rural Alaskan communities which are surrounded by Federal lands, but which are outside of organized boroughs, receive no PILT payments. Most of these villages lack adequate sewer and water systems and do not have health facilities within 200 or 300 miles.

Last year, I introduced a bill to include Federal lands which are not within organized boroughs or independent cities. That legislation, which the Senate passed, would have accomplished this by correcting an inequity in the present definition of ''unit of general local government'' for the purpose of determining PILT payments to include unorganized boroughs. Today, I am introducing a similar bill.

This bill will resolve a great injustice. The villages in Alaska that are surrounded by tax-exempt Federal lands should be compensated for loss of property tax revenues and for the inability to use the lands for any development. The increase in Alaskan PILT payments will directly benefit villages which are in desperate need of resources to sustain basic necessities for their remote existence.

Currently, the local governments in Alaska receive about $4.5 million a year from PILT. Under this legislation, the funds the State and villages receive would increase by about $2.5 million under the corrected PILT program. $2.5 million a year will only begin to improve the living conditions in the villages—but it will help. And it is much-needed.

This bill will not increase the current entitlement ceiling of PILT. It will only change the way the PILT fund is divided. It will provide a small additional share of the PILT fund distribution to those Alaskan communities that are outside organized boroughs.

This legislation also will not reduce other States' PILT funding by very much because PILT calculations include population statistics. Therefore, Alaska will never receive as much as some of the Western States with high populations and relatively high Federal acreage.

It is a matter of fairness—60 percent of the Federal lands in Alaska are not included under current PILT calculations. Alaska is the only State not fully compensated for all of its Federal lands. Even the territories and the District of Columbia are fully compensated.

I would appreciate the support of the other Senators to see that Alaska finally receives PILT funds for all of the Federal lands in the State—not just 40 percent of them.●

By Mr. CRAIG (for himself, Mr. HEFLIN, Mr. LUGAR, and Mr. LEAHY):

S. 1011. A bill to help reduce the cost of credit to farmers by providing relief from antiquated and unnecessary regulatory burdens for the Farm Credit System, and for other purposes.

THE FARM CREDIT SYSTEM REGULATORY RELIEF ACT

Mr. CRAIG. Mr. President, I am here today to introduce the Farm Credit System Regulatory Relief Act of 1995. I am pleased that my colleague, Senator HEFLIN along with the chairman and ranking member of the Agriculture Committee, Senators LUGAR and LEAHY, join me as original cosponsors of this important legislation.

The Farm Credit System Regulatory Relief Act of 1995 will provide for the elimination, consistent with safety and soundness requirements, of all regulations that are unnecessary, unduly burdensome or costly, or not based on statute.

The Farm Credit System supplies about 25 percent of the credit provided to American producers and more than 80 percent of the credit provided to agricultural cooperatives. The cost of this credit is increased by unnecessary regulations. The increasingly competitive global market combined with the decreasing role of the Federal Government in agricultural support programs necessitates that farmers and ranchers have continued access to competitive sources of financial capital.

There are 8 Farm Credit System banks and approximately 230 locally owned farm credit associations located across all 50 of the United States. If the Farm Credit System is to remain the

viable financial partner for American agriculture that it is, then the time is now to make these significant revisions. Mr. President, I would also emphasize for the record that this piece of legislation is simply and solely regulatory relief, it does not provide the Farm Credit System with any additional or expanded lending authorities.

The changes, as I have outlined in the attached section-by-section summary, are an important step toward ensuring that our American farmers will be able to obtain competitive loan rates and better service from the Farm Credit System.

Mr. President, I ask unanimous consent that the section-by-section analysis of this bill along with a letter from the Farm Credit Administration be printed in the RECORD.

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

THE FARM CREDIT SYSTEM REGULATORY RELIEF ACT OF 1995—SECTION-BY-SECTION ANALYSIS

Section 1: Short title; table of contents: The short title is the ''Farm Credit System Regulatory Relief Act of 1995.''

Section 2: References to the Farm Credit Act of 1971: As used in this bill, all references, unless otherwise noted, are references to the ''Farm Credit Act of 1971.''

Section 3: Regulatory Review: This section describes the findings of Congress regarding recent efforts by the Farm Credit Administration (FCA) to reduce regulatory burden on Farm Credit System institutions. This section also directs FCA to continue its efforts to eliminate, consistent with safety and soundness, all regulations that are unnecessary, unduly burdensome or costly, or not based on statute.

Section 4: Examination of Farm Credit System Institutions: Under current law, the Farm Credit Administration has the authority to examine System direct lender institutions whenever and as often as the agency chooses, but not less than once every year. This section would grant the FCA flexibility to extend the length of time between mandatory examinations to 18 months. This section would not apply to Federal Land Bank Associations, which under current law are only mandated for examination every three years.

Nothing in this section would affect FCA's ability to examine any System institution at any time the regulator deems necessary. Likewise, this section would not affect the specific technical requirements of FCA's examinations or the Agency's enforcement authorities.

This section is designed to reduce examination costs for well-captialized System institutions while fully preserving FCA's existing safety and soundness oversight authorities.

Section 5; Farm Credit Insurance Fund Operations. This section would authorize the Farm Credit System Insurance Corporation (FCSIC) to allocate to System banks excess interest earnings generated by the Farm Credit Insurance Fund once the Fund reaches the secure base amount. At the same time, until the excess interest earnings are rebated to system banks, which would not begin until five years after the secure base amount is reached, any uses of the Fund would could first from the allocated earnings held in the Fund. Only after such allocated amounts were exhausted would funds from the secure base amount be used.

Current law requires the FCSIC to assess premiums until such time as the aggregate amount in the Farm Credit Insurance Fund (The Fund) equals the secure base amount. The secure base amount is defined as an amount equal to 2 percent of the insured liabilities of the Farm Credit System, or such other amount determined by FCSIC to be actuarially sound. Once the secure base is reached (expected in early 1997), premiums can be suspended. However, FSCIC does not have the authority to address the excess interest earnings that will continue to build above the secure base amount.

This section would allow the eventual rebate of this excess interest to those institutions that have paid insurance premiums based on a three-year running average of their accruing loan volume. This section would also authorize, but not require, FCSIC to reduce insurance premiums as the Insurance Fund approaches the 2 percent secure base amount.

Section 6: Powers with Respect to Troubled Insured System Banks: This section would require FCSIC to implement the least costly of all alternatives available to it, including an assisted merger, as it considers options for providing assistance to a troubled System institution. It would also make clear that the directorship and management of an assisted institution serves at the discretion of and is subject to the approval of FCSIC. Current law permits FCSIC to provide ''open-bank'' assistance to a troubled System institution if such assistance is merely less costly than liquidation, and also permits FCSIC to ignore this least-cost restriction altogether in certain limited circumstances. Current law also permits FCSIC to provide financial support to a troubled institution without any requirement that the operations or management of that institution be materially changed. Failure to amend current authorities could lead to open-ended cost to the Farm Credit Insurance fund, and potentially result in additional costs to other, healthy FCS institutions.

Section 7: Farm Credit System Insurance Corporation Board of Directors: This section would retain the current structure of the FCSIC Board by removing provisions of current law requiring a new FCSIC Board structure. Currently, the FCSIC board is comprised of the three board members of the Farm Credit Administration. The Chairman of FCSIC is elected by the board and must be someone other than the FCA chairman. Effective January 1, 1996, current law requires the establishment of a new, full-time presidentially-appointed, three-person board completely separate and independent from the FCA board. This section would remove the provision in current law and would result in the retention of the FCA board as the FCSIC board.

Section 8: Conservatorships and Receiverships: This section makes a conforming change to clarify that FCSIC can act in the capacity of a receiver or conservator of a System institution.

Section 9: Examinations by the Farm Credit System Insurance Corporation: This section provides that once the Farm Credit Administration cancels the charter of a System institution that is in receivership, FCSIC shall have exclusive authority to examine the institution.

Section 10: Oversight and Regulatory Actions by the Farm Credit System Insurance Corporation: This section provides that the Farm Credit Administration shall consult with FCSIC before approving any debt issuances by a System bank that fails to meet the minimum capital levels set by FCA. This section also provides for consultation with FCSIC before the Farm Credit Administration approves a proposed merger or restructuring of a System bank or large association that does not meet FCA's minimum capital levels. Finally, the section grants FCSIC similar authority to that of the FDIC to prohibit any golden parachute payment of indemnification payment by a System institution that is in a troubled condition.

Section 11: Formation of Administrative Service Entities: This section would allow Farm Credit System associations to establish administrative service entities. These entities would not be permitted to perform activities or carry out functions not currently authorized by statute. Under current law, Farm Credit System banks can form such entities under Section 4.25 of the Farm Credit Act. This section would extend that authority to FCS associations, although an entity organized under this section would have no authority either to extend credit or provide insurance services to Farm Credit System borrowers, nor would it have any greater authority with respect to functions and services than the organizing assocaiton or associations possess under the Farm Credit Act.

Section 12: Requirements for Loans Sold into the Secondary Market: This section would make inapplicable the borrower rights requirements of current law, and allow System banks and associations to change their bylaws to make inapplicable the borrower stock requirements of current law, for any loan specifically originated for sale into the secondary market. Under current law, Farm Credit borrowers are required to buy and maintain stock or participation certificates in the System institution which originated their loan, even when the loan was originated with the express intent of selling it into the secondary market.

In addition, System loans to farmers are covered by the borrower rights provisions of the Agricultural Credit Act of 1987. This section would allow System institutions to waive these requirements for loans that are originated for sale into the secondary market. If loans designated for sale into the secondary market are not sold within one year, the relevant borrower stock and borrower rights requirements would again apply.

The borrower stock provisions of this section would apply whether or not the bank or association retains a subordinated participation interest in a loan or pool of loans or contributes to a cash reserve pursuant to title VIII of the Farm Credit Act.

Section 13: Removal of Antiquated and Unnecessary Paperwork Requirements:

Compensation of Association Personnel: This section would remove the requirement in current law that Farm Credit System banks approve the appointment and compensation of association CEOs.

Use of Private Mortgage Insurance: This section would allow a rural home loan borrower to obtain financing in excess of 85 percent of the value of the real estate collateral pledged, provided the borrower obtains private mortgage insurance for the amount in excess of 85 percent. Under current statute, Farm Credit System institutions can only lend up to 85 percent of the value of the real estate security unless federal, state, or government agency guarantees are obtained.

Removal of Certain Borrower Reporting Requirements: This section would repeal the provision of current law which requires all long-term mortgage borrowers to provide updated financial statements every three years, regardless of the status of the borrower's loan.

Disclosure Relating to Adjustable Rate Loans: For loans not subject to the Truth-In-Lending Act, current regulation requires Farm Credit System institutions to notify a borrower of any increase in the interest rate applicable to the borrower's loan at least 10 -

days in advance of the effective date of the change. For adjustable rate loans that are based on an underlying index (such as prime), this requirement is impossible to fulfill.

This section would permit notice of a change in the borrower's interest rate to be given within a reasonable time after the effective date of an increase or decrease.

Joint Management Agreements: This section would remove the requirement in current law that both stockholders and the Farm Credit Administration approve joint management agreements, thereby leaving such decisions to the discretion of the boards of directors of the institutions involved.

Dissemination of Quarterly Reports: This section would require that regulations issued by the Farm Credit Administration governing the dissemination of quarterly reports to shareholders be no more burdensome or costly than regulations issued by other financial regulators governing similar disclosures by national banks.

Section 14: Removal of Federal Government Certification Requirement for Certain Private Sector Financings: This section would remove government certification procedures for certain Banks for Cooperatives' lending activities without changing eligibility requirements in current statute. Under current law, eligibility for FCS bank for cooperative rural utility lending is based on the eligibility requirements in the Rural Electrification Act. Current statute requires the administrator of the Rural Electrification Administration (REA) to certify that rural utility companies are eligible for REA financing in order for those systems to obtain private sector financing from the Banks for Cooperatives. This section would remove the certification requirement without changing the underlying eligibility criteria in the statute.

Section 15: Reform of Regulatory Limitations on Dividend, Member Business, and Voting Practices of Eligible Farmer-Owned Cooperatives: This section would allow greater flexibility for evolving cooperative structure issues such as dividend, member business, and voting practices. Under current law, farmer-owned cooperatives are required to maintain rigid operating procedures in order to maintain their eligibility for FCS Bank for Cooperatives financing. This section would allow existing borrowers to adapt their operations, while retaining their farmer-owned nature, and thereby maintain their continued eligibility to borrow from the Banks for Cooperatives. This section would not expand Banks for Cooperatives eligibility to cooperatives that do not meet the eligibility criteria in current law.

FARM CREDIT ADMINISTRATION,
McLean, VA, June 29, 1995.

Hon. LARRY E. CRAIG,
Chairman, Forestry, Conservation, and Rural Revitalization Subcommittee.
Committee on Agriculture, Nutrition and Forestry,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: In response to your request, the Farm Credit Administration provides its views on the proposed Farm Credit System Regulatory Relief Act of 1995 (Relief Act). Relieving regulatory burden has been a strategic goal of the FCA's since 1994, and we have accomplished a great deal in this area. We are, nevertheless, supportive of legislative efforts to relieve burdens we lack the power to remove, provided safety and soundness are not compromised.

We do not believe it is necessary for the Congress to direct FCA to continue its efforts to eliminate regulations that are unnecessary, unduly burdensome or costly or not based on statute. The FCA has been actively involved in an effort to streamline its regulatory burden and is committed to continuing that process. The FCA Board recently reaffirmed the existing policy to regulate only as necessary to implement or interpret the statute or as required by safety and soundness and to conduct a periodic review of regulations with a view to eliminating unnecessary burden.

While we understand the position the System has taken with respect to the statutory provision for financial statements, we do believe that timely financial information on large loans with annual or infrequent payment schedules is required for safe and sound business decisions and planning. Should the statutory provision be eliminated, we would continue to address this issue by regulation as necessary for safety and soundness. It should also be noted that the current FCA regulation (12 CFR 614.4200(c)) exempts loans with regular and frequently scheduled payments such as rural housing or other similarly amortized consumer-type loans.

With respect to the provisions dealing with information provided to stockholders, FCA regulations require that borrowers receive a 10-day advance notice of the increase in rates on an adjustable rate loan, whether the rate is an administered rate or is tied to an index that is available to the general public and not under the lender's control. The Relief Act proposes to delete this requirement and provide for a post increase notice within a reasonable time. The FCA Board has expressed interest in relaxing the regulatory requirement and would support notification to the borrower within 10 days after the increase or decrease.

The Relief Act provisions would relieve an association of any obligation to provide stockholders with a quarterly financial report. The quarterly report, together with the annual report, serves a dual purpose. The reports provide shareholders with current information on the performance of their investment and the management of the association they own. In addition, they serve as the basis for disclosure to prospective shareholders. FCA regulations currently require that quarterly reports be sent to stockholders or published in a widely available publication. The FCA currently is considering a request from a number of System institutions to permit these reports be made available only when stockholders request them. The Relief Act would relieve System institutions of the obligation to provide a quarterly report even if requested. We think shareholders need to have access to recent financial information about the institution they own.

With respect to the provision related to the Farm Credit System Insurance Corporation Board structure, we believe that it would result in significant savigns and that addressign this issue as proposed in the Relief Act would be consistent with the current emphasis on streamlining government.

We thank you for the opportunity to comment. If we can be of further assistance, please let us know.

Sincerely,

MARSHA MARTIN,
Chairman.
DOYLE L. COOK,
Board Member.

Mr. HEFLIN. Mr. President, I rise in strong support of, and am proud to lend my cosponsorship to, the Farm Credit System Regulatory Relief Act of 1995.

The Farm Credit System has played a central role in providing capital to farming families for decades. However, as we face an evolving business world, modifications are necessary for Farm Credit to remain a viable financial partner for American agriculture.

The availability of credit is of vital importance to rural economies. The Farm Credit System Regulatory Relief Act addresses the need for adequate and reliable credit by providing for the removal of unnecessary and burdensome regulation which will facilitate the flow of required capital.

The Farm Credit Regulatory Relief Act grants the Farm Credit Administration the flexibility to extend the length of time between mandatory examinations to 18 months. The Farm Credit Administration has the authority to examine system-direct lending institutions whenever and as often as the agency chooses. This improvement only changes the mandatory period between examinations. This change will reduce the isntitutions' examination costs and the savings will be passed back to rural borrowers through lwoer loan rates, thereby making capital more easily attainable where it is most needed.

In addition to reducing costs, the Regulatory Relief Act will also allow the Farm Credit System to better serve local communities by creating administrative service entities. Current law allows Farm Credit banks to establish such service entities. This act would extend existing authority to Farm Credit System associations which serve the rural communities. I fully support this change and believe that it is long overdue.

Through the removal of outdated and burdensome regulations, the Farm Credit System will be able to better serve farming families and rural communities wshile promoting cost savings to agriculture by providing farmers with competitive loan rates. For these reasons, I strongly support the Farm Credit Regulatory Relief Act of 1995.

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 1012. A bill to extend the time for construction of certain FERC licensed hydro projects; to the Committee on Energy and Natural Resources.

HYDROELECTRIC POWER LICENSE EXTENSION

• Mr. D'AMATO. Mr. President, I rise today to introduce legislation with my friend and colleague, Senator MOYNIHAN, that will keep two hydroelectric projects in upstate New York on track. Our legislation will extend the time limitations on two Federal Energy Regulatory Commission [FERC] licensed hydroelectric projects located on two existing dam sites on the Hudson River—the Northumberland project and the Waterford project.

The Northumberland Hydroelectric project, when completed, will generate 48 million kilowatt hours of electricity while the Waterford Hydroelectric project will produce 42 million kilowatt hours. The development of these two dams will provide a clean alternative energy source. In addition, the construction and operation of these projects will provide jobs for this upstate region of New York.

As many of my colleagues who are familiar with similar projects know, the Federal Power Act sets a time limit for the beginning of construction on a hydropower project once FERC has issued a license. Once a license is issued, construction must occur 2 years from the licensing date unless FERC extends the initial two year deadline. The Federal Power Act allows only one extension for up to 2 years. Failure to commerce construction within the time allotted opens the license to termination. In the case of these two projects, FERC has already extended the deadline—the Northumberland deadline is January 16, 1996, while the Waterford deadline is June 7, 1997.

The bill that we are introducing today is identical to legislation introduced in the House by Representatives SOLOMON and MCNULTY. Both bills give FERC the authority to extend the construction deadline for each project for up to a total of 6 years. The current licensees for these projects are moving steadily toward development, however, they recognize that they may not be able to achieve their goals within the prescribed deadlines. By enacting this legislation, the extra time necessary to realize the potential of these projects will be granted.

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

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

S. 1012

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

SECTION 1. EXTENSION.

Notwithstanding the limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee or licensees for FERC projects numbered 4244 and 10648 (and after reasonable notice), is authorized in accordance with the good faith, due diligence, and public interest requirements of such section 13 and the Commission's procedures under such section, to extend the time required for commencement of construction for each of such projects for up to a maximum of 3 consecutive 2-year periods. This section shall take effect for the projects upon the expiration of the extension (issued by the Commission under such section 13) of the period required for commencement of construction of each such project.●

By Mr. NICKLES:

S. 1014. A bill to improve the management of royalties from Federal and Outer Continental Shelf oil and gas leases, and for other purposes; to the Committee on Energy and Natural Resources.

THE ROYALTY FAIRNESS ACT OF 1995

Mr. NICKLES. Mr. President, over time, serious problems have developed with the ways courts and consequently the Minerals Management Service [MMS] have interpreted the Federal statute of limitations governing royalty collection. Basically the issue is: At what time does the statute of limitations begin to run on the underpayment of royalties?

Some courts claim that the statute of limitations does not begin to run until the MMS ''should have known about the deficiency'' in the amount the producer has paid *[Mesa* v. *U.S.* (10th Cir. 1994)]. Other courts have held that the current six year statute ''is tolled until such time as the government could reasonably have known about a fact material to its right of action.'' [*Phillips* v. *Lujan* (10th Cir. 1993)].

Either of the above interpretations subject producers to unlimited liability—a period that well exceeds the statute of limitations on other agency actions regarding procedures. This situation has created a climate of deep uncertainty in the payment of royalties that was not intended by Congress and that is not in the best interests of consumers, producers, or ultimately the U.S. Government.

Oil and gas producers pay billions of dollars every year for the opportunity to drill on Federal land. The payment of royalties is a routine part of doing business with the federal government. Their is no attempt here to alter that obligation to pay.

However, like all other businesses, oil and gas producers need certainty in their business relationships and in their business transactions with the Federal Government. That certainty is not now present in the MMS's regulations or in numerous court decisions interpreting the applicable statute of limitations. Certainty can be achieved only through legislation. For that reason, I am introducing today the Royalty Fairness Act of 1995.

The main objective of this legislation is to identify the time when the statute of limitations begins to run on royalty payments. In most cases, it will be when the obligation to pay the royalty begins. That will occur, in most instances, at the time of an underpayment of the royalty payment to the MMS.

Let me summarize the effects and provisions of this bill:

The bill establishes a 6-year statute of limitations for auditing royalty activities and correcting errors, defined to commence the month following the month of production.

The bill also addresses the refund period for overpayments on OCS drilling. Currently, there is a 2-year period to file for an overpayment on offshore leases. Experience has shown that this period is too short and that, as a result, producers can lose legitimate refunds. To correct this problem, the bill extends the refund period from 2 to 3 years. This section also provides for routine crediting or offsetting of overpayments against payments currently due—something that is not permitted now for royalty payments but would increase the efficiencies of collection.

An amendment to the Federal Oil and Gas Royalty Management Act of 1982 [FOGRMA] is included to similarly shorten the time frame for producers to keep records. There is simply no need to keep records beyond the proposed 6-year statute of limitations.

Interest reciprocity is established, but requires offsetting by both the lessee and the Secretary. This offsetting procedure applies to all overpayments and underpayments at the lessee level for all federal leases of the same category prior to determining the ''net'' overpayment or underpayment which is subject to interest.

The Act allows the Secretary to waive interest. Currently, the law is interpreted to require the collection of interest in all cases. That interpretation has made it difficult to resolve payment issues or settle disputed claims. Thus, this section is intended to facilitate the settlement of payments and disputes.

Furthermore, the Act provides an inducement for MMS to resolve administrative proceedings in a diligent timeframe (3 years). There is currently no such inducement; in fact, the MMS in many instances tolls its decisions indefinitely.

This bill provides for the imposition of civil or criminal penalties upon a showing of willful misconduct or gross negligence. Currently penalties or assessments are imposed without notice or an opportunity to be heard. This section provides for due process.

No section of this bill allows for reduced royalties either before or after production is commenced.

It does, however, eliminate the need to give formal notice before seeking enforcement of the Outer Continental Shelf Leasing Act [OCSLA].

These are the major provisions of the Act. It covers leases administered by the Secretary of the Interior on Federal lands and the Outer Continental Shelf but specifically excludes Indian lands.

The MMS has made a number of attempts to correct these problems, and currently it has several information policies that parallel many of the provisions in this bill. However, there will be no permanent solution until Congress enacts legislation. The bill has strong support among oil and gas producers. I am confident that creating a climate of certainty in the oil and gas industry and getting rid of some inconsistencies in current regulation is very much in the national economic interest.

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

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

S. 1014

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Federal Oil and Gas Royalty Simplification and Fairness Act of 1995''.

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

SEC. 2. DEFINITIONS.

Section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended as follows:

(1) In paragraph (5), by inserting ''(including any unit agreement and communitization agreement)'' after ''agreement''.

(2) By amending paragraph (7) to read as follows:

''(7) 'lessee' means any person to whom the United States issues a lease.''.

(3) By striking ''and'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting a semicolon, and by adding at the end the following:

''(17) 'administrative proceeding' means any agency process for rulemaking, adjudication or licensing, as defined in and governed by chapter 5 of title 5, United States Code (relating to administrative procedures);

''(18) 'assessment' means any fee or charge levied or imposed by the Secretary or the United States other than—

''(A) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale;

''(B) any interest; and

''(C) any civil or criminal penalty;

''(19) 'commence' means—

''(A) with respect to a judicial proceeding, the service of a complaint, petition, counterclaim, cross-claim, or other pleading seeking affirmative relief or seeking offset or recoupment;

''(B) with respect to an administrative proceeding—

''(i) the receipt by a lessee of an order to pay issued by the Secretary; or

''(ii) the receipt by the Secretary of a written request or demand by a lessee, or any person acting on behalf of a lessee which asserts an obligation due the lessee;

''(20) 'credit' means the method by which an overpayment is utilized to discharge, cancel, reduce or offset an obligation in whole or in part;

''(21) 'obligation' means a duty of the Secretary, the United States, or a lessee—

''(A) to deliver or take oil or gas in kind; or

''(B) to pay, refund, credit or offset monies, including (but not limited to) a duty to calculate, determine, report, pay, refund, credit or offset—

''(i) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale;

''(ii) any interest;

''(iii) any penalty; or

''(iv) any assessment,

which arises from or relates to any lease administered by the Secretary for, or any mineral leasing law related to, the exploration, production and development of oil or gas on Federal lands or the Outer Continental Shelf;

''(22) 'offset' means the act of applying an overpayment (in whole or in part) against an obligation which has become due to discharge, cancel or reduce the obligation;

''(23) 'order to pay' means a written order issued by the Secretary or the United States which—

''(A) asserts a definite and quantified obligation due the Secretary or the United States; and

''(B) specifically identifies the obligation by lease, production month and amount of such obligation ordered to be paid, as well as the reason or reasons such obligation is claimed to be due,

but such term does not include any other communication by or on behalf of the Secretary or the United States;

''(24) 'overpayment' means any payment (including any estimated royalty payment) by a lessee or by any person acting on behalf of a lessee in excess of an amount legally required to be paid on an obligation;

''(25) 'payment' means satisfaction, in whole or in part, of an obligation due the Secretary or the United States;

''(26) 'penalty' means a statutorily authorized civil fine levied or imposed by the Secretary or the United States for a violation of this Act, a mineral leasing law, or a term or provision of a lease administered by the Secretary;

''(27) 'refund' means the return of an overpayment by the Secretary or the United States by the drawing of funds from the United States Treasury;

''(28) 'underpayment' means any payment by a lessee or person acting on behalf of a lessee that is less than the amount legally required to be paid on an obligation; and

''(29) 'United States' means—

''(A) the United States Government and any department, agency, or instrumentality thereof; and

''(B) when such term is used in a geographic sense, includes the several States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.''.

SEC. 3. LIMITATION PERIODS.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by adding after section 114 the following new section:

''SEC. 115. LIMITATION PERIODS.

''(a) IN GENERAL.—

''(1) SIX-YEAR PERIOD.—A judicial or administrative proceeding which arises from, or relates to, an obligation may not be commenced unless such proceeding is commenced within 6 years from the date on which such obligation becomes due.

''(2) LIMIT ON TOLLING OF LIMITATION PERIOD.—The running of the limitation period under paragraph (1) shall not be suspended or tolled by any action of the United States or an officer or agency thereof other than the commencement of a judicial or administrative proceeding under paragraph (1) or an agreement under paragraph (3).

''(3) FRAUD OR CONCEALMENT.—For the purpose of computing the limitation period under paragraph (1), there shall be excluded therefrom any period during which there has been fraud or concealment by a lessee in an attempt to defeat or evade payment of any such obligation.

''(4) REASONABLE PERIOD FOR PROVIDING INFORMATION.—In seeking information on which to base an order to pay, the Secretary shall afford the lessee or person acting on behalf of the lessee a reasonable period in which to provide such information before the end of the period under paragraph (1).

''(b) FINAL AGENCY ACTION.—The Director of the Minerals Management Service shall issue a final Director's decision in any administrative proceeding before the Director within one year from the date such proceeding was commenced. The Secretary shall issue a final agency decision in any administrative proceeding within 3 years from the date such proceeding was commenced. If no such decision has been issued by the Director or Secretary within the prescribed time periods referred to above:

''(1) the Director's or Secretary's decision, as the case may be, shall be deemed issued and granted in favor of the lessee or lessees as to any nonmonetary obligation and any obligation the principal amount of which is less than $2,500; and

''(2) in the case of a monetary obligation the principal amount of which is $2,500 or more, the Director's or Secretary's decision, as the case may be, shall be deemed issued and final, and the lessee shall have a right of de novo judicial review and appeal of such final agency action.

''(c) TOLLING BY AGREEMENT.—Prior to the expiration of any period of limitation under subsections (a) or (c), the Secretary and a lessee may consent in writing to extend such period as it relates to any obligation under the mineral leasing laws. The period so agreed upon may be extended by subsequent agreement or agreements in writing made before the expiration of the period previously agreed upon.–

''(d) LIMITATION ON CERTAIN ACTIONS BY THE UNITED STATES.—When an action on or enforcement of an obligation under the mineral leasing laws is barred under subsection (a) or (b), the United States or an officer or agency thereof may not take any other or further action regarding that obligation including (but not limited to) the issuance of any order, request, demand or other communication seeking any document, accounting, determination, calculation, recalculation, principal, interest, assessment, penalty or the initiation, pursuit or completion of an audit.

''(e) OBLIGATION BECOMES DUE.—

''(1) IN GENERAL.—For purposes of subsection (a), an obligation becomes due when the right to enforce the obligation is fixed.

''(2) SPECIAL RULE REGARDING ROYALTY OBLIGATION.—The right to enforce any royalty obligation is fixed for the purposes of this Act on the last day of the calendar month following the month in which oil or gas is produced, except that with respect to any such royalty obligation which is altered by a retroactive redetermination of working interest ownership pursuant to a unit or communitization agreement, the right to enforce such royalty obligation in such amended unit or communitization agreement is fixed for the purposes of this Act on the last day of the calendar month in which such redetermination is made. The Secretary shall issue any such redetermination within 180 days of receipt of a request for redetermination.

''(f) JUDICIAL REVIEW OF ADMINISTRATIVE PROCEEDINGS.—In the event an administrative proceeding subject to subsection (a) is timely commenced and thereafter the limitation period in subsection (a) lapses during the pendency of the administrative proceeding, no party to such administrative proceeding shall be barred by this section from commencing a judicial proceeding challenging the final agency action in such administrative proceeding so long as such judicial proceeding is commenced within 90 days from receipt of notice of the final agency action.

''(g) IMPLEMENTATION OF FINAL DECISION.—In the event a judicial or administrative proceeding subject to subsection (a) is timely commenced and thereafter the limitation period in subsection (a) lapses during the pendency of such proceeding, any party to such proceeding shall not be barred from taking such action as is required or necessary to implement the final unappealable judicial or administrative decision, including any action required or necessary to implement such decision by the recovery or recoupment of an underpayment or overpayment by means of refund, credit or offset.

''(h) STAY OF PAYMENT OBLIGATION PENDING REVIEW.—Any party ordered by the Secretary or the United States to pay any obligation (including any interest, assessment or penalty) shall be entitled to a stay of such payment without bond or other surety pending administrative or judicial review unless the Secretary demonstrates that such party is or may become financially insolvent or otherwise unable to pay the obligation, in which case the Secretary may require a bond or other surety satisfactory to cover the obligation.

''(i) INAPPLICABILITY OF THE OTHER STATUTES OF LIMITATION.—The limitations set forth in sections 2401, 2415, 2416, and 2462 of title 28, United States Code, section 42 of the Mineral Leasing Act (30 U.S.C. 226–2), and section 3716 of title 31, United States Code, shall not apply to any obligation to which this Act applies.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (30 U.S.C. 1701) is amended by adding after the item relating to section 114 the following new item:

''Sec. 115. Limitation period.''.

SEC. 4. OVERPAYMENTS: OFFSETS AND REFUNDS.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by adding after section 111 the following new section:

''SEC. 111A. OVERPAYMENTS: OFFSETS AND REFUNDS.

''(a) OFFSETS.—

''(1) MANNER.—For each reporting month, a lessee or person acting on behalf of a lessee shall offset all under payments and overpayments made for that reporting month for all leases within the same royalty distribution category established under permanent indefinite appropriations.

''(2) OFFSET AGAINST OBLIGATIONS.—The net overpayment resulting within each category from the offsetting described in paragraph (1) may be offset and credited against any obligation for current or subsequent reporting months which have become due on leases within the same royalty distribution category.

''(3) PRIOR APPROVAL NOT REQUIRED.—The offsetting or crediting of any overpayment, in whole or part, shall not require the prior request to or approval by the Secretary.

''(4) EXCLUSION OF CERTAIN UNDER AND OVERPAYMENTS.—Any underpayment or overpayment upon which an order has been issued which is subject to appeal shall be excluded from the offsetting provisions of this section.

''(b) REFUNDS.—

''(1) IN GENERAL.—A refund request may be made to the Secretary not before one-year after the subject reporting month. After such one-year period and when a lessee or a person acting on behalf of a lessee has made a net overpayment to the Secretary or the United States and has offset or credited in accordance with subsection (a), the Secretary shall, upon request, refund to such lessee or person the net overpayment, with accumulated interest thereon determined in accordance with section 111. If for any reason, a lessee or person acting on behalf of a lessee is no longer accruing obligations on any lease within a category, then such lessee or person may immediately file a request for a refund of any net overpayment and accumulated interest.

''(2) REQUEST.—The request for refund is sufficient if it—

''(A) is made in writing to the Secretary;

''(B) identifies the person entitled to such refund; and

''(C) provides the Secretary information that reasonably enables the Secretary to identify the overpayment for which such refund is sought.

''(3) TREATMENT AS WRITTEN REQUEST OR DEMAND.—Service of a request for refund shall be a 'written request or demand' sufficient to commence an administrative proceeding.

''(4) PAYMENT BY SECRETARY OF THE TREASURY.—The Secretary shall certify the amount of the refund to be paid under paragraph (1) to the Secretary of the Treasury who is authorized and directed to make such refund.

''(5) PAYMENT PERIOD.—A refund under this subsection shall be paid within 90 days of the date on which the request for refund was received by the Secretary.

''(c) LIMITATION ON OFFSETS AND REFUNDS.—

''(1) LIMITATION PERIOD FOR OFFSETS AND REFUNDS.—Except as provided by paragraph (2), a lessee or person acting on behalf of a lessee may not offset or receive a refund of any overpayment which arises from or relates to an obligation unless such offset or refund request is initiated within six years from the date on which the obligation which is the subject of the overpayment became due.

''(2) EXCEPTION.—(A) For any overpayment the recoupment of which (in whole or in part) by offset or refund, or both, may occur beyond the six-year limitation period provided in paragraph (1), where the issue of whether an overpayment occurred has not been finally determined, or where recoupment of the overpayment has not been accomplished within said six-year period, the lessee or person acting on behalf of a lessee may preserve its right to recover or recoup the overpayment beyond the limitation period by filing a written notice of the overpayment with the Secretary within the six-year period.

''(B) Notice under subparagraph (A) shall be sufficient if it—

''(i) identifies the person who made such overpayment;

''(ii) asserts the obligation due the lessee or person; and

''(iii) identifies the obligation by lease, production month and amount, as well as the reason or reasons such overpayment is due.

''(d) PROHIBITION AGAINST REDUCTION OF REFUNDS OR OFFSETS.—In no event shall the Secretary directly or indirectly claim any amount or amounts against, or reduce any offset or refund (or interest accrued thereon) by, the amount of any obligation the enforcement of which is barred by section 115.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (30 U.S.C. 1701)is amended by adding after the item relating to section 111 the following new item:

''Sec. 111A. Overpayments: offsets and refunds.''.

SEC. 5. REQUIRED RECORDKEEPING.

Section 103 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1713(b)) is amended by adding at the end the following:

''(c) Records required by the Secretary for the purpose of determining compliance with an applicable mineral leasing law, lease provision, regulation or order with respect to oil and gas leases from Federal lands or the Outer Continental Shelf shall be maintained for six years after an obligation becomes due unless the Secretary commences a judicial or administrative proceeding with respect to an obligation within the time period prescribed by section 115 in which such records may be relevant. In that event, the Secretary may direct the record holder to maintain such records until the final nonappealable decision in such judicial or administrative proceeding is rendered. Under no circumstance shall a record holder be required to maintain or produce any record covering a time period for which a substantive claim with respect to an obligation to which the record relates would be barred by the applicable statute of limitation in section 115.''.

SEC. 6. ROYALTY INTEREST, PENALTIES, AND PAYMENTS.

(a) INTEREST CHARGED ON LATE PAYMENTS AND UNDERPAYMENTS.—Section 111(a) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721(a)) is amended to read as follows:

''(a) In the case of oil and gas leases where royalty payments are not received by the Secretary on the date that such payments are due, or are less than the amount due, the Secretary shall charge interest on a net late payment or underpayment at the rate published by the Department of the Treasury as the Treasury Current Value Of Funds Rate. The Secretary may waive or forego such interest in whole or in part. In the case of a net underpayment for a given reporting month, interest shall be computed and charged only on the amount of the net underpayment and not on the total amount due from the date of the net underpayment. The net underpayment is determined by offsetting in the same manner as required under paragraphs (1) and (2) of section 111A(a). Interest may only be billed by the Secretary for any net underpayment not less than one year following the subject reporting month.''.

(b) CHARGE ON LATE PAYMENT MADE BY THE SECRETARY.—Section 111(b) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721(b)) is amended to read as follows:

''(b) Any payment made by the Secretary to a State under section 35 of the Mineral Leasing Act, and any other payment made by the Secretary which is not paid on the date required under such section 35, shall include an interest charge computed at the rate published by the Department of the Treasury as the Treasury Current Value of Funds Rate. The Secretary shall not be required to pay interest under this paragraph until collected or when such interest has been waived or is otherwise not collected. With respect to any obligation, the Secretary may waive or forego interest otherwise required under section 3717 of title 31, United States Code.''.

(c) PERIOD.—Section 111(f) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721(f)) is amended to read as follows:

''(f) Unless waived or not collected pursuant to subsections (a)(2) and (b)(2), interest shall be charged under this section only for the number of days a payment is late.''.

(d) LESSEE INTEREST.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended by adding the following after subsection (g):

''(h) If a net overpayment, as determined by offsetting as required under section 111A(1) and (2) for a reporting month, interest shall be allowed and paid or credited on such net overpayment, with such interest to accrue from the date such net overpayment was made, at the rate published by the Department of the Treasury as the Treasury Current Value of Funds Rate.''.

(e) PAYMENT EXCEPTION FOR MINIMAL PRODUCTION.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended by adding the following after subsection (h):

''(i) For any well on a lease which produces on average less than 250 thousand cubic feet of gas per day or 25 barrels of oil per day, the royalty on the actual or allocated lease production may be paid—

''(1) for a 12-month period, only based on actual production removed or sold from the lease; and

''(2) 6 months following such period, for additional production allocated to the lease during the period.

No interest shall be allowed or accrued on any underpayment resulting from this payment methodology until the month following the applicable 12-month period.''.

SEC. 7. LIMITATION ON ASSESSMENTS.

Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended by adding the following after subsection (i):

''(j) The Secretary may levy or impose an assessment upon any person not to exceed $250 for any reporting month for the inaccurate reporting of information required under subsection (k). No assessment may be levied or imposed upon any person for any underpayment, late payment, or estimated payment or for any erroneous or incomplete royalty or production related report for information not required by subsection (k) absent a showing of gross negligence or willful misconduct.''.

SEC. 8. COST-EFFECTIVE AUDIT AND COLLECTION REQUIREMENTS.

Section 101 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by adding the following after subsection (c):

''(d)(1) If the Secretary determines that the cost of accounting for and collecting of any obligation due for any oil or gas production exceeds or is likely to exceed the amount of the obligation to be collected, the Secretary shall waive such obligation.

''(2) The Secretary shall develop a lease level reporting and audit strategy which eliminates multiple or redundant reporting of information.

''(3) In carrying out this section, for onshore production from any well which is less than 250 thousand cubic feet of gas per day or 25 barrels of oil per day, or for offshore production for any well less than 1,500,000 cubic feet of gas per day or 150 barrels of oil per day, the Secretary shall only require the lessee to submit the information described in section 111(k). For such onshore and offshore production, the Secretary shall not conduct royalty reporting compliance and enforcement activities, levy or impose assessments described in such section 111(k) and shall not bill for comparisons between royalty reporting and production information. The Secretary may only conduct audits on such leases if the Secretary has reason to believe that the lessee has not complied with payment obligations for at least three months during a twelve month period. The Secretary shall not perform such audit if the Secretary determines that the cost of conducting the audit exceeds or is likely to exceed the additional royalties expected to be received as a result of such audit.''.–

SEC. 9. ELIMINATION OF NOTICE REQUIREMENT.

Section 23(a)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1349(a)(2)) is amended to read as follows:

''(2) Except as provided in paragraph (3) of this subsection, no action may be commenced under subsection (a)(1) of this section if the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States or a State with respect to such matter, but in any such action in a court of the United States any person having a legal interest which is or may be adversely affected may intervene as a matter of right.''.

SEC. 10. ROYALTY IN KIND.

(a) IN GENERAL.—Section 27(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(a)(1)) and the first undesignated paragraph of section 36 of the Mineral Leasing Act (30 U.S.C. 192) are each amended by adding at the end the following: ''Any royalty or net profit share of oil or gas accruing to the United States under any lease issued or maintained by the Secretary for the exploration, production and development of oil and gas on Federal lands or the Outer Continental Shelf, at the Secretary's option, may be taken in kind at or near the lease upon 90 days prior written notice to the lessee. Once the United States has commenced taking royalty in kind, it shall continue to do so until 90 days after the Secretary has provided written notice to the lessee that it will resume taking royalty in value. Delivery of royalty in kind by the lessee shall satisfy in full the lessee's royalty obligation. Once the oil or gas is delivered in kind, the lessee shall not be subject to the reporting and recordkeeping requirements, including requirements under section 103, except for those reports and records necessary to verify the volume of oil or gas produced and delivered prior to or at the point of delivery.''.

(b) SALE.—Section 27(c)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(c)(1)) is amended by striking ''competitive bidding for not more than its regulated price, or if no regulated price applies, not less than its fair market value'' and inserting ''competitive bidding or private sale''.

SEC. 11. TIME, MANNER, AND INFORMATION REQUIREMENTS FOR ROYALTY PAYMENT AND REPORTING.

Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended by adding the following after subsection (j):

''(k)(1) Any royalty payment on an obligation due the United States for oil or gas produced pursuant to an oil and gas lease administered by the Secretary shall be payable at the end of the month following the month in which oil or gas is removed or sold from such lease.

''(2) Royalty reporting with respect to any obligation shall be by lease and shall include only the following information:

''(A) identification of the lease;

''(B) product type;

''(C) volume (quantity) of such oil or gas produced;

''(D) quality of such oil or gas produced;

''(E) method of valuation and value, including deductions; and

''(F) royalty due the United States.

''(3) Other than the reporting required under paragraph (2), the Secretary shall not require additional reports or information for production or royalty accounting, including (but not limited to) information or reports on allowances, payor information, selling arrangements, and revenue source.

''(4) No assessment may be imposed on a retroactive adjustments with respect to royalty information made on a net basis for reports described in paragraph (2).

''(5) The Secretary shall establish reporting thresholds for de minimis production, which is defined as less than 100 thousand cubic feet of gas per day or 10 barrels of oil per day per lease. For such de minimis production, the lessee shall report retroactive adjustments with the current month royalty payment, and the Secretary shall not bill for, or collect, comparisons to production, assessments, or interest.

''(6) If the deadline for tendering a royalty payment imposed by paragraph (1) cannot be met for one or more leases, an estimated royalty payment in the approximate amount of royalties that would otherwise be due may be made by a lessee or person acting on behalf of a lessee for such leases to avoid late payment interest charges. When such estimated royalty payment is established, actual royalties become due at the end of the second month following the month the production was removed or sold for as long as the estimated balance exists. Such estimated royalty payment may be carried forward and not reduced by actual royalties paid. Any estimated balance may be adjusted, recouped, or reinstated, at any time. The requirements of paragraph (2) shall not apply to any estimated royalty payment.''.

SEC. 12. REPEALS.

(a) FOGRMA.—Section 307 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1755), is repealed. Section 1 of such Act (relating to the table of contents) is amended by striking out the item relating to section 307.

(b) OCSLA.—Effective on the date of the enactment of this Act, section 10 of the Outer Continental Shelf Lands Act (43 U.S.C. 1339) is repealed.

SEC. 13. INDIAN LANDS.

The amendments made by this Act shall not apply with respect to Indian lands, and the provisions of the Federal Oil and Gas Royalty Management Act of 1982 as in effect on the day before the date of enactment of this Act shall apply after such date only with respect to Indian lands.

SEC. 14. EFFECTIVE DATE.

This Act, and the amendments made by this Act, shall take effect on the date of the enactment of this Act with respect to any obligation which becomes due on or after such date of enactment.

ADDITIONAL COSPONSORS

S. 648

At the request of Mr. COHEN, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 648, a bill to clarify treatment of certain claims and defenses against an insured depository institution under receivership by the Federal Deposit Insurance Corporation, and for other purposes.

S. 678

At the request of Mr. AKAKA, the names of the Senator from North Dakota [Mr. CONRAD], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 678, a bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture development and research program, and for other purposes.

S. 690

At the request of Mr. AKAKA, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 690, a bill to amend the Federal Noxious Weed Act of 1974 and the Terminal Inspection Act to improve the exclusion, eradication, and control of noxious weeds and plants, plant products, plant pests, animals, and other organisms within and into the United States, and for other purposes.

S. 890

At the request of Mr. KOHL, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 890, a bill to amend title 18, United States Code, with respect to gun free schools, and for other purposes.

S. 1001

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 1001, a bill to reform regulatory procedures, and for other purposes.

SENATE RESOLUTION 103

At the request of Mr. DOMENICI, the names of the Senator from California [Mrs. BOXER], and the Senator from Colorado [Mr. BROWN] were added as cosponsors of Senate Resolution 103, a resolution to proclaim the week of October 15 through October 21, 1995, as National Character Counts Week, and for other purposes.

SENATE RESOLUTION 146—TO DESIGNATE NATIONAL FAMILY WEEK

Mr. JOHNSTON submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES.146

Whereas the family is the basic strength of any free and orderly society;

Whereas it is appropriate to honor the family as a unit essential to the continued well-being of the United States; and

Whereas it is fitting that official recognition be given to the importance of family loyalties and ties: Now, therefore, be it

Resolved, That the Senate designates the week beginning on November 19, 1995, and the week beginning on November 24, 1996, as ''National Family Week''. The Senate requests the President to issue a proclamation calling on the people of the United States to observe each week with appropriate ceremonies and activities.

• Mr. JOHNSTON. Mr. President, I submitted legislation in the 103d Congress designating the week beginning on November 21, 1993, and the week beginning on November 20, 1994, as ''National Family Week.'' This was signed by the President and became Public Law 103–153. Today I am pleased to submit legislation which would designate a ''National Family Week'' for the following 2 years, the week beginning on November 19, 1995, and the week beginning on November 24, 1996.

The family is the basic strength of any free and orderly society and it is rather appropriate to honor the family as a unit essential to the continued well-being of the United States. It is only fitting that official recognition be given to the importance of family loyalties and ties and that the people of the United States observe such weeks with appropriate ceremonies and activities.

Since Thanksgiving falls during both these weeks, families may already be gathered for festivities. Therefore, it is particularly suitable to pause as a Nation and recognize the support that families give to their members, and therefore to the community of the United States. I hope my colleagues will join me in this effort.•

SENATE RESOLUTION 147—TO DESIGNATE NATIONAL HISTORICALLY BLACK COLLEGES WEEK

Mr. THURMOND submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 147

Whereas there are 103 historically black colleges and universities in the United States;

Whereas black colleges and universities provide the quality education so essential to full participation in a complex, highly technological society;

Whereas black colleges and universities have a rich heritage and have played a prominent role in American history;

Whereas black colleges and universities have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of historically black colleges and universities are deserving of national recognition: Now, therefore, be it

Resolved, That the Senate designates the weeks beginning September 24, 1995, and September 22, 1996, as ''National Historically Black Colleges and Universities Week''. The Senate requests the President of the United States to issue a proclamation calling on the people of the United States and interested groups to observe the weeks with appropriate ceremonies, activities, and programs to demonstrate support for historically black colleges and universities in the United States.

Mr. THURMOND. Mr. President, I am pleased to rise today to submit a Senate Resolution which authorizes and requests the President to designate the weeks beginning September 24, 1995, and September 22, 1996, as ''National Historically Black Colleges Week''.

It is my privilege to sponsor this legislation for the 11th time honoring the Historically Black Colleges of our Country.

Eight of the 103 Historically Black Colleges, namely Allen University, Benedict College, Claflin College, South Carolina State University, Morris College, Voorhees College, Denmark Technical College, and Clinton Junior College, are located in my home State. These colleges are vital to the higher education system of South Carolina. They have provided thousands of economically disadvantaged young people with the opportunity to obtain a college education.

Mr. President, thousands of young Americans have received quality educations at these 103 schools. These institutions have a long and distinguished history of providing the training necessary for participation in a rapidly changing society. Historically Black Colleges offer our citizens a variety of curricula and programs through which young people develop skills and talents, thereby expanding opportunities for continued social progress.

Recent statistics show that Historically Black Colleges and Universities have graduated 60 percent of the black pharmacists in the Nation, 40 percent of the black attorneys, 50 percent of the black engineers, 75 percent of the black military officers, and 80 percent of the black members of the Judiciary.

Mr. President, through adoption of this Senate Resolution, Congress can reaffirm its support for Historically Black Colleges, and appropriately recognize their important contributions to our Nation. I look forward to the speedy adoption of this Resolution.

SENATE RESOLUTION 148—RELATIVE TO THE ARREST OF HARRY WU

Mr. HELMS submitted the following resolution; which was considered and agreed to:

S. RES. 148

Whereas Peter H. Wu, known as Harry Wu, attempted to enter the People's Republic of China on June 19, 1995, near the China-Kazakhstan border;

Whereas Harry Wu, a 58-year-old American citizen, was traveling on a valid United States passport and a valid visa issued by the Chinese authorities;

Whereas the Chinese authorities confined Harry Wu to house arrest for 3 days, after which time he has not been seen or heard from;

Whereas the Chinese Foreign Ministry notified the United States Embassy in Beijing of Mr. Wu's detention on Friday, June 23;

Whereas the United States Embassy in Beijing approached the Chinese Foreign Ministry on Monday, June 26, to issue an official demarche for the detention of an American citizen;

Whereas the terms of the United States-People's Republic of China Consular Convention on February 19, 1982, require that United States Government officials shall be accorded access to an American citizen as soon as possible but not more than 48 hours after the United States has been notified of such detention;

Whereas on Wednesday, June 28, the highest ranking representative of the People's Republic of China in the United States refused to offer the United States Government any information on Harry Wu's whereabouts or the charges brought against him;

Whereas the Government of the People's Republic of China is in violation of the terms of its Consular Convention;

Whereas Harry Wu, who was born in China, has already spent 19 years in Chinese prisons;

Whereas Harry Wu has dedicated his life to the betterment of the human rights situation in the People's Republic of China;

Whereas Harry Wu first detailed to the United States Congress the practice of using prison labor to produce products for export from China to other countries;

Whereas Harry Wu testified before the Committee on Foreign Relations of the Senate on May 4, 1995, informing the Committee, the Senate, and the American people about the Chinese government practice of murdering Chinese prisoners, including political prisoners, for the purpose of harvesting their organs for sale on the international market;

Whereas on June 2, 1995, the President of the United States announced his determination that further extension of the waiver authority granted by section 402(c) of the Trade Act of 1974 (Public Law 93–618; 88 Stat. 1978), also known as ''Jackson-Vanik'', will substantially promote freedom of emigration from the People's Republic of China;

Whereas This waiver authority will allow the People's Republic of China to receive the lowest tariff rates possible, also known as Most-Favored-Nation trading status, for a period of 12 months beginning on July 3, 1995; and

Whereas The Chinese government and people benefit substantially from the continuation of such trading benefits: Now, therefore, be it

Resolved, That (a) the United States Senate expresses its condemnation of the arrest of Peter H. Wu and its deep concern for his well-being.

(b) It is the sense of the Senate that—

(1) the People's Republic of China must immediately comply with its commitments under the United States-People's Republic of China Consular Convention of February 19, 1982, by allowing consular access to Peter H. Wu;

(2) the People's Republic of China should provide immediately a full accounting of Peter Wu's whereabouts and the charges being brought against him; and

(3) the President of the United States should use every diplomatic means available to ensure Peter Wu's safe and expeditious return to United States.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President of the United States with the request that the President further transmit such copy to the Embassy of the People's Republic of China in the United States.

AMENDMENTS SUBMITTED

THE COMPREHENSIVE REGULATORY REFORM ACT OF 1995

DOLE (AND OTHERS) AMENDMENT NO. 1487

Mr. DOLE (for himself, Mr. JOHNSTON, Mr. HATCH, Mr. HEFLIN, Mr. NICKLES, Mr. ROTH, Mr. MURKOWSKI, Mr. BOND, Mr. GRASSLEY, Mr. COVERDELL, Mr. THOMPSON, Mr. CRAIG, Mr. BROWN, Mr. THOMAS, Mr. KYL, Mr. BREAUX, Mrs. HUTCHISON, Mr. ABRAHAM, Mr. GRAMS, and Mr. LOTT) proposed an amendment to the bill (S. 343) to reform the regulatory process, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Comprehensive Regulatory Reform Act of 1995''.

SEC. 2. DEFINITIONS.

Section 551 of title 5, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking ''this subchapter'' and inserting ''this chapter and chapters 7 and 8'';

(2) in paragraph (13), by striking ''and'';

(3) in paragraph (14), by striking the period at the end and inserting ''; and''; and

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

''(15) 'Director' means the Director of the Office of Management and Budget.''.

SEC. 3. RULEMAKING.

Section 553 of title 5, United States Code, is amended to read as follows:

''§ 553. Rulemaking

''(a) APPLICABILITY.—This section applies to every rulemaking, according to the provisions thereof, except to the extent that there is involved—

''(1) a matter pertaining to a military or foreign affairs function of the United States;

''(2) a matter relating to the management or personnel practices of an agency;

''(3) an interpretive rule, general statement of policy, guidance, or rule of agency organization, procedure, or practice, unless such rule, statement, or guidance has general applicability and substantially alters or creates rights or obligations of persons outside the agency; or

''(4) a rule relating to the acquisition, management, or disposal by an agency of real or personal property, or of services, that is promulgated in compliance with otherwise applicable criteria and procedures.

''(b) NOTICE OF PROPOSED RULEMAKING.—General notice of proposed rulemaking shall be published in the Federal Register, unless all persons subject thereto are named and either personally served or otherwise have actual notice of the proposed rulemaking in accordance with law. Each notice of proposed rulemaking shall include—

''(1) a statement of the time, place, and nature of public rulemaking proceedings;

''(2) a succinct explanation of the need for and specific objectives of the proposed rule, including an explanation of the agency's determination of whether or not the rule is a major rule within the meaning of section 621(5);

''(3) a succinct explanation of the specific statutory basis for the proposed rule, including an explanation of—

''(A) whether the interpretation is clearly required by the text of the statute; or

''(B) if the interpretation is not clearly required by the text of the statute, an explanation that the interpretation is within the range of permissible interpretations of the statute as identified by the agency, and an explanation why the interpretation selected by the agency is the agency's preferred interpretation;

''(4) the terms or substance of the proposed rule;

''(5) a summary of any initial analysis of the proposed rule required to be prepared or issued pursuant to chapter 6;

''(6) a statement that the agency seeks proposals from the public and from State and local governments for alternative methods to accomplish the objectives of the rulemaking that are more effective or less burdensome than the approach used in the proposed rule; and

''(7) a statement specifying where the file of the rulemaking proceeding maintained pursuant to subsection (j) may be inspected and how copies of the items in the file may be obtained.

''(c) PERIOD FOR COMMENT.—The agency shall give interested persons not less than 60 days after providing the notice required by subsection (b) to participate in the rulemaking through the submission of written data, views, or arguments.

''(d) GOOD CAUSE EXCEPTION.—Unless notice or hearing is required by statute, a final rule may be adopted and may become effective without prior compliance with subsections (b) and (c) and (e) through (g) if the agency for good cause finds that providing notice and public procedure thereon before the rule becomes effective is impracticable, unnecessary, or contrary to the public interest. If a rule is adopted under this subsection, the agency shall publish the rule in the Federal Register with the finding and a succinct explanation of the reasons therefor.

''(e) PROCEDURAL FLEXIBILITY.—To collect relevant information, and to identify and elicit full and representative public comment on the significant issues of a particular rulemaking, the agency may use such other procedures as the agency determines are appropriate, including—

''(1) the publication of an advance notice of proposed rulemaking;

''(2) the provision of notice, in forms which are more direct than notice published in the Federal Register, to persons who would be substantially affected by the proposed rule but who are unlikely to receive notice of the proposed rulemaking through the Federal Register;

''(3) the provision of opportunities for oral presentation of data, views, information, or rebuttal arguments at informal public hearings, meetings, and round table discussions, which may be held in the District of Columbia and other locations;

''(4) the establishment of reasonable procedures to regulate the course of informal public hearings, meetings and round table discussions, including the designation of representatives to make oral presentations or engage in direct or cross-examination on behalf of several parties with a common interest in a rulemaking, and the provision of transcripts, summaries, or other records of all such public hearings and summaries of meetings and round table discussions;

''(5) the provision of summaries, explanatory materials, or other technical information in response to public inquiries concerning the issues involved in the rulemaking; and

''(6) the adoption or modification of agency procedural rules to reduce the cost or complexity of the procedural rules.

''(f) PLANNED FINAL RULE.—If the provisions of a final rule that an agency plans to adopt are so different from the provisions of the original notice of proposed rulemaking that the original notice did not fairly apprise the public of the issues ultimately to be resolved in the rulemaking or of the substance of the rule, the agency shall publish in the Federal Register a notice of the final rule the agency plans to adopt, together with the information relevant to such rule that is required by the applicable provisions of this section and that has not previously been published in the Federal Register. The agency shall allow a reasonable period for comment on such planned final rule prior to its adoption.

''(g) STATEMENT OF BASIS AND PURPOSE.—An agency shall publish each final rule it adopts in the Federal Register, together with a concise statement of the basis and purpose of the rule and a statement of when the rule may become effective. The statement of basis and purpose shall include—

''(1) an explanation of the need for, objectives of, and specific statutory authority for, the rule;

''(2) a discussion of, and response to, any significant factual or legal issues presented by the rule, or raised by the comments on the proposed rule, including a description of the reasonable alternatives to the rule proposed by the agency and by interested persons, and the reasons why such alternatives were rejected;

''(3) a succinct explanation of whether the specific statutory basis for the rule is expressly required by the text of the statute, or if the specific statutory interpretation upon which the rule is based is not expressly required by the text of the statute, an explanation that the interpretation is within the range of permissible interpretations of the statute as identified by the agency, and why the agency has rejected other interpretations proposed in comments to the agency;

''(4) an explanation of how the factual conclusions upon which the rule is based are substantially supported in the rulemaking file; and

''(5) a summary of any final analysis of the rule required to be prepared or issued pursuant to chapter 6.

''(h) NONAPPLICABILITY.—In the case of a rule that is required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 shall apply in lieu of subsections (c), (e), (f), and (g).

''(i) EFFECTIVE DATE.—An agency shall publish the final rule in the Federal Register

not later than 60 days before the effective date of such rule. An agency may make a rule effective in less than 60 days after publication in the Federal Register if the rule grants or recognizes an exemption, relieves a restriction, or if the agency for good cause finds that such a delay in the effective date would be contrary to the public interest and publishes such finding and an explanation of the reasons therefor, with the final rule.

''(j) RULEMAKING FILE.—(1) The agency shall maintain a file for each rulemaking proceeding conducted pursuant to this section and shall maintain a current index to such file.

''(2) Except as provided in subsection (k), the file shall be made available to the public not later than the date on which the agency makes an initial publication concerning the rule.

''(3) The rulemaking file shall include—

''(A) the notice of proposed rulemaking, any supplement to, or modification or revision of, such notice, and any advance notice of proposed rulemaking;

''(B) copies of all written comments received on the proposed rule;

''(C) a transcript, summary, or other record of any public hearing conducted on the rulemaking;

''(D) copies, or an identification of the place at which copies may be obtained, of factual and methodological material that pertains directly to the rulemaking and that was considered by the agency in connection with the rulemaking, or that was submitted to or prepared by or for the agency in connection with the rulemaking; and

''(E) any statement, description, analysis, or other material that the agency is required to prepare or issue in connection with the rulemaking, including any analysis prepared or issued pursuant to chapter 6.

The agency shall place each of the foregoing materials in the file as soon as practicable after each such material becomes available to the agency.

''(k) CONFIDENTIAL TREATMENT.—The file required by subsection (j) need not include any material described in section 552(b) if the agency includes in the file a statement that notes the existence of such material and the basis upon which the material is exempt from public disclosure under such section. The agency may not substantially rely on any such material in formulating a rule unless it makes the substance of such material available for adequate comment by interested persons. The agency may use summaries, aggregations of data, or other appropriate mechanisms to protect the confidentiality of such material to the maximum extent possible.

''(*l*) RULEMAKING PETITION.—(1) Each agency shall give an interested person the right to petition—

''(A) for the issuance, amendment, or repeal of a rule;

''(B) for the amendment or repeal of an interpretive rule or general statement of policy or guidance; and

''(C) for an interpretation regarding the meaning of a rule, interpretive rule, general statement of policy, or guidance.

''(2) The agency shall grant or deny a petition made pursuant to paragraph (1), and give written notice of its determination to the petitioner, with reasonable promptness, but in no event later than 18 months after the petition was received by the agency.

''(3) The written notice of the agency's determination shall include an explanation of the determination and a response to each significant factual and legal claim that forms the basis of the petition.

''(m) JUDICIAL REVIEW.—(1) The decision of an agency to use or not to use procedures in a rulemaking under subsection (e) shall not be subject to judicial review.

''(2) The rulemaking file required under subsection (j) shall constitute the rulemaking record for purposes of judicial review.

''(3) No court shall hold unlawful or set aside an agency rule based on a violation of subsection (j), unless the court finds that such violation has precluded fair public consideration of a material issue of the rulemaking taken as a whole.

''(4)(A) Judicial review of compliance or noncompliance with subsection (j) shall be limited to review of action or inaction on the part of an agency.

''(B) A decision by an agency to deny a petition under subsection (*l*) shall be subject to judicial review immediately upon denial, as final agency action under the statute granting the agency authority to carry out its action.

''(n) CONSTRUCTION.—(1) Notwithstanding any other provision of law, this section shall apply to and supplement the procedures governing informal rulemaking under statutes that are not generally subject to this section.

''(2) Nothing in this section authorizes the use of appropriated funds available to any agency to pay the attorney's fees or other expenses of persons intervening in agency proceedings.''.

SEC. 4. ANALYSIS OF AGENCY RULES.

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following:

''SUBCHAPTER II—ANALYSIS OF AGENCY RULES

''§ 621. Definitions

''For purposes of this subchapter—

''(1) except as otherwise provided, the definitions under section 551 shall apply to this subchapter;

''(2) the term 'benefit' means the reasonably identifiable significant favorable effects, quantifiable and nonquantifiable, including social, environmental, health, and economic effects, that are expected to result directly or indirectly from implementation of a rule or other agency action;

''(3) the term 'cost' means the reasonably identifiable significant adverse effects, quantifiable and nonquantifiable, including social, environmental, health, and economic effects that are expected to result directly or indirectly from implementation of a rule or other agency action;

''(4) the term 'cost-benefit analysis' means an evaluation of the costs and benefits of a rule, quantified to the extent feasible and appropriate and otherwise qualitatively described, that is prepared in accordance with the requirements of this subchapter at the level of detail appropriate and practicable for reasoned decisionmaking on the matter involved, taking into consideration the significance and complexity of the decision and any need for expedition;

''(5) the term 'major rule' means—

''(A) a rule or set of closely related rules that the agency proposing the rule, the Director, or a designee of the President determines is likely to have a gross annual effect on the economy of $50,000,000 or more in reasonably quantifiable increased costs; or

''(B) a rule that is otherwise designated a major rule by the agency proposing the rule, the Director, or a designee of the President (and a designation or failure to designate under this clause shall not be subject to judicial review);

''(6) the term 'market-based mechanism' means a regulatory program that—

''(A) imposes legal accountability for the achievement of an explicit regulatory objective on each regulated person;

''(B) affords maximum flexibility to each regulated person in complying with mandatory regulatory objectives, which flexibility shall, where feasible and appropriate, include, but not be limited to, the opportunity to transfer to, or receive from, other persons, including for cash or other legal consideration, increments of compliance responsibility established by the program; and

''(C) permits regulated persons to respond to changes in general economic conditions and in economic circumstances directly pertinent to the regulatory program without affecting the achievement of the program's explicit regulatory mandates;

''(7) the term 'performance-based standards' means requirements, expressed in terms of outcomes or goals rather than mandatory means of achieving outcomes or goals, that permit the regulated entity discretion to determine how best to meet specific requirements in particular circumstances;

''(8) the term 'reasonable alternatives' means the range of reasonable regulatory options that the agency has authority to consider under the statute granting rulemaking authority, including flexible regulatory options of the type described in section 622(c)(2)(C)(iii), unless precluded by the statute granting the rulemaking authority; and

''(9) the term 'rule' has the same meaning as in section 551(4), and—

''(A) includes any statement of general applicability that substantially alters or creates rights or obligations of persons outside the agency; and

''(B) does not include—

''(i) a rule that involves the internal revenue laws of the United States, or the assessment and collection of taxes, duties, or other revenues or receipts;

''(ii) a rule or agency action that implements an international trade agreement to which the United States is a party;

''(iii) a rule or agency action that authorizes the introduction into commerce, or recognizes the marketable status, of a product;

''(iv) a rule exempt from notice and public procedure under section 553(a);

''(v) a rule or agency action relating to the public debt;

''(vi) a rule required to be promulgated at least annually pursuant to statute, or that provides relief, in whole or in part, from a statutory prohibition, other than a rule promulgated pursuant to subtitle C of title II of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.);

''(vii) a rule of particular applicability that approves or prescribes the future rates, wages, prices, services, corporate or financial structures, reorganizations, mergers, acquisitions, accounting practices, or disclosures bearing on any of the foregoing;

''(viii) a rule relating to monetary policy or to the safety or soundness of federally insured depository institutions or any affiliate of such an institution (as defined in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k))), credit unions, Federal Home Loan Banks, government sponsored housing enterprises, farm credit institutions, foreign banks that operate in the United States and their affiliates, branches, agencies, commercial lending companies, or representative offices, (as those terms are defined in section 1 of the International Banking Act of 1978 (12 U.S.C. 3101));

''(ix) a rule relating to the payment system or the protection of deposit insurance funds or the farm credit insurance fund;

''(x) any order issued in a rate or certificate proceeding by the Federal Energy Regulatory Commission, or a rule of general applicability that the Federal Energy Regulatory Commission certifies would increase

reliance on competitive market forces or reduce regulatory burdens;

''(xi) a rule or order relating to the financial responsibility of brokers and dealers or futures commission merchants, the safeguarding of investor securities and funds or commodity future or options customer securities and funds, the clearance and settlement of securities, futures, or options transactions, or the suspension of trading under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or emergency action taken under the Commodity Exchange Act (7 U.S.C. 1 et seq.), or a rule relating to the protection of the Securities Investor Protection Corporation, that is promulgated under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.); or

''(xii) a rule that involves the international trade laws of the United States.

''§ 622. Rulemaking cost-benefit analysis

''(a) DETERMINATIONS FOR MAJOR RULE.—Prior to publishing a notice of proposed rulemaking for any rule (or, in the case of a notice of proposed rulemaking that has been published but not issued as a final rule on or before the date of enactment of this subchapter, not later than 30 days after such date of enactment), each agency shall determine—

''(1) whether the rule is or is not a major rule within the meaning of section 621(5)(A)(i) and, if it is not, whether it should be designated as a major rule under section 621(5)(B); and

''(2) if the agency determines that the rule is a major rule, or otherwise designates it as a major rule, whether the rule requires or does not require the preparation of a risk assessment under section 632(a).

''(b) DESIGNATION.—(1) If an agency has determined that a rule is not a major rule within the meaning of section 621(5)(A) and has not designated the rule as a major rule within the meaning of section 621(5)(B), the Director or a designee of the President may, as appropriate, determine that the rule is a major rule or designate the rule as a major rule not later than 30 days after the publication of the notice of proposed rulemaking for the rule (or, in the case of a notice of proposed rulemaking that has been published on or before the date of enactment of this subchapter, not later than 1 year after such date of enactment).

''(2) Such determination or designation shall be published in the Federal Register, together with a succinct statement of the basis for the determination or designation.

''(c) INITIAL COST-BENEFIT ANALYSIS.—(1)(A) When the agency publishes a notice of proposed rulemaking for a major rule, the agency shall issue and place in the rulemaking file an initial cost-benefit analysis, and shall include a summary of such analysis in the notice of proposed rulemaking.

''(B)(i) When an agency, the Director, or a designee of the President has published a determination or designation that a rule is a major rule after the publication of the notice of proposed rulemaking for the rule, the agency shall promptly issue and place in the rulemaking file an initial cost-benefit analysis for the rule and shall publish in the Federal Register a summary of such analysis.

''(ii) Following the issuance of an initial cost-benefit analysis under clause (i), the agency shall give interested persons an opportunity to comment in the same manner as if the initial cost-benefit analysis had been issued with the notice of proposed rulemaking.

''(2) Each initial cost-benefit analysis shall contain—

''(A) a succinct analysis of the benefits of the proposed rule, including any beneficial effects that cannot be quantified, and an explanation of how the agency anticipates such benefits will be achieved by the proposed rule, including a description of the persons or classes of persons likely to receive such benefits;

''(B) a succinct analysis of the costs of the proposed rule, including any costs that cannot be quantified, and an explanation of how the agency anticipates such costs will result from the proposed rule, including a description of the persons or classes of persons likely to bear such costs;

''(C) a succinct description (including an analysis of the costs and benefits) of reasonable alternatives for achieving the objectives of the statute, including, where such alternatives exist, alternatives that—

''(i) require no government action, where the agency has discretion under the statute granting the rulemaking authority not to promulgate a rule;

''(ii) will accommodate differences among geographic regions and among persons with differing levels of resources with which to comply;

''(iii) employ performance-based standards, market-based mechanisms, or other flexible regulatory options that permit the greatest flexibility in achieving the regulatory result that the statutory provision authorizing the rule is designed to produce; or

''(iv) employ voluntary standards;

''(D) in any case in which the proposed rule is based on one or more scientific evaluations, scientific information, or a risk assessment, or is subject to the risk assessment requirements of subchapter III, a description of the actions undertaken by the agency to verify the quality, reliability, and relevance of such scientific evaluation, scientific information, or risk assessment; and

''(E) an explanation of how the proposed rule is likely to meet the decisional criteria of section 624.

''(d) FINAL COST-BENEFIT ANALYSIS.—(1) When the agency publishes a final major rule, the agency shall also issue and place in the rulemaking file a final cost-benefit analysis, and shall include a summary of the analysis in the statement of basis and purpose.

''(2) Each final cost-benefit analysis shall contain—

''(A) a description and comparison of the benefits and costs of the rule and of the reasonable alternatives to the rule described in the rulemaking record, including flexible regulatory options of the type described in subsection (c)(2)(C)(iii), and a description of the persons likely to receive such benefits and bear such costs; and

''(B) an analysis, based upon the rulemaking record considered as a whole, of how the rule meets the decisional criteria in section 624.

''(3) In considering the benefits and costs, the agency, when appropriate, shall consider the benefits and costs incurred by all of the affected persons or classes of persons (including specially affected subgroups).

''(e) REQUIREMENTS FOR COST-BENEFIT ANALYSES.—(1)(A) The description of the benefits and costs of a proposed and a final rule required under this section shall include, to the extent feasible, a quantification or numerical estimate of the quantifiable benefits and costs.

''(B) The quantification or numerical estimate shall—

''(i) be made in the most appropriate unit of measurement, using comparable assumptions, including time periods;

''(ii) specify the ranges of predictions; and

''(iii) explain the margins of error involved in the quantification methods and the uncertainties and variabilities in the estimates used.

''(C) An agency shall describe the nature and extent of the nonquantifiable benefits and costs of a final rule pursuant to this section in as precise and succinct a manner as possible.

''(D) The agency evaluation of the relationship of benefits to costs shall be clearly articulated.

''(E) An agency shall not be required to make such evaluation primarily on a mathematical or numerical basis.

''(F) Nothing in this subsection shall be construed to expand agency authority beyond the delegated authority arising from the statute granting the rulemaking authority.

''(2) Where practicable and when understanding industry-by-industry effects is of central importance to a rulemaking, the description of the benefits and costs of a proposed and final rule required under this section shall describe such benefits and costs on an industry by industry basis.

''(f) HEALTH, SAFETY, OR EMERGENCY EXEMPTION FROM COST-BENEFIT ANALYSIS.—(1) A major rule may be adopted and may become effective without prior compliance with this subchapter if—

''(A) the agency for good cause finds that conducting cost-benefit analysis is impracticable due to an emergency or health or safety threat that is likely to result in significant harm to the public or natural resources; and

''(B) the agency publishes in the Federal Register, together with such finding, a succinct statement of the basis for the finding.

''(2) Not later than 180 days after the promulgation of a final major rule to which this section applies, the agency shall comply with the provisions of this subchapter and, as thereafter necessary, revise the rule.

''§ 623. Agency regulatory review

''(a) PRELIMINARY SCHEDULE FOR RULES.—(1) Not later than 1 year after the date of the enactment of this section, and every 5 years thereafter, the head of each agency shall publish in the Federal Register a notice of proposed rulemaking under section 553 that contains a preliminary schedule of rules selected for review under this section by the head of the agency and in the sole discretion of the head of the agency, and request public comment thereon, including suggestions for additional rules warranting review. The agency shall allow at least 180 days for public comment.

''(2) In selecting rules for the preliminary schedule, the head of the agency shall consider the extent to which, in the judgment of the head of the agency—

''(A) a rule is unnecessary, and the agency has discretion under the statute authorizing the rule to repeal the rule;

''(B) a rule would not meet the decisional criteria of section 624, and the agency has discretion under the statute authorizing the rule to repeal the rule; or

''(C) a rule could be revised in a manner allowed by the statute authorizing the rule so as to—

''(i) substantially decrease costs;

''(ii) substantially increase benefits; or

''(iii) provide greater flexibility for regulated entities, through mechanisms including, but not limited to, those listed in section 622(c)(2)(C)(iii).

''(3) The preliminary schedule under this subsection shall propose deadlines for review of each rule listed thereon, and such deadlines shall occur not later than 11 years from the date of publication of the preliminary schedule.

''(4) Any interpretive rule, general statement of policy, or guidance that has the force and effect of a rule under section 621(9) shall be treated as a rule for purposes of this section.

''(b) SCHEDULE.—(1) Not later than 1 year after publication of a preliminary schedule under subsection (a), and subject to subsection (c), the head of each agency shall publish a final rule that establishes a schedule of rules to be reviewed by the agency under this section.

''(2) The schedule shall establish a deadline for completion of the review of each rule listed on the schedule, taking into account the criteria in subsection (d) and comments received in the rulemaking under subsection (a). Each such deadline shall occur not later than 11 years from the date of publication of the preliminary schedule.

''(3) The schedule shall contain, at a minimum, all rules listed on the preliminary schedule.

''(4) The head of the agency shall modify the agency's schedule under this section to reflect any change ordered by the court under subsection (e) or subsection (g)(3) or contained in an appropriations Act under subsection (f).

''(c) PETITIONS AND COMMENTS PROPOSING ADDITION OF RULES TO THE SCHEDULE.—(1) Notwithstanding section 553(*l*), a petition to amend or repeal a major rule or an interpretative rule, general statement of policy, or guidance on grounds arising under this subchapter may only be filed during the 180-day comment period under subsection (a) and not at any other time. Such petition shall be reviewed only in accordance with this subsection.

''(2) The head of the agency shall, in response to petitions received during the rulemaking to establish the schedule, place on the final schedule for the completion of review within the first 3 years of the schedule any rule for which a petition, on its face, together with any relevant comments received in the rulemaking under subsection (a), establishes that there is a substantial likelihood that, considering the future impact of the rule—

''(A) the rule is a major rule under section 621(5)(A); and

(B) the head of the agency would not be able to make the findings required by section 624 with respect to the rule.

''(3) For the purposes of paragraph (2), the head of the agency may consolidate multiple petitions on the same rule into 1 determination with respect to review of the rule.

''(4) The head of the agency may, at the sole discretion of the head of the agency, add to the schedule any other rule suggested by a commentator during the rulemaking under subsection (a).

''(d) CRITERIA FOR ESTABLISHING DEADLINES FOR REVIEW.—The schedules in subsections (a) and (b) shall establish deadlines for review of each rule on the schedule that take into account—

''(1) the extent to which, for a particular rule, the preliminary views of the agency are that—

''(A) the rule is unnecessary, and the agency has discretion under the statute authorizing the rule to repeal the rule;

''(B) the rule would not meet the decisional criteria of section 624, and the agency has discretion under the statute authorizing the rule to repeal the rule; or

''(C) the rule could be revised in a manner allowed by the statute authorizing the rule so as to meet the decisional criteria under section 624 and to—

''(i) substantially decrease costs;

''(ii) substantially increase benefits; or

''(iii) provide greater flexibility for regulated entities, through mechanisms including, but not limited to, those listed in section 622(c)(2)(C)(iii);

''(2) the importance of each rule relative to other rules being reviewed under this section; and

''(3) the resources expected to be available to the agency under subsection (f) to carry out the reviews under this section.

''(e) JUDICIAL REVIEW.—(1) Notwithstanding section 625 and except as provided otherwise in this subsection, agency compliance or noncompliance with the requirements of this section shall be subject to judicial review in accordance with section 706 of this title.

''(2) The United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to review agency action pursuant to subsections (a), (b), and (c).

''(3) A petition for review of final agency action under subsection (b) or subsection (c) shall be filed not later than 60 days after the agency publishes the final rule under subsection (b).

''(4) The court upon review, for good cause shown, may extend the 3-year deadline under subsection (c)(2) for a period not to exceed 1 additional year.

''(5) The court shall remand to the agency any schedule under subsection (b) only if final agency action under subsection (b) is arbitrary or capricious. Agency action under subsection (d) shall not be subject to judicial review.

''(f) ANNUAL BUDGET.—(1) The President's annual budget proposal submitted under section 1105(a) of title 31 for each agency subject to this section shall—

''(A) identify as a separate sum the amount requested to be appropriated for implementation of this section during the upcoming fiscal year; and

''(B) include a list of rules which may terminate during the year for which the budget proposal is made.

''(2) Amendments to the schedule under subsection (b) that change a deadline for review of a rule may be included in annual appropriations Acts for the relevant agencies. An authorizing committee with jurisdiction may submit, to the House of Representatives or Senate appropriations committee (as the case may be), amendments to the schedule published by an agency under subsection (b) that change a deadline for review of a rule. The appropriations committee to which such amendments have been submitted shall include or propose the amendments in the annual appropriations Act for the relevant agency. Each agency shall modify its schedule under subsection (b) to reflect such amendments that are enacted into law.

''(g) REVIEW OF RULE.—(1) For each rule on the schedule under subsection (b), the agency shall—

''(A) not later than 2 years before the deadline in such schedule, publish in the Federal Register a notice that solicits public comment regarding whether the rule should be continued, amended, or repealed;

''(B) not later than 1 year before the deadline in such schedule, publish in the Federal Register a notice that—

''(i) addresses public comments generated by the notice in subparagraph (A);

''(ii) contains a preliminary analysis provided by the agency of whether the rule is a major rule, and if so, whether it satisfies the decisional criteria of section 624;

''(iii) contains a preliminary determination as to whether the rule should be continued, amended, or repealed; and

''(iv) solicits public comment on the preliminary determination for the rule; and

''(C) not later than 60 days before the deadline in such schedule, publish in the Federal Register a final notice on the rule that—

''(i) addresses public comments generated by the notice in subparagraph (B); and

''(ii) contains a final determination of whether to continue, amend, or repeal the rule; and

''(iii) if the agency determines to continue the rule and the rule is a major rule, contains findings necessary to satisfy the decisional criteria of section 624; and

''(iv) if the agency determines to amend the rule, contains a notice of proposed rulemaking under section 553.

''(2) If the final determination of the agency is to continue or repeal the rule, that determination shall take effect 60 days after the publication in the Federal Register of the notice in paragraph (1)(C).

''(3) An interested party may petition the U.S. Court of Appeals for the District of Columbia Circuit to extend the period for review of a rule on the schedule for up to two years and to grant such equitable relief as is appropriate, if such petition establishes that—

''(A) the rule is likely to terminate under subsection (i);

''(B) the agency needs additional time to complete the review under this subsection;

''(C) terminating the rule would not be in the public interest; and

''(D) the agency has not expeditiously completed its review.

''(h) DEADLINE FOR FINAL AGENCY ACTION ON MODIFIED RULE.—If an agency makes a determination to amend a major rule under subsection (g)(1)(C)(ii), the agency shall complete final agency action with regard to such rule not later than 2 years of the date of publication of the notice in subsection (g)(1)(C) containing such determination. Nothing in this subsection shall limit the discretion of an agency to decide, after having proposed to modify a major rule, not to promulgate such modification. Such decision shall constitute final agency action for the purposes of judicial review.

''(i) TERMINATION OF RULES.—If the head of an agency has not completed the review of a rule by the deadline established in the schedule published or modified pursuant to subsection (b) and subsection (c), the head of the agency shall not enforce the rule, and the rule shall terminate by operation of law as of such date.

''(j) FINAL AGENCY ACTION.—(1) The final determination of an agency to continue or repeal a major rule under subsection (g)(1)(C) shall be considered final agency action.

''(2) Failure to promulgate an amended major rule or to make other decisions required by subsection (h) by the date established under such subsection shall be considered final agency action.

''§ 624. Decisional criteria

''(a) CONSTRUCTION WITH OTHER LAWS.—The requirements of this section shall supplement, and not supersede, any other decisional criteria otherwise provided by law.

''(b) REQUIREMENTS.—Except as provided in subsection (c), no final major rule subject to this subchapter shall be promulgated unless the agency head publishes in the Federal Register a finding that—

''(1) the benefits from the rule justify the costs of the rule;

''(2) the rule employs to the extent practicable flexible reasonable alternatives of the type described in section 622(c)(2)(C)(iii); and

''(3)(A) the rule adopts the least cost alternative of the reasonable alternatives that achieve the objectives of the statute; or

''(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment identified by the agency in the rulemaking record make a more costly alternative that achieves the objectives of the statute appropriate and in the public interest and the agency head provides an explanation of those considerations, the rule adopts the least cost alternative of the reasonable alternatives necessary to take into account such uncertainties or benefits; and

''(4) if a risk assessment is required by section 632—

''(A) the rule is likely to significantly reduce the human health, safety, and environmental risks to be addressed; or

''(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment, preclude making the finding under subparagraph (A), promulgating the final rule is nevertheless justified for reasons stated in writing accompanying the rule and consistent with subchapter III.

''(c) ALTERNATIVE REQUIREMENTS.—If, applying the statutory requirements upon which the rule is based, a rule cannot satisfy the criteria of subsection (b), the agency head may promulgate the rule if the agency head finds that—

''(1) the rule employs to the extent practicable flexible reasonable alternatives of the type described in section 622(c)(2)(C)(iii);

''(2)(A) the rule adopts the least cost alternative of the reasonable alternatives that achieve the objectives of the statute; or

''(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment identified by the agency in the rulemaking record make a more costly alternative that achieves the objectives of the statute appropriate and in the public interest, and the agency head provides an explanation of those consideration, the rule adopts the least cost alternative of the reasonable alternatives necessary to take into account such uncertainties or benefits; and

''(3) if a risk assessment is required by section 632—

''(A) the rule is likely to significantly reduce the human health, safety, and environmental risks to be addressed; or

''(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment, preclude making the finding under subparagraph (A), promulgating the final rule is nevertheless justified for reasons stated in writing accompanying the rule and consistent with subchapter III.

''(d) PUBLICATION OF REASONS FOR NONCOMPLIANCE.—If an agency promulgates a rule to which subsection (c) applies, the agency head shall prepare a written explanation of why the agency was required to promulgate a rule that does not satisfy the criteria of subsection (b) and shall transmit the explanation with the final cost-benefit analysis to Congress when the final rule is promulgated.

''§ 625. Jurisdiction and judicial review

''(a) REVIEW.—Compliance or noncompliance by an agency with the provisions of this subchapter and subchapter III shall be subject to judicial review only in accordance with this section.

''(b) JURISDICTION.—(1) Except as provided in subsection (e), subject to paragraph (2), each court with jurisdiction under a statute to review final agency action to which this title applies, has jurisdiction to review any claims of noncompliance with this subchapter and subchapter III.

''(2) Except as provided in subsection (e), no claims of noncompliance with this subchapter or subchapter III shall be reviewed separate or apart from judicial review of the final agency action to which they relate.

''(c) RECORD.—Any analysis or review required under this subchapter or subchapter III shall constitute part of the rulemaking record of the final agency action to which it pertains for the purposes of judicial review.

''(d) STANDARDS FOR REVIEW.—In any proceeding involving judicial review under section 706 or under the statute granting the rulemaking authority, failure to comply with this subchapter or subchapter III may be considered by the court solely for the purpose of determining whether the final agency action is arbitrary and capricious or an abuse of discretion (or unsupported by substantial evidence where that standard is otherwise provided by law).

''(e) INTERLOCUTORY REVIEW.—(1) The United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to review—

''(A) an agency determination that a rule is not a major rule pursuant to section 622(a); and

''(B) an agency determination that a risk assessment is not required pursuant to section 632(a).

''(2) A petition for review of agency action under paragraph (1) shall be filed within 60 days after the agency makes the determination or certification for which review is sought.

''(3) Except as provided in this subsection, no court shall have jurisdiction to review any agency determination or certification specified in paragraph (1).

''§ 626. Deadlines for rulemaking

''(a) STATUTORY.—All deadlines in statutes that require agencies to propose or promulgate any rule subject to section 622 or subchapter III during the 5-year period beginning on the effective date of this section shall be suspended until the earlier of—

''(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

''(2) the date occurring 2 years after the date of the applicable deadline.

''(b) COURT-ORDERED.—All deadlines imposed by any court of the United States that would require an agency to propose or promulgate a rule subject to section 622 or subchapter III during the 5-year period beginning on the effective date of this section shall be suspended until the earlier of—

''(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

''(2) the date occurring 2 years after the date of the applicable deadline.

''(c) OBLIGATION TO REGULATE.—In any case in which the failure to promulgate a rule by a deadline occurring during the 5-year period beginning on the effective date of this section would create an obligation to regulate through individual adjudications, the deadline shall be suspended until the earlier of—

''(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

''(2) the date occurring 2 years after the date of the applicable deadline.

''§ 627. Special rule

''Notwithstanding any other provision of the Comprehensive Regulatory Reform Act of 1995, or the amendments made by such Act, for purposes of this subchapter and subchapter IV, the head of each appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act), the National Credit Union Administration, the Federal Housing Finance Board, the Office of Federal Housing Enterprise Oversight, and the Farm Credit Administration, shall have authority with respect to such agency that otherwise would be provided under such subchapters to the Director, a designee of the President, Vice President, or any officer designated or delegated with authority under such subchapters.

''§ 628. Requirements for major environmental management activities

''(a) DEFINITION.—For purposes of this section, the term 'major environmental management activity' means—

''(1) a corrective action requirement under the Solid Waste Disposal Act;

''(2) a response action or damage assessment under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

''(3) the treatment, storage, or disposal of radioactive or mixed waste in connection with site restoration activity; and

''(4) Federal guidelines for the conduct of such activity, including site-specific guidelines,

the expected costs, expenses, and damages of which are likely to exceed, in the aggregate, $10,000,000.

''(b) APPLICABILITY.—A major environmental management activity is subject to this section unless construction has commenced on a significant portion of the activity, and—

''(1) it is more cost-effective to complete construction of the work than to apply the provisions of this subchapter; or

''(2) the application of the provisions of this subchapter, including any delays caused thereby, will result in an actual and immediate risk to human health or welfare.

''(c) REQUIREMENT TO PREPARE RISK ASSESSMENT.—(1) For each major environmental management activity or significant unit thereof that is proposed by the agency after the date of enactment of this subchapter, is pending on the date of enactment of this subchapter, or is subject to a granted petition for review pursuant to section 623, the head of an agency shall prepare—

''(A) a risk assessment in accordance with subchapter III; and

''(B) a cost-benefit analysis equivalent to that which would be required under this subchapter, if such subchapter were applicable.

''(2) In conducting a risk assessment or cost-benefit analysis under this section, the head of the agency shall incorporate the reasonably anticipated probable future use of the land and its surroundings (and any associated media and resources of either) affected by the environmental management activity.

''(3) For actions pending on the date of enactment of this section or proposed during the year following the date of enactment of this section, in lieu of preparing a risk assessment in accordance with subchapter III or cost-benefit analysis under this subchapter, an agency may use other appropriately developed analyses that allow it to make the judgments required under subsection (d).

''(d) REQUIREMENT.—The requirements of this subsection shall supplement, and not supersede, any other requirement provided by any law. A major environmental management activity under this section shall meet the decisional criteria under section 624 as if it is a major rule under such section.

''§ 629. Petition for alternative method of compliance

''(a) Except as provided in subsection (e), or unless prohibited by the statute authorizing the rule, any person subject to a major rule may petition the relevant agency to modify or waive the specific requirements of the major rule (or any portion thereof) and to authorize such person to demonstrate compliance through alternative means not otherwise permitted by the major rule. The petition shall identify with reasonable specificity the requirements for which the waiver is sought and the alternative means of compliance being proposed.

''(b) The agency shall grant the petition if the petition shows that there is a reasonable likelihood that the proposed alternative means of compliance—

''(1) would achieve the identified benefits of the major rule with at least an equivalent level of protection of health, safety, and the environment as would be provided by the major rule; and

''(2) would not impose an undue burden on the agency that would be responsible for enforcing such alternative means of compliance.

''(c) A decision to grant or to deny a petition under this subsection shall be made not later than 180 days after the petition is submitted, but in no event shall agency action taken pursuant to this section be subject to judicial review.

''(d) Following a decision to grant or deny a petition under this section, no further petition for such rule, submitted by the same person, shall be granted unless such petition pertains to a different facility or installation owned or operated by such person or unless such petition is based on a significant change in a fact, circumstance, or provision of law underlying or otherwise related to the rule occurring since the initial petition was granted or denied, that warrants the granting of such petition.

''(e) If the statute authorizing the rule which is the subject of the petition provides procedures or standards for an alternative method of compliance the petition shall be reviewed solely under the terms of the statute.

''SUBCHAPTER III—RISK ASSESSMENTS

''§ 631. Definitions

''For purposes of this subchapter—

''(1) except as otherwise provided, the definitions under section 551 shall apply to this subchapter;

''(2) the term 'exposure assessment' means the scientific determination of the intensity, frequency and duration of actual or potential exposures to the hazard in question;

''(3) the term 'hazard assessment' means the scientific determination of whether a hazard can cause an increased incidence of one or more significant adverse effects, and a scientific evaluation of the relationship between the degree of exposure to a perceived cause of an adverse effect and the incidence and severity of the effect;

''(4) the term 'major rule' has the meaning given such term in section 621(5);

''(5) the term 'risk assessment' means the systematic process of organizing and analyzing scientific knowledge and information on potential hazards, including as appropriate for the specific risk involved, hazard assessment, exposure assessment, and risk characterization;

''(6) the term 'risk characterization' means the integration and organization of hazard and exposure assessment to estimate the potential for specific harm to an exposed population or natural resource including, to the extent feasible, a characterization of the distribution of risk as well as an analysis of uncertainties, variabilities, conflicting information, and inferences and assumptions in the assessment;

''(7) the term 'screening analysis' means an analysis using simple conservative postulates to arrive at an estimate of upper bounds as appropriate, that permits the manager to eliminate risks from further consideration and analysis, or to help establish priorities for agency action; and

''(8) the term 'substitution risk' means an increased risk to human health, safety, or the environment reasonably likely to result from a regulatory option.

''§ 632. Applicability

''(a) IN GENERAL.—Except as provided in subsection (c), for each proposed and final major rule, a primary purpose of which is to protect human health, safety, or the environment, or a consequence of which is a substantial substitution risk, that is proposed by an agency after the date of enactment of this subchapter, or is pending on the date of enactment of this subchapter, the head of each agency shall prepare a risk assessment in accordance with this subchapter.

''(b) APPLICATION OF PRINCIPLES.—(1) Except as provided in subsection (c), the head of each agency shall apply the principles in this subchapter to any risk assessment conducted to support a determination by the agency of risk to human health, safety, or the environment, if such determination would be likely to have an effect on the United States economy equivalent to that of a major rule.

''(2) In applying the principles of this subchapter to risk assessments other than those in subsections (a), (b)(1), and (c), the head of each agency shall publish, after notice and public comment, guidelines for the conduct of such other risk assessments that adapt the principles of this subchapter in a manner consistent with section 633(a)(4) and the risk assessment and risk management needs of the agency.

''(3) An agency shall not, as a condition for the issuance or modification of a permit, conduct, or require any person to conduct, a risk assessment, except if the agency finds that the risk assessment meets the requirements of section 633 (a) through (f).

''(c) EXCEPTIONS.—(1) This subchapter shall not apply to risk assessments performed with respect to—

''(A) a situation for which the agency finds good cause that conducting a risk assessment is impracticable due to an emergency or health and safety threat that is likely to result in significant harm to the public or natural resources;

''(B) a rule or agency action that authorizes the introduction into commerce, or initiation of manufacture, of a substance, mixture, or product, or recognizes the marketable status of a product;

''(C) a human health, safety, or environmental inspection, an action enforcing a statutory provision, rule, or permit, or an individual facility or site permitting action, except to the extent provided by subsection (b)(3);

''(D) a screening analysis clearly identified as such; or

''(E) product registrations, reregistrations, tolerance settings, and reviews of premanufacture notices under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) and the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

''(2) An analysis shall not be treated as a screening analysis for the purposes of paragraph (1)(D) if the result of the analysis is used—

''(A) as the basis for imposing a restriction on a previously authorized substance, product, or activity after its initial introduction into manufacture or commerce; or

''(B) as the basis for a formal determination by the agency of significant risk from a substance or activity.

''(3) This subchapter shall not apply to any food, drug, or other product label or labeling, or to any risk characterization appearing on any such label.

''§ 633. Principles for risk assessments

''(a) IN GENERAL.—(1) The head of each agency shall design and conduct risk assessments in a manner that promotes rational and informed risk management decisions and informed public input into the process of making agency decisions.

''(2) The head of each agency shall establish and maintain a distinction between risk assessment and risk management.

''(3) An agency may take into account priorities for managing risks, including the types of information that would be important in evaluating a full range of alternatives, in developing priorities for risk assessment activities.

''(4) In conducting a risk assessment, the head of each agency shall employ the level of detail and rigor considered by the agency as appropriate and practicable for reasoned decisionmaking in the matter involved, proportionate to the significance and complexity of the potential agency action and the need for expedition.

''(5) An agency shall not be required to repeat discussions or explanations in each risk assessment required under this subchapter if there is an unambiguous reference to a relevant discussion or explanation in another reasonably available agency document that was prepared consistent with this section.

''(b) ITERATIVE PROCESS.—(1) Each agency shall develop and use an iterative process for risk assessment, starting with relatively inexpensive screening analyses and progressing to more rigorous analyses, as circumstances or results warrant.

''(2) In determining whether or not to proceed to a more detailed analysis, the head of the agency shall take into consideration whether or not use of additional data or the analysis thereof would significantly change the estimate of risk and the resulting agency action.

''(c) DATA QUALITY.—(1) The head of each agency shall base each risk assessment only on the best reasonably available scientific data and scientific understanding, including scientific information that finds or fails to find a correlation between a potential hazard and an adverse effect, and data regarding exposure and other relevant physical conditions that are reasonably expected to be encountered.

''(2) The agency shall select data for use in a risk assessment based on a reasoned analysis of the quality and relevance of the data, and shall describe such analysis.

''(3) In making its selection of data, the agency shall consider whether the data were published in the peer-reviewed scientific literature, or developed in accordance with good laboratory practice or published or other appropriate protocols to ensure data quality, such as the standards for the development of test data promulgated pursuant to section 4 of the Toxic Substances Control Act (15 U.S.C. 2603), and the standards for data requirements promulgated pursuant to section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a), or other form of independent evaluation.

''(4) Subject to paragraph (3), relevant scientific data submitted by interested parties shall be reviewed and considered by the agency in the analysis under paragraph (2).

''(5) When conflicts among scientific data appear to exist, the risk assessment shall include a discussion of all relevant information including the likelihood of alternative interpretations of the data and emphasizing—

''(A) postulates that represent the most reasonable inferences from the supporting scientific data; and

''(B) when a risk assessment involves an extrapolation from toxicological studies, data with the greatest scientific basis of support for the resulting harm to affected individuals, populations, or resources.

''(6) The head of an agency shall not automatically incorporate or adopt any recommendation or classification made by any foreign government, the United Nations, any international governmental body or standards-making organization, concerning the health effects value of a substance, except as provided in paragraph (2) of this subsection. Nothing in this paragraph shall be construed to affect the implementation or application of any treaty or international trade agreement to which the United States is a party.

''(d) USE OF POLICY JUDGMENTS.—(1) An agency shall not use policy judgments, including default assumptions, inferences,

models or safety factors, when relevant and adequate scientific data and scientific understanding, including site-specific data, are available. The agency shall modify or decrease the use of policy judgments to the extent that higher quality scientific data and understanding become available.

''(2) When a risk assessment involves choice of a policy judgment, the head of the agency shall—

''(A) identify the policy judgment and its scientific or policy basis, including the extent to which the policy judgment has been validated by, or conflicts with, empirical data;

''(B) explain the basis for any choices among policy judgments; and

''(C) describe reasonable alternative policy judgments that were not selected by the agency for use in the risk assessment, and the sensitivity of the conclusions of the risk assessment to the alternatives, and the rationale for not using such alternatives.

''(3) An agency shall not inappropriately combine or compound multiple policy judgments.

''(4) The agency shall, subject to notice and opportunity for public comment, develop and publish guidelines describing the agency's default policy judgments and how they were chosen, and guidelines for deciding when and how, in a specific risk assessment, to adopt alternative policy judgments or to use available scientific information in place of a policy judgment.

''(e) RISK CHARACTERIZATION.—In each risk assessment, the agency shall include in the risk characterization, as appropriate, each of the following:

''(1) A description of the hazard of concern.

''(2) A description of the populations or natural resources that are the subject of the risk assessment.

''(3) An explanation of the exposure scenarios used in the risk assessment, including an estimate of the corresponding population at risk and the likelihood of such exposure scenarios.

''(4) A description of the nature and severity of the harm that could plausibly occur.

''(5) A description of the major uncertainties in each component of the risk assessment and their influence on the results of the assessment.

''(f) PRESENTATION OF RISK ASSESSMENT CONCLUSIONS.—(1) To the extent feasible and scientifically appropriate, the head of an agency shall—

''(A) express the overall estimate of risk as a range or probability distribution that reflects variabilities, uncertainties and data gaps in the analysis;

''(B) provide the range and distribution of risks and the corresponding exposure scenarios, identifying the reasonably expected risk to the general population and, where appropriate, to more highly exposed or sensitive subpopulations; and

''(C) where quantitative estimates of the range and distribution of risk estimates are not available, describe the qualitative factors influencing the range of possible risks.

''(2) When scientific data and understanding that permits relevant comparisons of risk are reasonably available, the agency shall use such information to place the nature and magnitude of risks to human health, safety, and the environment being analyzed in context.

''(3) When scientifically appropriate information on significant substitution risks to human health, safety, or the environment is reasonably available to the agency, or is contained in information provided to the agency by a commentator, the agency shall describe such risks in the risk assessments.

''(g) PEER REVIEW.—(1) Each agency shall provide for peer review in accordance with this section of any risk assessment subject to the requirements of this subchapter that forms that basis of any major rule or a major environmental management activity.

''(2) Each agency shall develop a systematic program for balanced, independent, and external peer review that—

''(A) shall provide for the creation or utilization of peer review panels, expert bodies, or other formal or informal devices that are balanced and comprised of participants selected on the basis of their expertise relevant to the sciences involved in regulatory decisions and who are independent of the agency program that developed the risk assessment being reviewed;

''(B) shall not exclude any person with substantial and relevant expertise as a participant on the basis that such person has a potential interest in the outcome, if such interest is fully disclosed to the agency, and the agency includes such disclosure as part of the record, unless the result of the review would have a direct and predictable effect on a substantial financial interest of such person;

''(C) shall provide for a timely completed peer review, meeting agency deadlines, that contains a balanced presentation of all considerations, including minority reports and agency response to all significant peer review comments; and

''(D) shall provide adequate protections for confidential business information and trade secrets, including requiring panel members to enter into confidentiality agreements.

''(3) Each peer review shall include a report to the Federal agency concerned detailing the scientific and technical merit of data and the methods used for the risk assessment, and shall identify significant peer review comments. Each agency shall provide a written response to all significant peer review comments. All peer review comments, conclusions, composition of the panels, and the agency's responses shall be made available to the public and shall be made part of the administrative record for purposes of judicial review of any final agency action.

''(4)(A) The Director of the Office of Science and Technology Policy shall develop a systematic program to oversee the use and quality of peer review of risk assessments.

''(B) The Director or the designee of the President may order an agency to conduct peer review for any risk assessment or cost-benefit analysis that is likely to have a significant impact on public policy decisions, or that would establish an important precedent.

''(5) The proceedings of peer review panels under this section shall not be subject to the Federal Advisory Committee Act.

''(h) PUBLIC PARTICIPATION.—The head of each agency shall provide appropriate opportunities for public participation and comment on risk assessments.

''§ 634. Petition for review of a major free-standing risk assessment

''(a) Any interested person may petition an agency to conduct a scientific review of a risk assessment conducted or adopted by the agency, except for a risk assessment used as the basis for a major rule or a site-specific risk assessment.

''(b) The agency shall utilize external peer review, as appropriate, to evaluate the claims and analyses in the petition, and shall consider such review in making its determination of whether to grant the petition.

''(c) The agency shall grant the petition if the petition establishes that there is a reasonable likelihood that—

''(1)(A) the risk assessment that is the subject of the petition was carried out in a manner substantially inconsistent with the principles in section 633; or

''(B) the risk assessment that is the subject of the petition does not take into account material significant new scientific data and scientific understanding;

''(2) the risk assessment that is the subject of the petition contains significantly different results than if it had been properly conducted pursuant to subchapter III; and

''(3) a revised risk assessment will provide the basis for reevaluating an agency determination of risk, and such determination currently has an effect on the United States economy equivalent to that of major rule.

''(d) A decision to grant, or final action to deny, a petition under this subsection shall be made not later than 180 days after the petition is submitted.

''(e) If the agency grants the petition, it shall complete its review of the risk assessment not later than 1 year after its decision to grant the petition. If the agency revises the risk assessment, in response to its review, it shall do so in accordance with section 633.

''§ 635. Comprehensive risk reduction

''(a) SETTING PRIORITIES.—The head of each agency with programs to protect human health, safety, or the environment shall set priorities for the use of resources available to address those risks to human health, safety, and the environment, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources expended.

''(b) INCORPORATING RISK-BASED PRIORITIES INTO BUDGET AND PLANNING.—The head of each agency in subsection (a) shall incorporate the priorities identified under subsection (a) into the agency budget, strategic planning, regulatory agenda, enforcement, and research activities. When submitting its budget request to Congress and when announcing its regulatory agenda in the Federal Register, each covered agency shall identify the risks that the covered agency head has determined are the most serious and can be addressed in a cost-effective manner using the priorities set under subsection (a), the basis for that determination, and explicitly identify how the agency's requested budget and regulatory agenda reflect those priorities.

''(c) REPORTS BY THE NATIONAL ACADEMY OF SCIENCES.—(1) Not later than 6 months after the date of enactment of this section, the Director of the Office of Science and Technology Policy shall enter into an arrangement with the National Academy of Sciences to investigate and report on comparative risk analysis. The arrangement shall provide, to the extent feasible, for—

''(A) 1 or more reports evaluating methods of comparative risk analysis that would be appropriate for agency programs related to human health, safety, and the environment to use in setting priorities for activities; and

''(B) a report providing a comprehensive and comparative analysis of the risks to human health, safety, and the environment that are addressed by agency programs to protect human health, safety, and the environment, along with companion activities to disseminate the conclusions of the report to the public.

''(2) The report or reports prepared under paragraph (1)(A) shall be completed not later than 3 years after the date of enactment of this section. The report under paragraph (1)(B) shall be completed not later than 4 years after the date of enactment of this section, and shall draw, as appropriate, upon the insights and conclusions of the report or reports made under paragraph (1)(A). The companion activities under paragraph (1)(B) shall be completed not later than 5 years after the date of enactment of this section.

''(3)(A) The head of an agency with programs to protect human health, safety, and

the environment shall incorporate the recommendations of reports under paragraph (1) in revising any priorities under subsection (a).

''(B) The head of the agency shall submit a report to the appropriate Congressional committees of jurisdiction responding to the recommendations from the National Academy of Sciences and describing plans for utilizing the results of comparative risk analysis in agency budget, strategic planning, regulatory agenda, enforcement, and research and development activities.

''(4) Following the submission of the report in paragraph (2), for the next 5 years, the head of the agency shall submit, with the budget request submitted to Congress under section 1105(a) of title 31, a description of how the requested budget of the agency and the strategic planning activities of the agency reflect priorities determined using the recommendations of reports issued under subsection (a). The head of the agency shall include in such description—

''(A) recommendations on the modification, repeal, or enactment of laws to reform, eliminate, or enhance programs or mandates relating to human health, safety, or the environment; and

''(B) recommendation on the modification or elimination of statutory or judicially mandated deadlines,

that would assist the head of the agency to set priorities in activities to address the risks to human health, safety, or the environment that incorporate the priorities developed using the recommendations of the reports under subsection (a), resulting in more cost-effective programs to address risk.

''(5) For each budget request submitted in accordance with paragraph (4), the Director shall submit an analysis of ways in which resources could be reallocated among Federal agencies to achieve the greatest overall net reduction in risk.

''§ 636. Rule of construction

''Nothing in this subchapter shall be construed to—

''(1) preclude the consideration of any data or the calculation of any estimate to more fully describe or analyze risk, scientific uncertainty, or variability; or

''(2) require the disclosure of any trade secret or other confidential information.

''SUBCHAPTER IV—EXECUTIVE OVERSIGHT

''§ 641. Procedures

''(a) IN GENERAL.—The Director or a designee of the President shall—

''(1) establish and, as appropriate, revise procedures for agency compliance with this chapter; and

''(2) monitor, review, and ensure agency implementation of such procedures.

''(b) PUBLIC COMMENT.—Procedures established pursuant to subsection (a) shall only be implemented after opportunity for public comment. Any such procedures shall be consistent with the prompt completion of rulemaking proceedings.

''(c) TIME FOR REVIEW.—(1) If procedures established pursuant to subsection (a) include review of any initial or final analyses of a rule required under chapter 6, the time for any such review of any initial analysis shall not exceed 90 days following the receipt of the analysis by the Director, or a designee of the President.

''(2) The time for review of any final analysis required under chapter 6 shall not exceed 90 days following the receipt of the analysis by the Director, a designee of the President.

''(3)(A) The times for each such review may be extended for good cause by the President or by an officer to whom the President has delegated his authority pursuant to section 642 for an additional 45 days. At the request of the head of an agency, the President or such an officer may grant an additional extension of 45 days.

''(B) Notice of any such extension, together with a succinct statement of the reasons therefor, shall be inserted in the rulemaking file.

''§ 642. Delegation of authority

''(a) IN GENERAL.—The President may delegate the authority granted by this subchapter to an officer within the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate.

''(b) NOTICE.—Notice of any delegation, or any revocation or modification thereof shall be published in the Federal Register.

''§ 643. Judicial review

''The exercise of the authority granted under this subchapter by the Director, the President, or by an officer to whom such authority has been delegated under section 642 and agency compliance or noncompliance with the procedure under section 641 shall not be subject to judicial review.

''§ 644. Regulatory agenda

''The head of each agency shall provide, as part of the semiannual regulatory agenda published under section 602—

''(1) a list of risk assessments subject to subsection 632 (a) or (b)(1) under preparation or planned by the agency;

''(2) a brief summary of relevant issues addressed or to be addressed by each listed risk assessment;

''(3) an approximate schedule for completing each listed risk assessment;

''(4) an identification of potential rules, guidance, or other agency actions supported or affected by each listed risk assessment; and

''(5) the name, address, and telephone number of an agency official knowledgeable about each listed risk assessment.''.

(b) REGULATORY FLEXIBILITY ANALYSIS.—

(1) FINAL REGULATORY FLEXIBILITY ANALYSIS.—Section 604 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

''(c)(1) Except as provided in paragraph (2), no final rule for which a final regulatory flexibility analysis is required under this section shall be promulgated unless the agency finds that the final rule minimizes significant economic impact on small entities to the maximum extent possible, consistent with the purposes of this subchapter, the objectives of the rule, and the requirements of applicable statutes.

''(2) If an agency determines that a statute requires a rule to be promulgated that does not satisfy the criterion of paragraph (1), the agency shall—

''(A) include a written explanation of such determination in the final regulatory flexibility analysis; and

''(B) transmit the final regulatory flexibility analysis to Congress when the final rule is promulgated.''.

(2) JUDICIAL REVIEW.—Section 611 of title 5, United States Code, is amended to read as follows:

''§ 611. Judicial review

''(a)(1) For any rule described in section 603(a), and with respect to which the agency—

''(A) certified, pursuant to section 605(b), that such rule would not have a significant economic impact on a substantial number of small entities;

''(B) prepared a final regulatory flexibility analysis pursuant to section 604; or

''(C) did not prepare an initial regulatory flexibility analysis pursuant to section 603 or a final regulatory flexibility analysis pursuant to section 604 except as permitted by sections 605 and 608,

an affected small entity may petition for the judicial review of such certification, analysis, or failure to prepare such analysis, in accordance with this subsection. A court having jurisdiction to review such rule for compliance with section 553 or under any other provision of law shall have jurisdiction over such petition.

''(2)(A) Notwithstanding any other provision of law, an affected small entity shall have 1 year after the effective date of the final rule to challenge the certification, analysis or failure to prepare an analysis required by this subchapter with respect to any such rule.

''(B) If an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b), a petition for judicial review under this subsection may be filed not later than 1 year after the date the analysis is made available to the public.

''(3) For purposes of this subsection, the term 'affected small entity' means a small entity that is or will be subject to the provisions of, or otherwise required to comply with, the final rule.

''(4) Nothing in this subsection shall be construed to limit the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law.

''(5)(A) Notwithstanding section 605, if the court determines, on the basis of the court's review of the rulemaking record, that there is substantial evidence that the rule would have a significant economic impact on a substantial number of small entities, the court shall order the agency to prepare a final regulatory flexibility analysis that satisfies the requirements of section 604.

''(B) If the agency prepared a final regulatory flexibility analysis, the court shall order the agency to take corrective action consistent with section 604 if the court determines, on the basis of the court's review of the rulemaking record, that the final regulatory flexibility analysis does not satisfy the requirements of section 604.

''(6) The court shall stay the rule and grant such other relief as the court determines to be appropriate if, by the end of the 90-day period beginning on the date of the order of the court pursuant to paragraph (5), the agency fails, as appropriate—

''(A) to prepare the analysis required by section 604; or

''(B) to take corrective action consistent with section 604.

''(b) In an action for the judicial review of a rule, any regulatory flexibility analysis for such rule (including an analysis prepared or corrected pursuant to subsection (a)(5)) shall constitute part of the whole record of agency action in connection with such review.

''(c) Except as otherwise required by the provisions of this subchapter, the court shall apply the same standards of judicial review that govern the review of agency findings under the statute granting the agency authority to conduct the rulemaking.''.

(c) REVISION OF CERTAIN PROVISIONS OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT RELATING TO TESTING.—In applying section 409(c)(3)(A), 512(d)(1), or 721(b)(5)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(3)(A), 360b(d)(1), 379e(b)(5)(B)), the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency shall not prohibit or refuse to approve a substance or product on the basis of safety, where the substance or product presents a negligible or insignificant foreseeable risk to human health resulting from its intended use.

(d) TOXIC RELEASE INVENTORY REVIEW.—Section 313(d) of the Emergency Planning

and Community Right-to-Know Act of 1986 (42 U.S.C. 11023(d)) is amended—

(1) in paragraph (2) by inserting after ''epidemiological or other population studies,'' the following: ''and on the rule of reason, including a consideration of the applicability of such evidence to levels of the chemical in the environment that may result from reasonably anticipated releases''; and

(2) in subsection (e)(1), by inserting before ''Within 180 days'' the following: ''The Administrator shall grant any petition that establishes substantial evidence that the criteria in subparagraph (A) either are or are not met.''.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—Part I of title 5, United States Code, is amended by striking the chapter heading and table of sections for chapter 6 and inserting the following:

''CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

''SUBCHAPTER I—REGULATORY ANALYSIS

''SUBCHAPTER II—ANALYSIS OF AGENCY RULES

''SUBCHAPTER III—RISK ASSESSMENTS

''SUBCHAPTER IV—EXECUTIVE OVERSIGHT

(2) SUBCHAPTER HEADING.—Chapter 6 of title 5, United States Code, is amended by inserting immediately before section 601, the following subchapter heading:

''SUBCHAPTER I—REGULATORY ANALYSIS''.

SEC. 5. JUDICIAL REVIEW.

(a) IN GENERAL.—Chapter 7 of title 5, United States Code, is amended—

(1) by striking section 706; and

(2) by adding at the end the following new sections:

''§ 706. Scope of review

''(a) To the extent necessary to reach a decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—

''(1) compel agency action unlawfully withheld or unreasonably delayed; and

''(2) hold unlawful and set aside agency action, findings and conclusions found to be—

''(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

''(B) contrary to constitutional right, power, privilege, or immunity;

''(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

''(D) without observance of procedure required by law;

''(E) unsupported by substantial evidence in a proceeding subject to sections 556 and 557 or otherwise reviewed on the record of an agency hearing provided by statute;

''(F) without substantial support in the rulemaking file, viewed as a whole, for the asserted or necessary factual basis, in the case of a rule adopted in a proceeding subject to section 553; or

''(G) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

''(b) In making the determinations set forth in subsection (a), the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

''§ 707. Consent decrees

''In interpreting any consent decree in effect on or after the date of enactment of this section that imposes on an agency an obligation to initiate, continue, or complete rulemaking proceedings, the court shall not enforce the decree in a way that divests the agency of discretion clearly granted to the agency by statute to respond to changing circumstances, make policy or managerial choices, or protect the rights of third parties.

''§ 708. Affirmative defense

''Notwithstanding any other provision of law, it shall be an affirmative defense in any enforcement action brought by an agency that the regulated person or entity reasonably relied on and is complying with a rule, regulation, adjudication, directive, or order of such agency or any other agency that is incompatible, contradictory, or otherwise cannot be reconciled with the agency rule, regulation, adjudication, directive, or order being enforced.''.

(b) TECHNICAL AMENDMENT.—The analysis for chapter 7 of title 5, United States Code, is amended by striking the item relating to section 706 and inserting the following new items:

''706. Scope of review.
''707. Consent decrees.
''708. Affirmative defense.''.

SEC. 6. CONGRESSIONAL REVIEW.

(a) FINDING.—The Congress finds that effective steps for improving the efficiency and proper management of Government operations will be promoted if a moratorium on the implementation of certain significant final rules is imposed in order to provide Congress an opportunity for review.

(b) IN GENERAL.—Title 5, United States Code, is amended by inserting immediately after chapter 7 the following new chapter:

''CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

''§ 801. Congressional review

''(a)(1)(A) Before a rule can take effect as a final rule, the Federal agency promulgating such rule shall submit to each House of the Congress and to the Comptroller General a report containing—

''(i) a copy of the rule;

''(ii) a concise general statement relating to the rule; and

''(iii) the proposed effective date of the rule.

''(B) The Federal agency promulgating the rule shall make available to each House of Congress and the Comptroller General, upon request—

''(i) a complete copy of the cost-benefit analysis of the rule, if any;

''(ii) the agency's actions relevant to sections 603, 604, 605, 607, and 609;

''(iii) the agency's actions relevant to sections 202, 203, 204, and 205 of the Unfunded Mandates Reform Act of 1995; and

''(iv) any other relevant information or requirements under any other Act and any relevant Executive orders, such as Executive Order No. 12866.

''(C) Upon receipt, each House shall provide copies to the Chairman and Ranking Member of each committee with jurisdiction.

''(2)(A) The Comptroller General shall provide a report on each major rule to the committees of jurisdiction to each House of the Congress by the end of 12 calendar days after the submission or publication date as provided in section 802(b)(2). The report of the Comptroller General shall include an assessment of the agency's compliance with procedural steps required by paragraph (1)(B).

''(B) Federal agencies shall cooperate with the Comptroller General by providing information relevant to the Comptroller General's report under subparagraph (A).

''(3) A major rule relating to a report submitted under paragraph (1) shall take effect as a final rule, the latest of—

''(A) the later of the date occurring 60 days after the date on which—

''(i) the Congress receives the report submitted under paragraph (1); or

''(ii) the rule is published in the Federal Register;

''(B) if the Congress passes a joint resolution of disapproval described under section 802 relating to the rule, and the President signs a veto of such resolution, the earlier date—

''(i) on which either House of Congress votes and fails to override the veto of the President; or

''(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President; or

''(C) the date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under section 802 is enacted).

''(4) Except for a major rule, a rule shall take effect as otherwise provided by law after submission to Congress under paragraph (1).

''(5) Notwithstanding paragraph (3), the effective date of a rule shall not be delayed by operation of this chapter beyond the date on which either House of Congress votes to reject a joint resolution of disapproval under section 802.

''(b) A rule shall not take effect (or continue) as a final rule, if the Congress passes a joint resolution of disapproval described under section 802.

''(c)(1) Notwithstanding any other provision of this section (except subject to paragraph (3)), a rule that would not take effect by reason of this chapter may take effect, if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

''(2) Paragraph (1) applies to a determination made by the President by Executive order that the rule should take effect because such rule is—

''(A) necessary because of an imminent threat to health or safety or other emergency;

''(B) necessary for the enforcement of criminal laws;

''(C) necessary for national security; or

''(D) issued pursuant to a statute implementing an international trade agreement.

''(3) An exercise by the President of the authority under this subsection shall have no effect on the procedures under section 802 or the effect of a joint resolution of disapproval under this section.

''(d)(1) In addition to the opportunity for review otherwise provided under this chapter, in the case of any rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on the date occurring 60 days before the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes, section 802 shall apply to such rule in the succeeding Congress.

''(2)(A) In applying section 802 for purposes of such additional review, a rule described under paragraph (1) shall be treated as though—

''(i) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the 15th session day after the succeeding Congress first convenes; and

''(ii) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

''(B) Nothing in this paragraph shall be construed to affect the requirement under subsection (a)(1) that a report shall be submitted to Congress before a final rule can take effect.

''(3) A rule described under paragraph (1) shall take effect as a final rule as otherwise provided by law (including other subsections of this section).

''(e)(1) Section 802 shall apply in accordance with this subsection to any major rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on November 20, 1994, through the date on which the Comprehensive Regulatory Reform Act of 1995 takes effect.

''(2) In applying section 802 for purposes of Congressional review, a rule described under paragraph (1) shall be treated as though—

''(A) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the date of enactment of the Comprehensive Regulatory Reform Act of 1995; and

''(B) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

''(3) The effectiveness of a rule described under paragraph (1) shall be as otherwise provided by law, unless the rule is made of no force or effect under section 802.

''(f) Any rule that takes effect and later is made of no force or effect by enactment of a joint resolution under section 802 shall be treated as though such rule had never taken effect.

''(g) If the Congress does not enact a joint resolution of disapproval under section 802, no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such rule, related statute, or joint resolution of disapproval.

''§ 802. Congressional disapproval procedure

''(a) For purposes of this section, the term 'joint resolution' means only a joint resolution introduced during the period beginning on the date on which the report referred to in section 801(a) is received by Congress and ending 60 days thereafter, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule submitted by the ____ relating to ____, and such rule shall have no force or effect.'. (The blank spaces being appropriately filled in.)

''(b)(1) A resolution described in paragraph (1) shall be referred to the committees in each House of Congress with jurisdiction. Such a resolution may not be reported before the eighth day after its submission or publication date.

''(2) For purposes of this subsection the term 'submission or publication date' means the later of the date on which—

''(A) the Congress receives the report submitted under section 801(a)(1); or

''(B) the rule is published in the Federal Register.

''(c) If the committee to which is referred a resolution described in subsection (a) has not reported such resolution (or an identical resolution) at the end of 20 calendar days after the submission or publication date defined under subsection (b)(2), such committee may be discharged from further consideration of such resolution in the Senate upon a petition supported in writing by 30 Members of the Senate and in the House upon a petition supported in writing by one-fourth of the Members duly sworn and chosen or by motion of the Speaker supported by the Minority Leader, and such resolution shall be placed on the appropriate calendar of the House involved.

''(d)(1) When the committee to which a resolution is referred has reported, or when a committee is discharged (under subsection (c)) from further consideration of, a resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

''(2) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order.

''(3) Immediately following the conclusion of the debate on a resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

''(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subsection (a) shall be decided without debate.

''(e) If, before the passage by one House of a resolution of that House described in subsection (a), that House receives from the other House a resolution described in subsection (a), then the following procedures shall apply:

''(1) The resolution of the other House shall not be referred to a committee.

''(2) With respect to a resolution described in subsection (a) of the House receiving the resolution—

''(A) the procedure in that House shall be the same as if no resolution had been received from the other House; but

''(B) the vote on final passage shall be on the resolution of the other House.

''(f) This section is enacted by Congress—

''(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

''(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

''§ 803. Special rule on statutory, regulatory, and judicial deadlines

''(a) In the case of any deadline for, relating to, or involving any rule which does not take effect (or the effectiveness of which is terminated) because of enactment of a joint resolution under section 802, that deadline is extended until the date 1 year after the date of the joint resolution. Nothing in this subsection shall be construed to affect a deadline merely by reason of the postponement of a rule's effective date under section 801(a).

''(b) The term 'deadline' means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

''§ 804. Definitions

''(a) For purposes of this chapter—

''(1) the term 'Federal agency' means any agency as that term is defined in section 551(1) (relating to administrative procedure);

''(2) the term 'major rule' has the same meaning given such term in section 621(5); and

''(3) the term 'final rule' means any final rule or interim final rule.

''(b) As used in subsection (a)(3), the term 'rule' has the meaning given such term in section 551, except that such term does not include any rule of particular applicability including a rule that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing or any rule of agency organization, personnel, procedure, practice or any routine matter.

''§ 805. Judicial review

''No determination, finding, action, or omission under this chapter shall be subject to judicial review.

''§ 806. Applicability; severability

''(a) This chapter shall apply notwithstanding any other provision of law.

''(b) If any provision of this chapter or the application of any provision of this chapter to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this chapter, shall not be affected thereby.

''§ 807. Exemption for monetary policy

''Nothing in this chapter shall apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.''.

(c) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect on the date of enactment of this Act and shall

apply to any rule that takes effect as a final rule on or after such effective date.

(d) TECHNICAL AMENDMENT.—The table of chapters for part I of title 5, United States Code, is amended by inserting immediately after the item relating to chapter 7 the following:

"8. Congressional Review of Agency Rulemaking ..... 801".

SEC. 7. REGULATORY ACCOUNTING.

(a) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) MAJOR RULE.—The term ''major rule'' has the same meaning as defined in section 621(5)(A)(i) of title 5, United States Code. The term shall not include—

(A) administrative actions governed by sections 556 and 557 of title 5, United States Code;

(B) regulations issued with respect to a military or foreign affairs function of the United States or a statute implementing an international trade agreement; or

(C) regulations related to agency organization, management, or personnel.

(2) AGENCY.—The term ''agency'' means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but shall not include—

(A) the General Accounting Office;

(B) the Federal Election Commission;

(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

(D) Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities.

(b) ACCOUNTING STATEMENT.—

(1) IN GENERAL.—(A) The President shall be responsible for implementing and administering the requirements of this section.

(B) Not later than June 1, 1997, and each June 1 thereafter, the President shall prepare and submit to Congress an accounting statement that estimates the annual costs of major rules and corresponding benefits in accordance with this subsection.

(2) YEARS COVERED BY ACCOUNTING STATEMENT.—Each accounting statement shall cover, at a minimum, the 5 fiscal years beginning on October 1 of the year in which the report is submitted and may cover any fiscal year preceding such fiscal years for purpose of revising previous estimates.

(3) TIMING AND PROCEDURES.—(A) The President shall provide notice and opportunity for comment for each accounting statement. The President may delegate to an agency the requirement to provide notice and opportunity to comment for the portion of the accounting statement relating to that agency.

(B) The President shall propose the first accounting statement under this subsection not later than 2 years after the date of enactment of this Act and shall issue the first accounting statement in final form not later than 3 years after such effective date. Such statement shall cover, at a minimum, each of the fiscal years beginning after the date of enactment of this Act.

(4) CONTENT OF ACCOUNTING STATEMENT.—(A) Each accounting statement shall contain estimates of costs and benefits with respect to each fiscal year covered by the statement in accordance with this paragraph. For each such fiscal year for which estimates were made in a previous accounting statement, the statement shall revise those estimates and state the reasons for the revisions.

(B)(i) An accounting statement shall estimate the costs of major rules by setting forth, for each year covered by the statement—

(I) the annual expenditure of national economic resources for major rules, grouped by regulatory program; and

(II) such other quantitative and qualitative measures of costs as the President considers appropriate.

(ii) For purposes of the estimate of costs in the accounting statement, national economic resources shall include, and shall be listed under, at least the following categories:

(I) Private sector costs.

(II) Federal sector costs.

(III) State and local government administrative costs.

(C) An accounting statement shall estimate the benefits of major rules by setting forth, for each year covered by the statement, such quantitative and qualitative measures of benefits as the President considers appropriate. Any estimates of benefits concerning reduction in health, safety, or environmental risks shall present the most plausible level of risk practical, along with a statement of the reasonable degree of scientific certainty.

(c) ASSOCIATED REPORT TO CONGRESS.—

(1) IN GENERAL.—At the same time as the President submits an accounting statement under subsection (b), the President, acting through the Director of the Office of Management and Budget, shall submit to Congress a report associated with the accounting statement (hereinafter referred to as an ''associated report''). The associated report shall contain, in accordance with this subsection—

(A) analyses of impacts; and

(B) recommendations for reform.

(2) ANALYSES OF IMPACTS.—The President shall include in the associated report the following:

(A) Analyses prepared by the President of the cumulative impact of major rules in Federal regulatory programs covered in the accounting statement on the following:

(i) The ability of State and local governments to provide essential services, including police, fire protection, and education.

(ii) Small business.

(iii) Productivity.

(iv) Wages.

(v) Economic growth.

(vi) Technological innovation.

(vii) Consumer prices for goods and services.

(viii) Such other factors considered appropriate by the President.

(B) A summary of any independent analyses of impacts prepared by persons commenting during the comment period on the accounting statement.

(3) RECOMMENDATIONS FOR REFORM.—The President shall include in the associated report the following:

(A) A summary of recommendations of the President for reform or elimination of any Federal regulatory program or program element that does not represent sound use of national economic resources or otherwise is inefficient.

(B) A summary of any recommendations for such reform or elimination of Federal regulatory programs or program elements prepared by persons commenting during the comment period on the accounting statement.

(d) GUIDANCE FROM OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall, in consultation with the Council of Economic Advisers, provide guidance to agencies—

(1) to standardize measures of costs and benefits in accounting statements prepared pursuant to sections 3 and 7 of this Act, including—

(A) detailed guidance on estimating the costs and benefits of major rules; and

(B) general guidance on estimating the costs and benefits of all other rules that do not meet the thresholds for major rules; and

(2) to standardize the format of the accounting statements.

(e) RECOMMENDATIONS FROM CONGRESSIONAL BUDGET OFFICE.—After each accounting statement and associated report submitted to Congress, the Director of the Congressional Budget Office shall make recommendations to the President—

(1) for improving accounting statements prepared pursuant to this section, including recommendations on level of detail and accuracy; and

(2) for improving associated reports prepared pursuant to this section, including recommendations on the quality of analysis.

(f) JUDICIAL REVIEW.—No requirements under this section shall be subject to judicial review in any manner.

SEC. 8. STUDIES AND REPORTS.

(a) RISK ASSESSMENTS.—The Administrative Conference of the United States shall—

(1) develop and carry out an ongoing study of the operation of the risk assessment requirements of subchapter III of chapter 6 of title 5, United States Code (as added by section 4 of this Act); and

(2) submit an annual report to the Congress on the findings of the study.

(b) ADMINISTRATIVE PROCEDURE ACT.—Not later than December 31, 1996, the Administrative Conference of the United States shall—

(1) carry out a study of the operation of the Administrative Procedure Act (as amended by section 3 of this Act); and

(2) submit a report to the Congress on the findings of the study, including proposals for revision, if any.

SEC. 9. MISCELLANEOUS PROVISIONS.

(a) EFFECTIVE DATE.—Except as otherwise provided, this Act and the amendments made by this Act shall take effect on the date of enactment.

(b) SEVERABILITY.—If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

THE FISHERIES ACT OF 1995 HIGH SEAS FISHERIES LICENSING ACT OF 1995

STEVENS (AND OTHERS) AMENDMENT NO. 1488

Mr. DOLE (for Mr. STEVENS for himself, Mr. KERRY, Ms. SNOWE, and Mr. BREAUX) proposed an amendment to the bill (S. 267) to establish a system of licensing, reporting, and regulation for vessels of the United States fishing on the high seas, and for other purposes; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fisheries Act of 1995''.

SEC. 2. TABLE OF CONTENTS.

The Table of contents for this Act is as follows:

TITLE I—HIGH SEAS FISHING COMPLIANCE

SEC. 101. SHORT TITLE.

This title may be cited as the ''High Seas Fishing Compliance Act of 1995''.

SEC. 102. PURPOSE.

It is the purpose of this Act—

(1) to implement the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on November 24, 1993; and

(2) to establish a system of permitting, reporting, and regulation for vessels of the United States fishing on the high seas.

SEC. 103. DEFINITIONS.

As used in this Act—

(1) The term ''Agreement'' means the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on November 24, 1993.

(2) The term ''FAO'' means the Food and Agriculture Organization of the United Nations.

(3) The term ''high seas'' means the waters beyond the territorial sea or exclusive economic zone (or the equivalent) of any nation, to the extent that such territorial sea or exclusive economic zone (or the equivalent) is recognized by the United States.

(4) The term ''high seas fishing vessel'' means any vessel of the United States used or intended for use—

(A) on the high seas;

(B) for the purpose of the commercial exploitation of living marine resources; and

(C) as a harvesting vessel, as a mother ship, or as any other support vessel directly engaged in a fishing operation.

(5) The term ''international conservation and management measures'' means measures to conserve or manage one or more species of living marine resources that are adopted and applied in accordance with the relevant rules of international law, as reflected in the 1982 United Nations Convention on the Law of the Sea, and that are recognized by the United States. Such measures may be adopted by global, regional, or sub-regional fisheries organizations, subject to the rights and obligations of their members, or by treaties or other international agreements.

(6) The term ''length'' means—

(A) for any high seas fishing vessel built after July 18, 1982, 96 percent of the total length on a waterline at 85 percent of the least molded depth measured from the top of the keel, or the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that is greater, except that in ships designed with a rake of keel the waterline on which this length is measured shall be parallel to the designed waterline; and

(B) for any high seas fishing vessel built before July 18, 1982, registered length as entered on the vessel's documentation.

(7) The term ''person'' means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(8) The term ''Secretary'' means the Secretary of Commerce.

(9) The term ''vessel of the United States'' means—

(A) a vessel documented under chapter 121 of title 46, United States Code, or numbered in accordance with chapter 123 of title 46, United States Code;

(B) a vessel owned in whole or part by—

(i) the United States or a territory, commonwealth, or possession of the United States;

(ii) a State or political subdivision thereof;

(iii) a citizen or national of the United States; or

(iv) a corporation created under the laws of the United States or any State, the District of Columbia, or any territory, commonwealth, or possession of the United States; unless the vessel has been granted the nationality of a foreign nation in accordance with article 92 of the 1982 United Nations Convention on the Law of the Sea and a claim of nationality or registry for the vessel is made by the master or individual in charge at the time of the enforcement action by an officer or employee of the United States authorized to enforce applicable provisions of the United States law; and

(C) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was either sold to a person not a citizen of the United States or placed under foreign registry or a foreign flag, whether or not the vessel has been granted the nationality of a foreign nation.

(10) The terms ''vessel subject to the jurisdiction of the United States'' and ''vessel without nationality'' have the same meaning as in section 3(c) of Maritime Drug Law Enforcement Act (46 U.S.C. 1903(c)).

SEC. 104. PERMITTING.

(a) IN GENERAL.—No high seas fishing vessel shall engage in harvesting operations on the high seas unless the vessel has on board a valid permit issued under this section.

(b) ELIGIBILITY.—

(1) Any vessel of the United States is eligible to receive a permit under this section, unless the vessel was previously authorized to be used for fishing on the high seas by a foreign nation, and

(A) the foreign nation suspended such authorization because the vessel undermined the effectiveness of international conservation and management measures, and the suspension has not expired; or

(B) the foreign nation, within the last three years preceding application for a permit under this section, withdrew such authorization because the vessel undermined the effectiveness of international conservation and management measures.

(2) The restriction in paragraph (1) does not apply if ownership of the vessel has changed since the vessel undermined the effectiveness of international conservation and management measures, and the new owner has provided sufficient evidence to the Secretary demonstrating that the previous owner or operator has no further legal, beneficial or financial interest in, or control of, the vessel.

(3) The restriction in paragraph (1) does not apply if the Secretary makes a determination that issuing a permit would not subvert the purposes of the Agreement.

(4) The Secretary may not issue a permit to a vessel unless the Secretary is satisfied that the United States will be able to exercise effectively its responsibilities under the Agreement with respect to that vessel.

(c) APPLICATION.—

(1) The owner or operator of a high seas fishing vessel may apply for a permit under this section by completing an application form prescribed by the Secretary.

(2) The application form shall contain—

(A) the vessel's name, previous names (if known), official numbers, and port of record;

(B) the vessel's previous flags (if any);

(C) the vessel's International Radio Call Sign (if any);

(D) the names and addresses of the vessel's owners and operators;

(E) where and when the vessel was built;

(F) the type of vessel;

(G) the vessel's length; and

(H) any other information the Secretary requires for the purposes of implementing the Agreement.

(d) CONDITIONS.—The Secretary shall establish such conditions and restrictions on each permit issued under this section as are necessary and appropriate to carry out the obligations of the United States under the Agreement, including but not limited to the following:

(1) The vessel shall be marked in accordance with the FAO Standard Specifications for the Marking and Identification of Fishing Vessels, or with regulations issued under section 305 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855); and

(2) The permit holder shall report such information as the Secretary by regulation requires, including area of fishing operations and catch statistics. The Secretary shall promulgate regulations concerning conditions under which information submitted under this paragraph may be released.

(e) FEES.—

(1) The Secretary shall by regulation establish the level of fees to be charged for permits issued under this section. The amount of any fee charged for a permit issued under this section shall not exceed the administrative costs incurred in issuing such permits. The permitting fee may be in addition to any fee required under any regional permitting regime applicable to high seas fishing vessels.

(2) The fees authorized by paragraph (1) shall be collected and credited to the Operations, Research and Facilities account of the National Oceanic and Atmospheric Administration. Fees collected under this subsection shall be available for the necessary expenses of the National Oceanic and Atmospheric Administration in implementing this Act, and shall remain available until expended.

(f) DURATION.—A permit issued under this section is valid for 5 years. A permit issued under this section is void in the event the vessel is no longer eligible for United States documentation, such documentation is revoked or denied, or the vessel is deleted from such documentation.

SEC. 105. RESPONSIBILITIES OF THE SECRETARY.

(a) RECORD.—The Secretary shall maintain an automated file or record of high seas fishing vessels issued permits under section 104, including all information submitted under section 104(c)(2).

(b) INFORMATION TO FAO.—The Secretary, in cooperation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall—

(1) make available to FAO information contained in the record maintained under subsection (a);

(2) promptly notify FAO of changes in such information;

(3) promptly notify FAO of additions to or deletions from the record, and the reason for any deletion;

(4) convey to FAO information relating to any permit granted under section 104(b)(3), including the vessel's identity, owner or operator, and factors relevant to the Secretary's determination to issue the permit;

(5) report promptly to FAO all relevant information regarding any activities of high seas fishing vessels that undermine the effectiveness of international conservation and management measures, including the identity of the vessels and any sanctions imposed; and

(6) provide the FAO a summary of evidence regarding any activities of foreign vessels that undermine the effectiveness of international conservation and management measures.

(c) INFORMATION TO FLAG NATIONS.—If the Secretary, in cooperation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, has reasonable grounds to believe that a foreign vessel has engaged in activities undermining the effectiveness of international conservation and management measures, the Secretary shall—

(1) provide to the flag nation information, including appropriate evidentiary material, relating to those activities; and

(2) when such foreign vessel is voluntarily in a United States port, promptly notify the flag nation and, if requested by the flag nation, make arrangements to undertake such lawful investigatory measures as may be considered necessary to establish whether the vessel has been used contrary to the provisions of the Agreement.

(d) REGULATIONS.—The Secretary, after consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, may promulgate such regulations, in accordance with section 553 of title 5, United States Code, as may be necessary to carry out the purposes of the Agreement and this title. The Secretary shall coordinate such regulations with any other entities regulating high seas fishing vessels, in order to minimize duplication of permit application and reporting requirements. To the extent practicable, such regulations shall also be consistent with regulations implementing fishery management plans under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(e) NOTICE OF INTERNATIONAL CONSERVATION AND MANAGEMENT MEASURES.—The Secretary, in consultation with the Secretary of State, shall publish in the Federal Register, from time to time, a notice listing international conservation and management measures recognized by the United States.

SEC. 106. UNLAWFUL ACTIVITIES.

It is unlawful for any person subject to the jurisdiction of the United States—

(1) to use a high seas fishing vessel on the high seas in contravention of international conservation and management measures described in section 105(e).

(2) to use a high seas fishing vessel on the high seas, unless the vessel has on board a valid permit issued under section 104;

(3) to use a high seas fishing vessel in violation of the conditions or restrictions of a permit issued under section 104;

(4) to falsify any information required to be reported, communicated, or recorded pursuant to this title or any regulation issued under this title, or to fail to submit in a timely fashion any required information, or to fail to report to the Secretary immediately any change in circumstances that has the effect of rendering any such information false, incomplete, or misleading;

(5) to refuse to permit an authorized officer to board a high seas fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this title or any regulation issued under this title;

(6) to forcibly assault, resist, oppose, impede, intimidate, or interfere with an authorized officer in the conduct of any search or inspection described in paragraph (5);

(7) to resist a lawful arrest or detention for any action prohibited by this section;

(8) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this section;

(9) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any living marine resource taken or retained in violation of this title or any regulation or permit issued under this title; or

(10) to violate any provision of this title or any regulation or permit issued under this title.

SEC. 107. ENFORCEMENT PROVISIONS.

(a) DUTIES OF SECRETARIES.—This title shall be enforced by the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may by agreement utilize, on a reimbursable basis or otherwise, the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, or of any State agency, in the performance of such duties. Such Secretaries shall, and the head of any Federal or State agency that has entered into an agreement with either such Secretary under this section may (if the agreement so provides), authorize officers to enforce the provisions of this title or any regulation or permit issued under this title.

(b) DISTRICT COURT JURISDICTION.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this title. In the case of Guam, and any Commonwealth, territory, or possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Guam, except that in the case of American Samoa, the appropriate court is the United States District Court for the District of Hawaii.

(c) POWERS OF ENFORCEMENT OFFICERS.—

(1) Any officer who is authorized under subsection (a) to enforce the provisions of this title may—

(A) with or without a warrant or other process—

(i) arrest any person, if the officer has reasonable cause to believe that such person has committed an act prohibited by paragraph (6), (7), (8), or (9) of section 106;

(ii) board, and search or inspect, any high seas fishing vessel;

(iii) seize any high seas fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of this title or any regulation or permit issued under this title;

(iv) seize any living marine resource (wherever found) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 106;

(v) seize any other evidence related to any violation of any provision of this title or any regulation or permit issued under this title;

(B) execute any warrant or other process issued by any court of competent jurisdiction; and

(C) exercise any other lawful authority.

(2) Subject to the direction of the Secretary, a person charged with law enforcement responsibilities by the Secretary who is performing a duty related to enforcement of a law regarding fisheries or other marine resources may make an arrest without a warrant for an offense against the United States committed in his presence, or for a felony cognizable under the laws of the United States, if he has reasonable grounds to believe that the person to be arrested has committed or is committing a felony.

(d) ISSUANCE OF CITATIONS.—If any authorized officer finds that a high seas fishing vessel is operating or has been operated in violation of any provision of this title, such officer may issue a citation to the owner or operator of such vessel in lieu of proceeding under subsection (c). If a permit has been issued pursuant to this title for such vessel,

such officer shall note the issuance of any citation under this subsection, including the date thereof and the reason therefor, on the permit. The Secretary shall maintain a record of all citations issued pursuant to this subsection.

(e) LIABILITY FOR COSTS.—Any person assessed a civil penalty for, or convicted of, any violation of this Act shall be liable for the cost incurred in storage, care, and maintenance of any living marine resource or other property seized in connection with the violation.

SEC. 108. CIVIL PENALTIES AND PERMIT SANCTIONS.

(a) CIVIL PENALTIES.—

(1) Any person who is found by the Secretary, after notice and opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 106 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $100,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violation, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

(2) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty that is subject to imposition or that has been imposed under this section.

(b) PERMIT SANCTIONS.—

(1) In any case in which—

(A) a vessel of the United States has been used in the commission of an act prohibited under section 106;

(B) the owner or operator of a vessel or any other person who has been issued or has applied for a permit under section 104 has acted in violation of section 106; or

(C) any amount in settlement of a civil forfeiture imposed on a high seas fishing vessel or other property, or any civil penalty or criminal fine imposed on a high seas fishing vessel or on an owner or operator of such a vessel or on any other person who has been issued or has applied for a permit under any fishery resource statute enforced by the Secretary, has not been paid and is overdue, the Secretary may—

(i) revoke any permit issued to or applied for by such vessel or person under this title, with or without prejudice to the issuance of subsequent permits;

(ii) suspend such permit for a period of time considered by the Secretary to be appropriate;

(iii) deny such permit; or

(iv) impose additional conditions and restrictions on such permit.

(2) In imposing a sanction under this subsection, the Secretary shall take into account—

(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanction is imposed; and

(B) with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

(3) Transfer of ownership of a high seas fishing vessel, by sale or otherwise, shall not extinguish any permit sanction that is in effect or is pending at the , and Mr. @ time of transfer of ownership. Before executing the transfer of ownership of a vessel, by sale or otherwise, the owner shall disclose in writing to the prospective transferee the existence of any permit sanction that will be in effect or pending with respect to the vessel at the time of the transfer. The Secretary may waive or compromise a sanction in the case of a transfer pursuant to court order.

(4) In the case of any permit that is suspended under this subsection for nonpayment of a civil penalty or criminal fine, the Secretary shall reinstate the permit upon payment of the penalty or fine and interest thereon at the prevailing rate.

(5) No sanctions shall be imposed under this subsection unless there has been prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed, either in conjunction with a civil penalty proceeding under this section or otherwise.

(c) HEARING.—For the purposes of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this subsection, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) JUDICIAL REVIEW.—Any person against whom a civil penalty is assessed under subsection (a) or against whose vessel a permit sanction is imposed under subsection (b) (other than a permit suspension for nonpayment of penalty or fine) may obtain review thereof in the United States district court for the appropriate district by filing a complaint against the Secretary in such court within 30 days from the date of such penalty or sanction. The Secretary shall promptly file in such court a certified copy of the record upon which such penalty or sanction was imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(e) COLLECTION.—

(1) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the matter shall be referred to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(2) A high seas fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 106 shall be liable in rem for any civil penalty assessed for such violation under subsection (a) and may be proceeded against in any district court of the United States having jurisdiction thereof. Such penalty shall constitute a maritime lien on such vessel that may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

SEC. 109. CRIMINAL OFFENSES.

(a) OFFENSES.—A person is guilty of an offense if the person commits any act prohibited by paragraph (6), (7), (8), or (9) of section 106.

(b) PUNISHMENT.—Any offense described in subsection (a) is a class A misdemeanor punishable by a fine under title 18, United States Code, or imprisonment for not more than one year, or both; except that if in the commission of any offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any authorized officer, or places any such officer in fear of imminent bodily injury, the offense is a felony punishable by a fine under title 18, United States Code, or imprisonment for not more than 10 years, or both.

SEC. 110. FORFEITURES.

(a) IN GENERAL.—Any high seas fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any living marine resources (or the fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 106 (other than an act for which the issuance of a citation under section 107 is a sufficient sanction) shall be subject to forfeiture to the United States. All or part of such vessel may, and all such living marine resources (or the fair market value thereof) shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(b) JURISDICTION OF DISTRICT COURTS.—Any district court of the United States shall have jurisdiction, upon application of the Attorney General on behalf of the United States, to order any forfeiture authorized under subsection (a) and any action provided for under subsection (d).

(c) JUDGMENT.—If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this title or for which security has not previously been obtained. The provisions of the customs laws relating to—

(1) the seizure, forfeiture, and condemnation of property for violation of the customs law;

(2) the disposition of such property or the proceeds from the sale thereof; and

(3) the remission or mitigation of any such forfeiture;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title, unless such provisions are inconsistent with the purposes, policy, and provisions of this title.

(d) PROCEDURE.—

(1) Any officer authorized to serve any process in rem that is issued by a court under section 107(b) shall—

(A) stay the execution of such process; or

(B) discharge any living marine resources seized pursuant to such process;

upon receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person delivering such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(2) Any living marine resources seized pursuant to this title may be sold, subject to the approval of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(e) REBUTTABLE PRESUMPTION.—For purposes of this section, all living marine resources found on board a high seas fishing

vessel and which are seized in connection with an act prohibited by section 106 are presumed to have been taken or retained in violation of this title, but the presumption can be rebutted by an appropriate showing of evidence to the contrary.

SEC. 111. EFFECTIVE DATE.

This title shall take effect 120 days after the date of enactment of this Act.

TITLE II—IMPLEMENTATION OF CONVENTION ON FUTURE MULTILATERAL COOPERATION IN THE NORTHWEST ATLANTIC FISHERIES

SEC. 201. SHORT TITLE.

This title may be cited as the ''Northwest Atlantic Fisheries Convention Act of 1995''.

SEC. 202. REPRESENTATION OF UNITED STATES UNDER CONVENTION.

(a) COMMISSIONERS.—

(1) APPOINTMENTS, GENERALLY.—The Secretary shall appoint not more than 3 individuals to serve as the representatives of the United States on the General Council and the Fisheries Commission, who shall each—

(A) be known as a ''United States Commissioner to the Northwest Atlantic Fisheries Organization''; and

(B) serve at the pleasure of the Secretary.

(2) REQUIREMENTS FOR APPOINTMENTS.—

(A) The Secretary shall ensure that of the individuals serving as Commissioners—

(i) at least 1 is appointed from among representatives of the commercial fishing industry;

(ii) 1 (but no more than 1) is an official of the Government; and

(iii) 1, other than the individual appointed under clause (ii), is a voting member of the New England Fishery Management Council.

(B) The Secretary may not appoint as a Commissioner an individual unless the individual is knowledgeable and experienced concerning the fishery resources to which the Convention applies.

(3) TERMS.—

(A) The term of an individual appointed as a Commissioner—

(i) shall be specified by the Secretary at the time of appointment; and

(ii) may not exceed 4 years.

(B) An individual who is not a Government official may not serve more than 2 consecutive terms as a Commissioner.

(b) ALTERNATE COMMISSIONERS.—

(1) APPOINTMENT.—The Secretary may, for any anticipated absence of a duly appointed Commissioner at a meeting of the General Council or the Fisheries Commission, designate an individual to serve as an Alternate Commissioner.

(2) FUNCTIONS.—An Alternate Commissioner may exercise all powers and perform all duties of the Commissioner for whom the Alternate Commissioner is designated, at any meeting of the General Council or the Fisheries Commission for which the Alternate Commissioner is designated.

(c) REPRESENTATIVES.—

(1) APPOINTMENT.—The Secretary shall appoint not more than 3 individuals to serve as the representatives of the United States on the Scientific Council, who shall each be known as a ''United States Representative to the Northwest Atlantic Fisheries Organization Scientific Council''.

(2) ELIGIBILITY FOR APPOINTMENT.—

(A) The Secretary may not appoint an individual as a Representative unless the individual is knowledgeable and experienced concerning the scientific issues dealt with by the Scientific Council.

(B) The Secretary shall appoint as a Representative at least 1 individual who is an official of the Government.

(3) TERM.—An individual appointed as a Representative—

(A) shall serve for a term of not to exceed 4 years, as specified by the Secretary at the time of appointment;

(B) may be reappointed; and

(C) shall serve at the pleasure of the Secretary.

(d) ALTERNATE REPRESENTATIVES.—

(1) APPOINTMENT.—The Secretary may, for any anticipated absence of a duly appointed Representative at a meeting of the Scientific Council, designate an individual to serve as an Alternate Representative.

(2) FUNCTIONS.—An Alternate Representative may exercise all powers and perform all duties of the Representative for whom the Alternate Representative is designated, at any meeting of the Scientific Council for which the Alternate Representative is designated.

(e) EXPERTS AND ADVISERS.—The Commissioners, Alternate Commissioners, Representatives, and Alternate Representatives may be accompanied at meetings of the Organization by experts and advisers.

(f) COORDINATION AND CONSULTATION.—

(1) IN GENERAL.—In carrying out their functions under the Convention, Commissioners, Alternate Commissioners, Representatives, and Alternate Representatives shall—

(A) coordinate with the appropriate Regional Fishery Management Councils established by section 302 of the Magnuson Act (16 U.S.C. 1852); and

(B) consult with the committee established under section 208.

(2) RELATIONSHIP TO OTHER LAW.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to coordination and consultations under this subsection.

SEC. 203. REQUESTS FOR SCIENTIFIC ADVICE.

(a) RESTRICTION.—The Representatives may not make a request or specification described in subsection (b)(1) or (2), respectively, unless the Representatives have first—

(1) consulted with the appropriate Regional Fishery Management Councils; and

(2) received the consent of the Commissioners for that action.

(b) REQUESTS AND TERMS OF REFERENCE DESCRIBED.—The requests and specifications referred to in subsection (a) are, respectively—

(1) any request, under Article VII(1) of the Convention, that the Scientific Council consider and report on a question pertaining to the scientific basis for the management and conservation of fishery resources in waters under the jurisdiction of the United States within the Convention Area; and

(2) any specification, under Article VIII(2) of the Convention, of the terms of reference for the consideration of a question referred to the Scientific Council pursuant to Article VII(1) of the Convention.

SEC. 204. AUTHORITIES OF SECRETARY OF STATE WITH RESPECT TO CONVENTION.

The Secretary of State may, on behalf of the Government of the United States—

(1) receive and transmit reports, requests, recommendations, proposals, and other communications of and to the Organization and its subsidiary organs;

(2) object, or withdraw an objection, to the proposal of the Fisheries Commission;

(3) give or withdraw notice of intent not to be bound by a measure of the Fisheries Commission;

(4) object or withdraw an objection to an amendment to the Convention; and

(5) act upon, or refer to any other appropriate authority, any other communication referred to in paragraph (1).

SEC. 205. INTERAGENCY COOPERATION.

(a) AUTHORITIES OF SECRETARY.—In carrying out the provisions of the Convention and this title, the Secretary may arrange for cooperation with other agencies of the United States, the States, the New England and the Mid-Atlantic Fishery Management Councils, and private institutions and organizations.

(b) OTHER AGENCIES.—The head of any Federal agency may—

(1) cooperate in the conduct of scientific and other programs, and furnish facilities and personnel, for the purposes of assisting the Organization in carrying out its duties under the Convention; and

(2) accept reimbursement from the Organization for providing such services, facilities, and personnel.

SEC. 206. RULEMAKING.

The Secretary shall promulgate regulations as may be necessary to carry out the purposes and objectives of the Convention and this title. Any such regulation may be made applicable, as necessary, to all persons and all vessels subject to the jurisdiction of the United States, wherever located.

SEC. 207. PROHIBITED ACTS AND PENALTIES.

(a) PROHIBITION.—It is unlawful for any person or vessel that is subject to the jurisdiction of the United States—

(1) to violate any regulation issued under this title or any measure that is legally binding on the United States under the Convention;

(2) to refuse to permit any authorized enforcement officer to board a fishing vessel that is subject to the person's control for purposes of conducting any search or inspection in connection with the enforcement of this title, any regulation issued under this title, or any measure that is legally binding on the United States under the Convention;

(3) forcibly to assault, resist, oppose, impede, intimidate, or interfere with any authorized enforcement officer in the conduct of any search or inspection described in paragraph (2);

(4) to resist a lawful arrest for any act prohibited by this section;

(5) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this section; or

(6) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that the other person has committed an act prohibited by this section.

(b) CIVIL PENALTY.—Any person who commits any act that is unlawful under subsection (a) shall be liable to the United States for a civil penalty, or may be subject to a permit sanction, under section 308 of the Magnuson Act (16 U.S.C. 1858).

(c) CRIMINAL PENALTY.—Any person who commits an act that is unlawful under paragraph (2), (3), (4), or (6) of subsection (a) shall be guilty of an offense punishable under section 309(b) of the Magnuson Act (16 U.S.C. 1859(b)).

(d) CIVIL FORFEITURES.—

(1) IN GENERAL.—Any vessel (including its gear, furniture, appurtenances, stores, and cargo) used in the commission of an act that is unlawful under subsection (a), and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act that is unlawful under subsection (a), shall be subject to seizure and forfeiture as provided in section 310 of the Magnuson Act (16 U.S.C. 1860).

(2) DISPOSAL OF FISH.—Any fish seized pursuant to this title may be disposed of pursuant to the order of a court of competent jurisdiction or, if perishable, in a manner prescribed by regulations issued by the Secretary.

(e) ENFORCEMENT.—The Secretary and the Secretary of the department in which the Coast Guard is operating shall enforce the provisions of this title and shall have the authority specified in sections 311(a), (b)(1), and (c) of the Magnuson Act (16 U.S.C. 1861(a), (b)(1), and (c)) for that purpose.

(f) JURISDICTION OF COURTS.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under this section and may, at any time—

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem, or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take such other actions as are in the interests of justice.

SEC. 208. CONSULTATIVE COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of State and the Secretary, shall jointly establish a consultative committee to advise the Secretaries on issues related to the Convention.

(b) MEMBERSHIP.—

(1) The membership of the Committee shall include representatives from the New England and Mid-Atlantic Fishery Management Councils, the States represented on those Councils, the Atlantic States Marine Fisheries Commission, the fishing industry, the seafood processing industry, and others knowledgeable and experienced in the conservation and management of fisheries in the Northwest Atlantic Ocean.

(2) TERMS AND REAPPOINTMENT.—Each member of the consultative committee shall serve for a term of two years and shall be eligible for reappointment.

(c) DUTIES OF THE COMMITTEE.—Members of the consultative committee may attend—

(1) all public meetings of the General Council or the Fisheries Commission;

(2) any other meetings to which they are invited by the General Council or the Fisheries Commission; and

(3) all nonexecutive meetings of the United States Commissioners.

(d) RELATIONSHIP TO OTHER LAW.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the consultative committee established under this section.

SEC. 209. ADMINISTRATIVE MATTERS.

(a) PROHIBITION ON COMPENSATION.—A person shall not receive any compensation from the Government by reason of any service of the person as—

(1) a Commissioner, Alternate Commissioner, Representative, or Alternative Representative;

(2) an expert or adviser authorized under section 202(e); or

(3) a member of the consultative committee established by section 208.

(b) TRAVEL AND EXPENSES.—The Secretary of State shall, subject to the availability of appropriations, pay all necessary travel and other expenses of persons described in subsection (a)(1) and of not more than six experts and advisers authorized under section 202(e) with respect to their actual performance of their official duties pursuant to this title, in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

(c) STATUS AS FEDERAL EMPLOYEES.—A person shall not be considered to be a Federal employee by reason of any service of the person in a capacity described in subsection (a), except for purposes of injury compensation and tort claims liability under chapter 81 of title 5, United States Code, and chapter 17 of title 28, United States Code, respectively.

SEC. 210. DEFINITIONS.

In this title the following definitions apply:

(1) AUTHORIZED ENFORCEMENT OFFICER.—The term ''authorized enforcement officer'' means a person authorized to enforce this title, any regulation issued under this title, or any measure that is legally binding on the United States under the Convention.

(2) COMMISSIONER.—The term ''Commissioner'' means a United States Commissioner to the Northwest Atlantic Fisheries Organization appointed under section 202(a).

(3) CONVENTION.—The term ''Convention'' means the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, done at Ottawa on October 24, 1978.

(4) FISHERIES COMMISSION.—The term ''Fisheries Commission'' means the Fisheries Commission provided for by Articles II, XI, XII, XIII, and XIV of the Convention.

(5) GENERAL COUNCIL.—The term ''General Council'' means the General Council provided for by Article II, III, IV, and V of the Convention.

(6) MAGNUSON ACT.—The term ''Magnuson Act'' means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(7) ORGANIZATION.—The term ''Organization'' means the Northwest Atlantic Fisheries Organization provided for by Article II of the Convention.

(8) PERSON.—The term ''person'' means any individual (whether or not a citizen or national of the United States), and any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State).

(9) REPRESENTATIVE.—The term ''Representative'' means a United States Representative to the Northwest Atlantic Fisheries Scientific Council appointed under section 202(c).

(10) SCIENTIFIC COUNCIL.—The term ''Scientific Council'' means the Scientific Council provided for by Articles II, VI, VII, VIII, IX, and X of the Convention.

(11) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce.

SEC. 211. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title, including use for payment as the United States contribution to the Organization as provided in Article XVI of the Convention, $500,000 for each of the fiscal years 1995, 1996, 1997, and 1998.

TITLE III—ATLANTIC TUNAS CONVENTION ACT

SEC. 301. SHORT TITLE.

This title may be cited as the ''Atlantic Tunas Convention Authorization Act of 1995''.

SEC. 302. RESEARCH AND MONITORING ACTIVITIES.

(a) REPORT TO CONGRESS.—The Secretary of Commerce shall, within 90 days after the date of enactment of this Act, submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives—

(1) identifying current governmental and nongovernmental research and monitoring activities on Atlantic bluefin tuna and other highly migratory species;

(2) describing the personnel and budgetary resources allocated to such activities; and

(3) explaining how each activity contributes to the conservation and management of Atlantic bluefin tuna and other highly migratory species.

(b) RESEARCH AND MONITORING PROGRAM.—Section 3 of the Act of September 4, 1980 (16 U.S.C. 971i) is amended—

(1) by amending the section heading to read as follows:

''SEC. 3. RESEARCH ON ATLANTIC HIGHLY MIGRATORY SPECIES.'';

(2) by striking the last sentence;

(3) by inserting ''(a) BIENNIAL REPORT ON BLUEFIN TUNA.—'' before ''The Secretary of Commerce shall''; and

(4) by adding at the end the following:

''(b) HIGHLY MIGRATORY SPECIES RESEARCH AND MONITORING.—

''(1) Within 6 months after the date of enactment of the Atlantic Tunas Convention Authorization Act of 1995, the Secretary of Commerce, in cooperation with the advisory committee established under section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) and in consultation with the United States Commissioners on the International Commission for the Conservation of Atlantic Tunas (referred to elsewhere in this section as the 'Commission') and the Secretary of State, shall develop and implement a comprehensive research and monitoring program to support the conservation and management of Atlantic bluefin tuna and other highly migratory species that shall—

''(A) identify and define the range of stocks of highly migratory species in the Atlantic Ocean, including Atlantic bluefin tuna; and

''(B) provide for appropriate participation by nations which are members of the Commission.

''(2) The program shall provide for, but not be limited to—

''(A) statistically designed cooperative tagging studies;

''(B) genetic and biochemical stock analyses;

''(C) population censuses carried out through aerial surveys of fishing grounds and known migration areas;

''(D) adequate observer coverage and port sampling of commercial and recreational fishing activity;

''(E) collection of comparable real-time data on commercial and recreational catches and landings through the use of permits, logbooks, landing reports for charter operations and fishing tournaments, and programs to provide reliable reporting of the catch by private anglers;

''(F) studies of the life history parameters of Atlantic bluefin tuna and other highly migratory species;

''(G) integration of data from all sources and the preparation of data bases to support management decisions; and

''(H) other research as necessary.

''(3) In developing a program under this section, the Secretary shall—

''(A) ensure that personnel and resources of each regional research center shall have substantial participation in the stock assessments and monitoring of highly migratory species that occur in the region;

''(B) provide for comparable monitoring of all United States fishermen to which the Atlantic Tunas Convention Act applies with respect to effort and species composition of catch and discards;

''(C) consult with relevant Federal and State agencies, scientific and technical experts, commercial and recreational fishermen, and other interested persons, public and private, and shall publish a proposed plan in the Federal Register for the purpose of receiving public comment on the plan; and

''(D) through the Secretary of State, encourage other member nations to adopt a similar program.''.

SEC. 303. DEFINITIONS.

Section 2 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971) is amended—

(1) by designating paragraphs (3) through (10) as (4) through (110, respectively, and inserting after paragraph (2) the following;

''(3) The term 'conservation recommendation' means any recommendation of the Commission made pursuant to article VIII of the Convention and acted upon favorably by the Secretary of State under section 5(a) of this Act.'';

(2) by striking paragraph (5), as redesignated, and inserting the following:

''(4) The term 'exclusive economic zone' means an exclusive economic zone as defined in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802).''; and

(3) by striking ''fisheries zone'' wherever it appears in the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.) and inserting ''exclusive economic zone''.

SEC. 304. ADVISORY COMMITTEE PROCEDURES.

Section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) is amended—

(1) by inserting ''(a)'' before ''There''; and

(2) by adding at the end the following:

''(b)(1) A majority of the members of the advisory committee shall constitute a quorum, but one or more such members designated by the advisory committee may hold meetings to provide for public participation and to discuss measures relating to the United States implementation of Commission recommendations.

''(2) The advisory committee shall elect a Chairman for a 2-year term from among its members.

''(3) The advisory committee shall meet at appropriate times and places at least twice a year, at the call of the Chairman or upon the request of the majority of its voting members, the United States Commissioners, the Secretary, or the Secretary of State. Meetings of the advisory committee, except when in executive session, shall be open to the public, and prior notice of meetings shall be made public in a timely fashion.

''(4)(A) The Secretary shall provide to the advisory committee in a timely manner such administrative and technical support services as are necessary for the effective functioning of the committee.

''(B) The Secretary and the Secretary of State shall furnish the advisory committee with relevant information concerning fisheries and international fishery agreements.

''(5) The advisory committee shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this Act, the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and the Convention. The advisory committee shall publish and make available to the public a statement of its organization, practices, and procedures.

''(6) The advisory committee shall, to the maximum extent practicable, consist of an equitable balance among the various groups concerned with the fisheries covered by the Convention and shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).''.

SEC. 305. REGULATIONS AND ENFORCEMENT OF CONVENTION.

Section 6(c) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d(c)) is amended—

(1) by inserting ''AND OTHER MEASURES'' after ''REGULATIONS'' in the section caption;

(2) by inserting ''or fishing mortality level'' after ''quota of fish'' in the last sentence of paragraph (3); and

(3) by inserting the following after paragraph (5):

''(6) IDENTIFICATION AND NOTIFICATION.—

''(A) Not later than July 1, 1996, and annually thereafter, the Secretary, in consultation with the Secretary of State, the Commissioners, and the advisory committee, shall—

''(i) identify those nations whose fishing vessels are fishing, or have fished during the preceding calendar year, within the convention area in a manner or under circumstances that diminish the effectiveness of a conservation recommendation;

''(ii) notify the President and the nation so identified, including an explanation of the reasons therefor; and

''(iii) publish a list of those Nations identified under subparagraph (A).

In identifying those Nations, the Secretary shall consider, based on the best available information, whether those Nations have measures in place for reporting, monitoring, and enforcement, and whether those measures diminish the effectiveness of any conservation recommendation.

''(7) CONSULTATION.—Not later than 30 days after a Nation is notified under paragraph (6), the President may enter into consultations with the government of that Nation for the purpose of obtaining an agreement that will—

''(A) effect the immediate termination and prevent the resumption of any fishing operation by vessels of that Nation within the Convention area which is conducted in a manner or under circumstances that diminish the effectiveness of the conservation recommendation;

''(B) when practicable, require actions by that Nation, or vessels of that Nation, to mitigate the negative impacts of fishing operations on the effectiveness of the conservation recommendation involved, including but not limited to, the imposition of subsequent-year deductions for quota overages; and

''(C) result in the establishment, if necessary, by such nation of reporting, monitoring, and enforcement measures that are adequate to ensure the effectiveness of conservation recommendations.''.

SEC. 306. FINES AND PERMIT SANCTIONS.

Section 7(e) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971(e)) is amended to read as follows:

''(e) The civil penalty and permit sanctions of section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858) are hereby made applicable to violations of this section as if they were violations of section 307 of that Act.''.

SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended to read as follows:

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 10. There are authorized to be appropriated to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in article X of the Convention, the following sums:

''(1) For fiscal year 1995, $4,103,000, of which $50,000 are authorized in the aggregate for the advisory committee established under section 4 and the species working groups established under section 4A, and $2,890,000 are authorized for research activities under this Act and the Act of September 4, 1980 (16 U.S.C. 971i).

''(2) For fiscal year 1996, $5,453,000, of which $50,000 are authorized in the aggregate for such advisory committee and such working groups, and $4,240,000 are authorized for such research activities.

''(3) For fiscal year 1997, $5,465,000 of which $62,000 are authorized in the aggregate for such advisory committee and such working groups, and $4,240,000 are authorized for such research activities.''.

''(4) For fiscal year 1998, $5,465,000 of which $75,000 are authorized in the aggregate for such advisory committee and such working groups, and $4,240,000 are authorized for such research activities.''.

SEC. 308. REPORT AND SAVINGS CLAUSE.

The Atlantic Tuna Convention Act of 1975 (16 U.S.C. 971 et seq.) is amended by adding at the end thereof the following:

''§ 11. Annual report

''Not later than April 1, 1996, and annually thereafter, the Secretary shall prepare and transmit to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report, that—

''(1) details for the previous 10-year period the catches and exports to the United States of highly migratory species (including tunas, swordfish, marlin and sharks) from nations fishing on Atlantic stocks of such species that are subject to management by the Commission;

''(2) identifies those fishing nations whose harvests are inconsistent with conservation and management recommendations of the Commission;

''(3) describes reporting requirements established by the Secretary to ensure that imported fish products are in compliance with all international management measures, including minimum size requirements, established by the Commission and other international fishery organizations to which the United States is a party; and

''(4) describes actions taken by the Secretary under section 6.

''§ 12. Savings clause

''Nothing in this Act shall have the effect of diminishing the rights and obligations of any Nation under Article VIII(3) of the Convention.''.

SEC. 309. MANAGEMENT OF ATLANTIC YELLOWFIN TUNA.

(a) Not later than 90 days after the date of the enactment of this act, the Secretary of Commerce in accordance with this section shall publish a preliminary determination of the level of the United States recreational and commer cial catch of Atlantic yellowfin tuna on an annual basis since 1980. The Secretary shall publish a preliminary determination in the Federal Register for comment for a period not to exceed 60 days. The Secretary shall publish a final determination not later than 140 days from the date of the enactment of this section.

(b) Not later than July 1, 1996, the Secretary of Commerce shall implement the recommendations of International Commission for the Conservation of Atlantic Tunas regarding yellowfin tuna made pursuant to article VIII of the International Convention for the Conservation of Atlantic Tunas and acted upon favorably by the Secretary of State under section 5(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971c(a)).

SEC. 310. STUDY OF BLUEFIN TUNA REGULATIONS.

Not later than 270 days after the date of enactment of this Act, the Secretary of Commerce shall submit to the Committee on Commerce, Science and Transportation of the Senate and to the Committee on Resources of the House of Representatives a report on the historic rationale, effectiveness, and biological and economic efficiency of existing bluefin tuna regulations for United States Atlantic fisheries. Specifically, the biological rationale for each regional and category allocation, including directed and incidental categories, should be described in light of the average size, age, and maturity of bluefin tuna caught in each fishery and the effect of this harvest on stock rebuilding and sustainable yield. The report should examine the history and evaluate the level of wasteful discarding, and evaluate the effectiveness of non-quota regulations at constraining harvests within regions. Further, comments should be provided on levels of participation in specific fisheries in terms of vessels and trips, enforcement implications, and the importance of monitoring information provided by these allocations on the precision of the stock assessment estimates.

SEC. 311. SENSE OF THE CONGRESS WITH RESPECT TO ICCAT NEGOTIATIONS.

(a) SHARING OF CONSERVATION BURDEN.—It is the sense of the Congress that in future negotiations of the International Commission for the Conservation of Atlantic Tunas (hereafter in this section referred to as ''ICATT''), the Secretary of Commerce shall

ensure that the conservation actions recommended by international commissions and implemented by the Secretary for United States commercial and recreational fishermen provide fair and equitable sharing of the conservation burden among all contracting harvesters in negotiations with those commissions.

(b) ENFORCEMENT PROVISIONS.—It is further the sense of the Congress that, during 1995 ICCAT negotiations on swordfish and other Highly Migratory Species managed by ICCAT, the Congress encourages the United States Commissioners to add enforcement provisions similar to those applicable to bluefin tuna.

(c) ENHANCED MONITORING.—It is further the sense of the Congress that the National Oceanic and Atmospheric Administration and the United States Customs Service should enhance monitoring activities to ascertain what specific stocks are being imported into the United States and the country of origin.

(d) MULTILATERAL ENFORCEMENT PROCESS.—It is further the sense of the Congress that the United States Commissioners should pursue as a priority the establishment and implementation prior to December 31, 1996, an effective multilateral process that will enable ICCAT nations to enforce the conservation recommendations of the Commission.

TITLE IV—FISHERMEN'S PROTECTIVE ACT

SEC. 401. FINDINGS.

The Congress finds that—

(1) customary international law and the United Nations Convention on the Law of the Sea guarantee the right of passage, including innocent passage, to vessels through the waters commonly referred to as the ''Inside Passage'' off the Pacific Coast of Canada;

(2) in 1994 Canada required all commercial fishing vessels of the United States to pay 1,500 Canadian dollars to obtain a ''license which authorizes transit'' through the Inside Passage;

(3) this action was inconsistent with international law, including the United Nations Convention on the Law of the Sea, and, in particular, Article 26 of that Convention, which specifically prohibits such fees, and threatened the safety of United States commercial fishermen who sought to avoid the fee by traveling in less protected waters;

(4) the Fishermen's Protective Act of 1967 provides for the reimbursement of vessel owners who are forced to pay a license fee to secure the release of a vessel which has been seized, but does not permit reimbursement of a fee paid by the owner in advance in order to prevent a seizure;

(5) Canada required that the license fee be paid in person in 2 ports on the Pacific Coast of Canada, or in advance by mail;

(6) significant expense and delay was incurred by commercial fishing vessels of the United States that had to travel from the point of seizure back to one of those ports in order to pay the license fee required by Canada, and the costs of that travel and delay cannot be reimbursed under the Fishermen's Protective Act;

(7) the Fishermen's Protective Act of 1967 should be amended to permit vessel owners to be reimbursed for fees required by a foreign government to be paid in advance in order to navigate in the waters of that foreign country if the United States considers that fee to be inconsistent with international law;

(8) the Secretary of State should seek to recover from Canada any amounts paid by the United States to reimburse vessel owners who paid the transit license fee;

(9) the United States should review its current policy with respect to anchorage by commercial fishing vessels of Canada in waters of the United States off Alaska, including waters in and near the Dixon Entrance, and should accord such vessels the same treatment that commercial fishing vessels of the United States are accorded for anchorage in the waters of Canada off British Columbia;

(10) the President should ensure that, consistent with international law, the United States Coast Guard has available adequate resources in the Pacific Northwest and Alaska to provide for the safety of United States citizens, the enforcement of United States law, and to protect the rights of the United States and keep the peace among vessels operating in disputed waters;

(11) the President should continue to review all agreements between the United States and Canada to identify other actions that may be taken to convince Canada that any reinstatement of the transit license fee would be against Canada's long-term interests, and should immediately implement any actions which the President deems appropriate if Canada reinstates the fee;

(12) the President should continue to convey to Canada in the strongest terms that the United States will not now, nor at any time in the future, tolerate any action by Canada which would impede or otherwise restrict the right of passage of vessels of the United States in a manner inconsistent with international law; and

(13) the United States should continue its efforts to seek expeditious agreement with Canada on appropriate fishery conservation and management measures that can be implemented through the Pacific Salmon Treaty to address issues of mutual concern.

SEC. 402. AMENDMENT TO THE FISHERMEN'S PROTECTIVE ACT OF 1967.

(a) The Fishermen's Protective Act 1967 (22 U.S.C. 1971 et seq.) is amended by adding at the end the following new section:

''Sec. 11. (a) In any case on or after June 15, 1994, in which a vessel of the United States exercising its right of passage is charged a fee by the government of a foreign country to engage in transit passage between points in the United States (including a point in the exclusive economic zone or in an area over which jurisdiction is in dispute), and such fee is regarded by the United States as being inconsistent with international law, the Secretary of State shall, subject to the availability of appropriated funds, reimburse the vessel owner for the amount of any such fee paid under protest.

''(b) In seeking such reimbursement, the vessel owner shall provide, together with such other information as the Secretary of State may require—

''(1) a copy of the receipt for payment;

''(2) an affidavit attesting that the owner or the owner's agent paid the fee under protest; and

''(3) a copy of the vessel's certificate of documentation.

''(c) Requests for reimbursement shall be made to the Secretary of State within 120 days after the date of payment of the fee, or within 90 days after the date of enactment of this section, whichever is later.

''(d) Such funds as may be necessary to meet the requirements of this section may be made available from the unobligated balance of previously appropriated funds remaining in the Fishermen's Protective Fund established under section 9. To the extent that requests for reimbursement under this section exceed such funds, there are authorized to be appropriated such sums as may be needed for reimbursements authorized under subsection (a), which shall be deposited in the Fishermen's Protective Fund established under section 9.

''(e) The Secretary of State shall take such action as the Secretary deems appropriate to make and collect claims against the foreign country imposing such fee for any amounts reimbursed under this section.

''(f) For purposes of this section, the term 'owner' includes any charterer of a vessel of the United States.''.

(b) The Fishermen's Protective Act of 1967 (22 U.S.C. 1971 et seq.) is further amended by adding at the end the following:

''Sec. 12. (a) If the Secretary of State finds that the government of any nation imposes conditions on the operation or transit of United States fishing vessels which the United States regards as being inconsistent with international law or an international agreement, the Secretary of State shall certify that fact to the President.

''(b) Upon receipt of a certification under subsection (a), the President shall direct the heads of Federal agencies to impose similar conditions on the operation or transit of fishing vessels registered under the laws of the nation which has imposed conditions on United States fishing vessels.

''(c) For the purposes of this section, the term 'fishing vessel' has the meaning given that term in section 2101(11a) of title 46, United States Code.

''(d) It is the sense of the Congress that any action taken by any Federal agency under subsection (b) should be commensurate with any conditions certified by the Secretary of State under subsection (a).''.

(c) Notwithstanding any other provision of law, the Secretary of State shall reimburse the owner of any vessel of the United States for costs incurred due to the seizure of such vessel in 1994 by Canada on the basis of a claim to jurisdiction over sedentary species which was not recognized by the United States at the time of such seizure. Any such reimbursable under section 3 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1973), legal fees and travel costs incurred by the owner of any such vessel that were necessary to secure the prompt release of the vessel and crew. Total reimbursements under this subsection may not exceed $25,000 and may be made available from the unobligated balances of previously appropriated funds remaining in the Fishermen's Protective Fund established under section 9 of the Fishermen's Protective Act (22 U.S.C. 1979).

SEC. 403. Reauthorization.

(a) Section 7(c) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(c)) is amended by striking the third sentence.

(b) Section 7(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)) is amended by striking ''October 1, 1993'' and inserting ''October 1, 2000''.

SEC. 404. TECHNICAL CORRECTIONS.

(a)(1) Section 15(a) of Public Law 103–238 is amended by striking ''April 1, 1994,'' and inserting ''May 1, 1994.''.

(2) The amendment made by paragraph (1) shall be effective on and after April 30, 1994.

(b) Section 803(13)(C) of Public Law 102–567 (16 U.S.C. 5002(13)(C)) is amended to read as follows:

''(C) any vessel supporting a vessel described in subparagraph (A) or (B).''.

TITLE V—FISHERIES ENFORCEMENT IN CENTRAL SEA OF OKHOTSK

SEC. 501. SHORT TITLE.

This title may be cited as the ''Sea of Okhotsk Fisheries Enforcement Act of 1995''.

SEC. 502. FISHING PROHIBITION.

(a) ADDITION OF CENTRAL SEA OF OKHOTSK.—Section 302 of the Central Bering Sea Fisheries Enforcement Act of 1992 (16 U.S.C. 1823 note) is amended by inserting ''and the Central Sea of Okhotsk'' after ''Central Bering Sea''.

(b) DEFINITION.—Section 306 of such Act is amended—

(1) by redesignating paragraphs (2), (3), (4), (5), and (6) as paragraphs (3), (4), (5), (6), and (7), respectively; and

(2) by inserting after paragraph (1) the following:

''(2) Central Sea of Okhotsk.—The term 'Central Sea of Okhotsk' means the central Sea of Okhotsk area which is more than two hundred nautical miles seaward of the baseline from which the breadth of the territorial sea of the Russian Federation is measured.''.

TITLE VI—DRIFTNET MORATORIUM

SEC. 601. SHORT TITLE.

This title may be cited as the ''High Seas Driftnet Fishing Moratorium Protection Act''.

SEC. 602. FINDINGS.

The Congress finds that—

(1) Congress has enacted and the President has signed into law numerous Acts to control or prohibit large-scale driftnet fishing both within the jurisdiction of the United States and beyond the exclusion economic zone of any nation, including the Driftnet Impacting Monitoring, Assessment, and Control Act of 1987 (Title IV, P.L. 100–220), the Driftnet Act Amendments of 1990 (P.L. 101–627), and the High Seas Driftnet Fisheries Enforcement Act (Title I, P.L. 102–582);

(2) the United States is a party to the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, also known as the Wellington Convention;

(3) the General Assembly of the United Nations has adopted three resolutions and three decisions which established and reaffirm a global moratorium on large-scale driftnet fishing on the high seas, beginning with Resolution 44/225 in 1989 and most recently in Decision 48/445 in 1993;

(4) the General Assembly of the United Nations adopted these resolutions and decisions at the request of the United States and other concerned nations;

(5) the best scientific information demonstrates the wastefulness and potentially destructive impacts of large-scale driftnet fishing on living marine resources and seabirds; and

(6) Resolution 46/215 of the United Nations General Assembly calls on all nations, both individually and collectively, to prevent large-scale driftnet fishing on the high seas.

SEC. 603. PROHIBITION.

The United States, or any agency or official acting on behalf of the United States, may not enter into any international agreement with respect to the conservation and management of living marine resources or the use of the high seas by fishing vessels that would prevent full implementation of the global moratorium on large-scale driftnet fishing on the high seas, as such moratorium is expressed in Resolution 46/215 of the United Nations General Assembly.

SEC. 604. NEGOTIATIONS.

The Secretary of State, on behalf of the United States, shall seek to enhance the implementation and effectiveness of the United Nations General Assembly resolutions and decisions regarding the moratorium on large-scale driftnet fishing on the high seas through appropriate international agreements and organizations.

SEC. 605. CERTIFICATION.

The Secretary of State shall determine in writing prior to the signing or provisional application by the United States of any international agreement with respect to the conservation and management of living marine resources or the use of the high seas by fishing vessels that the prohibition contained in section 603 will not be violated if such agreement is signed or provisionally applied.

SEC. 606. ENFORCEMENT.

The President shall utilize appropriate assets of the Department of Defense, the United States Coast Guard, and other Federal agencies to detect, monitor, and prevent violations of the United Nations moratorium on large-scale driftnet fishing on the high seas for all fisheries under the jurisdiction of the United States and, in the case of fisheries not under the jurisdiction of the United States, to the fullest extent permitted under international law.

TITLE VII—YUKON RIVER SALMON ACT

SEC. 701. SHORT TITLE.

This title may be cited as the ''Yukon River Salmon Act of 1995''.

SEC. 702. PURPOSES.

It is the purpose of this title—

(1) to implement the interim agreement for the conservation of salmon stocks originating from the Yukon River in Canada agreed to through an exchange of notes between the Government of United States and the Government of Canada on February 3, 1995:

(2) to provide for representation by the United States on the Yukon River Panel established under such agreement; and

(3) to authorize to be appropriated sums necessary to carry out the responsibilities of the United States under such agreement.

SEC. 703. DEFINITIONS.

As used in this title—

(1) The term ''Agreement'' means the interim agreement for the conservation of salmon stocks originating from the Yukon River in Canada agreed to through an exchange of notes between the Government of the United States and the Government of Canada on February 3, 1995.

(2) The term ''Panel'' means the Yukon River Panel established by the Agreement.

(3) The term ''Yukon River Joint Technical Committee'' means the technical committee established by paragraph C.2 of the Memorandum of Understanding concerning the Pacific Salmon Treaty between the Government of the United States and the Government of Canada recorded January 28, 1985.

SEC. 704. PANEL.

(a) REPRESENTATION.—The United States shall be represented on the Panel by six individuals, of whom—

(1) one shall be an official of the United States Government with expertise in salmon conservation and management;

(2) one shall be an official of the State of Alaska with expertise in salmon conservation and management; and

(3) four shall be knowledgeable and experienced with regard to the salmon fisheries on the Yukon River.

(b) APPOINTMENTS.—Panel members shall be appointed as follows:

(1) The Panel member described in subsection (a)(1) shall be appointed by the Secretary of State.

(2) The Panel member described in subsection (a)(2) shall be appointed by the Governor of Alaska.

(3) The Panel members described in subsection (a)(3) shall be appointed by the Secretary of State from a list of at least 3 individuals nominated for each position by the Governor of Alaska. The Governor of Alaska may consider suggestions for nominations provided by organizations with expertise in Yukon River salmon fisheries. The Governor of Alaska may make appropriate nominations to allow for, and the Secretary of State shall appoint, at least one member use subsection (a)(3) who is qualified to represent the interests of Lower Yukon River fishing districts, and at least one member who is qualified to represent the interests of Upper Yukon River fishing district. At least one of the Panel members under subsection (a)(3) shall be an Alaska Native.

(c) ALTERNATES.—The Secretary of State may designate an alternate Panel member for each Panel member the Secretary appoints under subsections (b)(1) and (3), who meets the same qualifications, to serve in the absence of the Panel member. The Governor of the State of Alaska may designate an alternative Panel member for the Panel member appointed under subsection (b)(2), who meets the same qualifications, to serve in the absence of that Panel member.

(d) TERM LENGTH.—Panel members and alternate Panel members shall serve four-year terms. Any individual appointed to fill a vacancy occurring before the expiration of any term shall be appointed for the remainder of that term.

(e) REAPPOINTMENT.—Panel members and alternate Panel members shall be eligible for reappointment.

(f) DECISIONS.—Decisions by the United States section of the Panel shall be made by the consensus of the Panel members appointed under paragraphs (2) and (3) of subsection (a).

(g) CONSULTATION.—In carrying out their functions under the Agreement, Panel members may consult with such other interested parties as they consider appropriate.

SEC. 705. ADVISORY COMMITTEE.

(a) APPOINTMENTS.—The Governor of Alaska may appoint an Advisory Committee of not less than eight, but not more than twelve, individuals who are knowledgeable and experienced with regard to the salmon fisheries on the Yukon River. At least 2 of the Advisory Committee members shall be Alaska Natives. Members of the Advisory Committee may attend all meetings of the United States section of the Panel, and shall be given the opportunity to examine and be heard on any matter under consideration by the United States section of the Panel.

(b) COMPENSATION.—The members of such advisory committee shall receive no compensation for their services.

(c) TERM LENGTH.—Advisory Committee members shall serve two-year terms. Any individual appointed to fill a vacancy occurring before the expiration of any term shall be appointed for the remainder of that term.

(d) REAPPOINTMENT.—Advisory Committee members shall be eligible for reappointment.

SEC. 706. EXEMPTION.

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Panel, the Yukon River Joint Technical Committee, or the Advisory Committee created under section 705 of this title.

SEC. 707. AUTHORITY AND RESPONSIBILITY.

(A) RESPONSIBLE MANAGEMENT ENTITY.—The State of Alaska Department of Fish and Game shall be the responsible management entity for the United States for the purposes of the Agreement.

(b) EFFECT OF DESIGNATION.—The designation under subsection (a) shall not be considered to expand, diminish, or change the management authority of the State of Alaska or the Federal government with respect to fishery resources.

(c) RECOMMENDATIONS OF PANEL.—In addition to recommendations made by the Panel to the responsible management entities in accordance with the Agreement, the Panel may make recommendations concerning the conservation and management of salmon originating in the Yukon River to the Department of Interior, Department of Commerce, Department of State, North Pacific Fishery Management Council, and other Federal or State entities as appropriate. Recommendations by the Panel shall be advisory in nature.

SEC. 708. CONTINUATION OF AGREEMENT.

In the event that the Treaty between Canada and the United States of America concerning Pacific Salmon, signed at Ottawa,

January 28, 1985, terminates prior to the termination of the Agreement, and the functions of the Panel are assumed by the ''Yukon River Salmon Commission'' referenced in the Agreement, the provisions of this title which apply to the Panel shall thereafter apply to the Yukon River Salmon Commission, and the other provisions of this title shall remain in effect.

SEC. 709. ADMINISTRATIVE MATTERS.

(a) Panel members and alternate Panel members who are not State or Federal employees shall receive compensation at the daily rate of GS–15 of the General Schedule when engaged in the actual performance of duties.

(b) Travel and other necessary expenses shall be paid for all Panel members, alternate Panel members, United States members of the Joint Technical Committee, and members of the Advisory Committee when engaged in the actual performance of duties.

(c) Except for officials of the United States Government, individuals described in subsection (b) shall not be considered to be Federal employees while engaged in the actual performance of duties, except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 71 of title 28, United States Code.

SEC. 710. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $4,000,000 for each fiscal year for carrying out the purposes and provisions of the Agreement and this title including—

(1) necessary travel expenses of Panel members, alternate Panel members, United States members of the Joint Technical Committee, and members of the Advisory Committee in accordance with Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code;

(2) the United States share of the joint expenses of the Panel and the Joint Technical Committee, provided that Panel members and alternate Panel members shall not, with respect to commitments concerning the United States share of the joint expenses, be subject to section 262(b) of title 22, United States Code, insofar as it limits the authority of United States representatives to international organizations with respect to such commitments;

(3) not more than $3,000,000 for each fiscal year to the Department of the Interior and to the Department of Commerce for survey, restoration, and enhancement activities related to Yukon River salmon; and

(4) $400,000 in each of fiscal years 1996, 1997, 1998, and 1999 to be contributed to the Yukon River Restoration and Enhancement Fund and used in accordance with the Agreement.

TITLE VIII—MISCELLANEOUS

SEC. 801. SOUTH PACIFIC TUNA AMENDMENT.

Section 9 of the South Pacific Tuna Act of 1988 (16 U.S.C. 973g) is amended by adding at the end thereof the following:

''(h) Notwithstanding the requirements of—

''(1) section 1 of the Act of August 26, 1983 (97 Stat. 587; 46 U.S.C. 12108);

''(2) the general permit issued on December 1, 1980, to the American Tunaboat Association under section 104(h)(1) of the Marine Mammal Protection Act (16 U.S.C. 1374(h)(1)); and

''(3) sections 104(h)(2) and 306(a) of the Marine Mammal Protection Act (16 U.S.C. 1374(h)(2) and 1416(a))—

any vessel documented under the laws of the United States as of the date of enactment of the Fisheries Act of 1995 for which a license has been issued under subsection (a) may fish for tuna in the Treaty Area, including those waters subject to the jurisdiction of the United States in accordance with international law, subject to the provisions of the treaty and this Act, provided that no such vessel fishing in the Treaty Area intentionally deploys a purse seine net to encircle any dolphin or other marine mammal in the course of fishing under the provisions of the Treaty or this Act.''.

SEC. 802. FOREIGN FISHING FOR ATLANTIC HERRING AND ATLANTIC MACKEREL.

Notwithstanding any other provision of law—

(1) no allocation may be made to any foreign nation or vessel under section 201 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) in any fishery for which there is not a fishery management plan implemented in accordance with that Act; and

(2) the Secretary of Commerce may not approve the portion of any permit application submitted under section 204(b) of the Act which proposes fishing by a foreign vessel for Atlantic mackerel or Atlantic herring unless—

(A) the appropriate regional fishery management council recommends under section 204(b)(5) of that Act that the Secretary approve such fishing, and

(B) the Secretary of Commerce includes in the permit any conditions or restrictions recommended by the appropriate regional fishery management council with respect to such fishing.

THE ANAKTUVUK PASS LAND EXCHANGE AND WILDERNESS REDESIGNATION ACT OF 1995

MURKOSWKI (AND BREAUX) AMENDMENT NO. 1489

Mr. DOLE (for Mr. MURKOWSKI, for himself, and Mr. BREAUX) proposed an amendment to the bill (H.R. 400) to provide for the exchange of lands within Gates of the Arctic National Park and Preserve, and for other purposes; as follows:

On page 12 of the reported measure, beginning on line 13, delete all of Title II and insert in lieu thereof the following:

TITLE II—ALASKA PENINSULA SUBSURFACE CONSOLIDATION

SEC. 201. DEFINITIONS.

As used in this Act:

(1) AGENCY.—The term agency—

(A) means—

(i) any instrumentality of the United States; and

(ii) any Government corporation (as defined in section 9101(1) of title 31 United States Code); and

(B) includes any element of an agency.

(2) ALASKA NATIVE CORPORATION.—The term ''Alaska Native Corporation'' has the same meaning as is provided for ''Native Corporation'' in section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)).

(3) FEDERAL LANDS OR INTEREST THEREIN—The term ''Federal lands or interests therein'' means any lands or properties owned by the United States (i) which are administered by the Secretary, or (ii) which are subject to a lease to third parties, or (iii) which have been made available to the Secretary for exchange under this section through the concurrence of the director of the agency administering such lands or properties; provided, however, excluded from such lands shall be those lands which are within an existing conservation system unit as defined in section 102(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(4)), and those lands the mineral interest for which are currently under mineral lease.

(4) KONIAG.—The term ''Koniag'' means Koniag, Incorporated, which is a Regional Corporation.

(5) REGIONAL CORPORATION.—The term ''Regional Corporation'' has the same meaning as is provided in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(6) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of the Interior.

(7) SELECTION RIGHTS.—The term ''selection rights'' means those rights granted to Koniag, pursuant to subsections (a) and (b) of section 12, and section 14(h)(8), of the Alaska Native Claims Settlement Act (43 U.S.C. 1611 and 1613(h)(8)), to receive title to the oil and gas rights and other interests in the subsurface estate of the approximately 275,000 acres of public lands in the State of Alaska identified as ''Koniag Selections'' on the map entitled ''Koniag Interest Lands, Alaska Peninsula,'' dated May 1989.

SEC. 202. VALUATION OF KONIAG SELECTION RIGHTS.

(a) Pursuant to the provisions of subsection (b) hereof, the Secretary shall value the selection rights which Koniag possesses within the boundaries of Aniakchak National Monument and Preserve, Alaska Peninsula National Wildlife Refuge, and Becharof National Wildlife Refuge.

(b) VALUE.—

(1) IN GENERAL.—The value of the selection rights shall be equal to the fair market value of—

(A) the oil and gas interests in the lands or interests in lands that are the subject of the selection rights; and

(B) in the case of the lands or interests in lands for which Koniag is to receive the entire subsurface estate, the subsurface estate of the lands or interests in lands that are the subject of the selection rights.

(2) APPRAISAL.—

(A) SELECTION OF APPRAISER.—

(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary and Koniag shall meet to select a qualified appraiser to conduct an appraisal of the selection rights. Subject to clause (ii), the appraiser shall be selected by the mutual agreement of the Secretary and Koniag.

(ii) FAILURE TO AGREE.—If the Secretary and Koniag fail to agree on an appraiser by the date that is 60 days after the date of the initial meeting referred to in clause (i), the Secretary and Koniag shall, by the date that is not later than 90 days after the date of the initial meeting, each designate an appraiser who is qualified to perform the appraisal. The 2 appraisers so identified shall select a third qualified appraiser who shall perform the appraisal.

(B) STANDARDS AND METHODOLOGY.—The appraisal shall be conducted in conformity with the standards of the Appraisal Foundation (as defined in section 1121(9) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(9)).

(C) SUBMISSION OF APPRAISAL REPORT.—Not later than 180 days after the selection of an appraiser pursuant to subparagraph (A), the appraiser shall submit to the Secretary and to Koniag a written appraisal report specifying the value of the selection rights and the methodology used to arrive at the value.

(3) DETERMINATION OF VALUE.—

(A) DETERMINATION BY THE SECRETARY.—Not later than 60 days after the date of the receipt of the appraisal report under paragraph (2)(C), the Secretary shall determine the value of the selection rights and shall notify Koniag of the determination.

(B) ALTERNATIVE DETERMINATION OF VALUE.—

(i) IN GENERAL.—Subject to clause (ii), if Koniag does not agree with the value determined by the Secretary under subparagraph (A), the procedures specified in section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)) shall be used to establish the value.

(ii) AVERAGE VALUE LIMITATION.—The average value per acre of the selection rights shall not be less than the value utilizing the risk adjusted discount cash flow methodology, but in no event may exceed $300.

SEC. 203. KONIAG EXCHANGE.

(a) IN GENERAL.—

(1) The Secretary shall enter into negotiations for an agreement or agreements to exchange Federal lands or interests therein which are in the State of Alaska for the selection rights.

(2) if the value of the federal property to be exchanged is less than the value of the selection rights established in Section 202, and if such federal property to be exchanged is not generating receipts to the federal government in excess of one million dollars per year, than the Secretary may exchange the federal property for that portion of the selection rights having a value equal to that of the federal property. The remaining selection rights shall remain available for additional exchanges.

(3) For the purposes of any exchange to be consummated under this Title II, if less than all of the selection rights are being exchanged, then the value of the selection rights being exchanged shall be equal to the number of acres of selection rights being exchanged multiplied by a fraction, the numerator of which is the value of all the selection rights as determined pursuant to Section 202 hereof and the denominator of which is the total number of acres of selection rights.

(b) ADDITIONAL EXCHANGES.—If, after ten years from the date of enactment of this Act, the Secretary has been unable to conclude such exchanges as may be required to acquire all of the selection rights, he shall conclude exchanges for the remaining selection rights for such federal property as may be identified by Koniag, which property is available for transfer to the administrative jurisdiction of the Secretary under any provision of law and which property, at the time of the proposed transfer to Koniag is not generating receipts to the federal government in excess of one million dollars per year. The Secretary shall keep Koniag advised in a timely manner as to which properties may be available for such transfer. Upon receipt of such identification by Koniag, the Secretary shall request in a timely manner the transfer of such identified property to the administrative jurisdiction of the Department of the Interior. Such property shall not be subject to the geographic limitations of section 206(b) of the Federal Land Policy and Management Act and may be retained by the Secretary solely for the purposes of transferring it to Koniag to complete the exchange. Should the value of the property so identified by Koniag be in excess of the value of the remaining selection rights, then Koniag shall have the option of (i) declining to proceed with the exchange and identifying other property or (ii) paying the difference in value between the property rights.

(c) REVENUES.—Any property received by Koniag in an exchange entered into pursuant to subsection (a) or (b) of this section shall be deemed to be an interest in the subsurface for purposes of section 7(i) of the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*); provided, however, should Koniag make a payment to equalize the value in any such exchange, then Koniag will be deemed to hold an undivided interest in the property equal in value to such payment which interest shall not be subject to the provisions of section 9(j).

SEC. 204. CERTAIN CONVEYANCES.

(a) INTERESTS IN LAND.—For the purposes of section 21(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1620(e)), the receipt of consideration, including, but not limited to, lands, cash or other property, by a Native Corporation for the relinquishment to the United States of land selection rights granted to any Native Corporation under such Act shall be deemed to be an interest in land.

(b) AUTHORITY TO APPOINT AND REMOVE TRUSTEE.—In establishing a Settlement Trust under section 39 of such Act (43 U.S.C. 1629c), Koniag may delegate, in whole or part, the authority granted to Koniag under subsection (b)(2) of such section to any entity that Koniag may select without affecting the status of the trust as a Settlement Trust under such section.

TITLE III—STERLING FOREST

SECTION 301. SHORT TITLE.

This title may be cited as the ''Sterling Forest Protection Act of 1995''.

SEC. 302. FINDINGS.

The Congress finds that—

(1) the Palisades Interstate Park Commission was established pursuant to a joint resolution of the 75th Congress approved in 1937 (Public Resolution No. 65; ch. 706; 50 Stat. 719), and chapter 170 of the Laws of 1937 of the State of New York and chapter 148 of the Laws of 1937 of the State of New Jersey;

(2) the Palisades Interstate Park Commission is responsible for the management of 23 parks and historic sites in New York and New Jersey, comprising over 82,000 acres;

(3) over 8,000,000 visitors annually seek outdoor recreational opportunities within the Palisades Park System;

(4) Sterling Forest is a biologically diverse open space on the New Jersey border comprising approximately 17,500 acres, and is a highly significant watershed area for the State of New Jersey, providing the source for clean drinking water for 25 percent of the State;

(5) Sterling Forest is an important outdoor recreational asset in the northeastern United States, within the most densely populated metropolitan region in the Nation;

(6) Sterling Forest supports a mixture of hardwood forests, wetlands, lakes, glaciated valleys, is strategically located on a wildlife migratory route, and provides important habitat for 27 rare or endangered species;

(7) the protection of Sterling Forest would greatly enhance the Appalachian National Scenic Trail, a portion of which passes through Sterling Forest, and would provide for enhanced recreational opportunities through the protection of lands which are an integral element of the trail and which would protect important trail viewsheds;

(8) stewardship and management costs for units of the Palisades Park System are paid for by the States of New York and New Jersey; thus, the protection of Sterling Forest through the Palisades Interstate Park Commission will involve a minimum of Federal funds;

(9) given the nationally significant watershed, outdoor recreational, and wildlife qualities of Sterling Forest, the demand for open space in the northeastern United States, and the lack of open space in the densely populated tri-state region, there is a clear Federal interest in acquiring the Sterling forest for permanent protection of the watershed, outdoor recreational resources, flora and fauna, and open space; and

(10) such an acquisition would represent a cost effective investment, as compared with the costs that would be incurred to protect drinking water for the region should the Sterling Forest be developed.

SEC. 303. PURPOSES.

The purposes of this Title are—

(1) to establish the Sterling Forest Reserve in the State of New York to protect the significant watershed, wildlife, and recreational resources within the New York-New Jersey highlands region;

(2) to authorize Federal funding, through the Department of the Interior, for a portion of the acquisition costs for the Sterling Forest Reserve;

(3) to direct the Palisades Interstate Park Commission to convey to the Secretary of the Interior certain interests in lands acquired within the Reserve; and

(4) to provide for the management of the Sterling Forest Reserve by the Palisades Interstate Park Commission.

SEC. 304 DEFINITIONS.

In this Title.

(1) COMMISSION.—The term ''Commission'' means the Palisades Interstate Park Commission established pursuant to Public Resolution No. 65 approved August 19, 1937 (ch. 707; 50 Stat. 719).

(2) RESERVE.—The term ''Reserve'' means the Sterling Forest Reserve.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 305. ESTABLISHMENT OF THE STERLING FOREST RESERVE.

(A) ESTABLISHMENT.—Upon the certification by the Commission to the Secretary that the Commission has acquired sufficient lands or interests therein to constitute a manageable unit, there is established the Sterling Forest Reserve in the State of New York.

(b) MAP.—

(1) COMPOSITION.—The Reserve shall consist of lands and interests therein acquired by the Commission with the approximately 17,500 acres of lands as generally depicted on the map entitled ''Boundary Map, Sterling Forest Reserve'', numbered SFR–60,001 and dated July 1, 1994.

(2) AVAILABILITY FOR PUBLIC INSPECTION.—The map described in paragraph (1) shall be on file and available for public inspection in the offices of the Commission and the appropriate offices of the National Park Service.

(c) TRANSFER OF FUNDS.—Subject to subjection (d), the Secretary shall transfer to the Commission such funds as are appropriated for the acquisition of lands and interests therein within the Reserve.

(d) CONDITIONS OF FUNDING.—

(1) AGREEMENT BY THE COMMISSION.—Prior to the receipt of any Federal funds authorized by this Act, the Commission shall agree to the following:

(A) CONVEYANCE OF LANDS IN EVENT OF FAILURE TO MANAGE.—If the Commission fails to manage the lands acquired within the Reserve in a manner that is consistent with this title, the Commission shall convey fee title to such lands to the United States, and the agreement stated in this subparagraph shall be recorded at the time of purchase of all lands acquired within the Reserve.

(B) CONSENT OF OWNERS.—No lands or interest in land may be acquired with any Federal funds authorized or transferred pursuant to this title except with the consent of the owner of the land or interest in land.

(C) INABILITY TO ACQUIRE LANDS.—If the Commission is unable to acquire all of the lands within the Reserve, to the extent Federal funds are utilized pursuant to this title, the Commission shall acquire all or a portion of the lands identified as ''National Park Service Wilderness Easement Lands'' and ''National Park Service Conservation Easement Lands'' on the map described in section 305(b) before proceeding with the acquisition of any other lands within the Reserve.

(D) CONVEYANCE OF EASEMENT.—Within 30 days after acquiring any of the lands identified as ''National Park Service Wilderness Easement Lands'' 29 and ''National Park Service Conservation Easement Lands'' on the map described in section 305(b), the Commission shall convey to the United States—

(i) conservation easements on the lands described as ''National Park Service Wilderness Easement Lands'' on the map described in section 305(b), which easements shall provide that the lands shall be managed to protect their wilderness character; and

(ii) conservation easements on the lands described as ''National Park Service Conservation Easement Lands'' on the map described in section 305(b), which easements shall restrict and limit development and use of the property to that development and use that is—

(I) compatible with the protection of the Appalachian National Scenic Trail; and

(II) consistent with the general management plan prepared pursuant to section 306(b).

(2) MATCHING FUNDS.—Funds may be transferred to the Commission only to the extent that they are matched from funds contributed by non-Federal sources.

SEC. 306. MANAGEMENT OF THE RESERVE.

(a) IN GENERAL.—The Commission shall manage the lands acquired within the Reserve in a manner that is consistent with the Commission's authorities and with the purposes of this title.

(b) GENERAL MANAGEMENT PLAN.—Within 3 years after the date of enactment of this title, the Commission shall prepare a general management plan for the Reserve and submit the plan to the Secretary for approval.

SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this title, to remain available until expended.

(b) LAND ACQUISITION.—Of amounts appropriated pursuant to subsection (a), the Secretary may transfer to the Commission not more than $17,500,000 for the acquisition of lands and interests in land within the Reserve.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, June 30, 1995, at 10:30 a.m.

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

ADDITIONAL STATEMENTS

CONGRATULATIONS TO DANNY McDONNALL

● Mr. BROWN. Mr. President, I rise to congratulate Danny McDonnall of Lamar, CO, for winning a $10,000 Discover Card Tribute Award scholarship. The scholarship, sponsored by Discover Card Services, Inc., in cooperation with the American Association of School Administrators, are awarded to outstanding high school juniors in the United States.

Danny attends Lamar High School and is 1 of the 9 national winners selected from over 10,000 nominations nationwide. His academic achievement recently earned him his school's Most Outstanding Sophomore Boy Award. However, the scholarship program recognizes that not every student's accomplishments can be measured in grade points alone. Achievements in community service, leadership, special talents, unique endeavors, and obstacles overcome are also considered.

Danny is an active member in several student organizations and is an accomplished vocalist. He has performed in three school musicals, with an honor choir and with the National 4–H Choir. He created a Wildlife Club for young people and coordinated a shooting sports safety day attended by more than 60 local sportsmen.

But most impressive is Danny's fight against Ewing's sarcoma. His recovery inspired him to present an hour long wildlife program to 450 cancer patients in Denver's Children's Hospital and to develop a newsletter and games which he regularly sends to hospitalized children. In addition, he conducted a 3-year science project centered on treatments for chemotherapy-induced mouth sores. Danny intends to study biology in college, and hopes to become a dentist.

Thank you Discover Card Services, Inc., for making a strong commitment to helping our young people reach their dreams and be better prepared for the challenges of tomorrow. Congratulations, once again, to Danny McDonnall. We can all learn from his superb leadership and fortitude.●

AN IMPORTANT STEP FOR DEMOCRACY IN HAITI

● Mr. LEAHY. Mr. President, last Sunday, the Republic of Haiti held parliamentary and local elections. These were the first elections in Haiti since the United States forced Raoul Cedras and his henchmen to abandon power and allow the return of democratically elected President Jean-Bertrand Aristide last fall.

These elections were the first test of President Aristide's commitment to establish real democracy in Haiti, and they were watched closely by the international community.

Mr. President, the elections were far from perfect. The selection of candidates leading up to the election was not as open, well-organized, and impartial as many of us would have liked. Some voting stations opened late. Some station workers were not paid their promised salaries and did not execute their responsibilities conscientiously. Some voters were not given full privacy in voting and there were some reports of voter intimidation. Some ballots were lost or miscounted.

These irregularities were unfortunate, although given Haiti's tragic history, not unexpected. But the fact that these elections were imperfect in no way confirms, as some would suggest, that President Aristide and his government are insincere in their expressions of commitment to true democracy, or that the administration's policy there has failed. Far from it.

Let us be realistic. Haiti is the poorest country in this hemisphere. So many people are illiterate that the ballots had to carry symbols to identify the different parties. Many villages cannot be reached by road at all. The only highway across the country is literally impassible except by 4-wheel-drive. Most of the people have had no experience at all with democracy and have only the vaguest notion of what it means and how it should work.

In a country like Haiti today, the conduct of elections cannot possibly be perfect. Some mistakes and malpractice are inevitable.

But one must start somewhere, and the fact that these elections were held at all is an important achievement. Even more important, indeed historic, is that fact that there was practically no violence. We should remember past elections in that country, where the Government and its armed thugs intimidated, beat, and murdered in cold blood people waiting in line to vote.

The real question, Mr. President, is whether the Haitian people are satisfied. My perception is that the vast majority of the Haitian people feel that they took an important step forward with this election, and one more step away from the atrocities of the past. We owe it to those people now to help them get to work on the next step.

I want to commend President Clinton, General Shalikashvili, who has been to Haiti many times over the past couple of years, Secretary Christopher and others, who had the patience and sense of history to devote the attention and effort that they have to the cause of democracy in Haiti.

In a hemisphere where the trend is decidedly in favor of elected civilian government, I do not believe the United States could ignore the brutality in Haiti. Our resolve there in support of the Haitian people's yearning for a better life, has sent a strong signal in support of democratic government throughout the hemisphere.●

NOMINATION OF DR. HENRY FOSTER TO BE SURGEON GENERAL

● Mr. ABRAHAM. Mr. President, last week the Senate conducted two cloture votes on the nomination of Dr. Henry Foster to be Surgeon General of the United States. As a member of the Senate Committee on Labor and Human Resources, I was already on record in opposition to the nomination. However, for the benefit of my colleagues and my constituents, I wanted to once again outline my reasons for opposing Dr. Foster and why I voted against cloture.

At the outset of this nomination, I chose to reserve final judgment on Dr. Foster's qualifications to serve as Surgeon General until he had an opportunity to appear before the Labor Committee and address my concerns and

the concerns of other Senators and until I had an opportunity to review the entire record.

After careful thought and consideration during the Labor Committee's deliberations, I decided that I could not support Dr. Foster's nomination. I came to this conclusion for three reasons: First, I have serious doubts about whether Dr. Foster can unify the American people behind important national health policies. Second, I am troubled about where Dr. Foster comes down on the continuum which places parents' rights and responsibilities on one end and the State on the other. And third, I believe serious credibility questions regarding this nomination continued to exist. And for reasons I shall elaborate upon later, I ultimately came to believe that in this instance, extended debate of this nomination was necessary and appropriate.

Now let me just add that Dr. Foster obviously is dedicated to serving others. He tended the health care needs of thousands of poor, rural women in the still segregated Deep South of the late 1960's and early 1970's. He taught at and helped run a historically black medical school which provides 40 percent of the black doctors in America. And he helped the youth of Nashville bridge the sometimes cavernous gap between a life of poverty and a life of education, economic advancement and social accomplishment. In all these endeavors, Dr. Foster has exhibited the finest qualities of civic duty and selfless public service. On that basis alone, one has to admire him. Nevertheless, in each of the areas I cited earlier, Dr. Foster was unable to allay my concerns.

Mr. President, the first concern I have relates to what I perceive as this nominee's inability to serve as a unifier, bringing Americans together behind key public health principles. I have repeatedly expressed my worry regarding Dr. Foster's suitability to replace Dr. Joycelyn Elders. Given the extremely turbulent and divisive nature of Dr. Elders' service as Surgeon General, it came somewhat as a shock to me—and I think to many others as well—that the administration would select someone to replace her whose background would create anxiety among many Americans. I have never felt that Dr. Foster's background as an ob-gyn or his pro-choice views disqualify him for serving as Surgeon General. However, I believe that the fact that Dr. Foster personally has performed abortions creates a different sort of burden on his nomination.

Dr. Foster has said that he wants to be seen as the Nation's doctor, but his past actions will cause many Americans to shrink from thinking of him in that role. This would not matter if the position involved were managerial or technical; but it is not.

The Surgeon General's role is almost exclusively that of a public educator. He has a bully pulpit that must be used to bring Americans together behind improved medical and health practices. As I have said, following our experience with Dr. Elders, I think most Americans believe we should find someone for this position who can serve as a unifying force on the critical health care issues confronting or Nation. I was concerned that, because of his past practices, many would not at first blush choose Dr. Foster to be their physician. Therefore, at the confirmation hearings I asked Dr. Foster how he would try to restore this confidence in his ability to serve as the Nation's doctor and how he would do it. Regrettably, Dr. Foster could not seem to relate to this request; his response bordered on the dismissive.

Mr. President, I did not expect Dr. Foster to change his views. But I did expect, or at least hope, that he would have a plan to unify people and reach out to those who—at the outset—were worried about his selection, but he did not. Indeed, he did not offer a single idea concerning how he might address his challenge—not speeches, not meetings, nothing. I feel in a position as sensitive as this we need someone who would work hard to bring people together. Dr. Foster offered no commitment or dedication to pursue such an objective. I believe that was a mistake.

Mr. President, this brings me to another area of concern that I have specifically expressed from the outset: I have been worried about where Dr. Foster comes down on the continuum which places parents' rights and responsibilities on one end and the State on the other. Traveling throughout Michigan during my campaign I repeatedly heard parents strongly express two messages: They were concerned about the breakdown of the family unit and the consequences they viewed as emanating from that trend: teenage pregnancy, drug and alcohol abuse, and crime. And they were concerned about the degree to which Government's attempts to solve these problems, often exacerbating them in the process, pushed more traditional support systems such as families, relatives, and community out of the equation.

Now I realize that some will say this is a little old-fashioned in the generation X world of post-modern morality, but I want the Federal Government's chief health spokesman out in front on this issue, leading the fight to involve parents more directly in their children's lives and resisting further Government usurpation of parents' responsibilities. Regrettably, Dr. Foster's actions and positions have led me to conclude that he could not fulfill this role.

For example, Dr. Foster stated during the hearing that he opposed laws requiring parental notification when contraceptives are provided to minors. And Dr. Foster has a history of opposition to parental consent laws in the case of minors seeking an abortion, even those with judicial bypass provisions.

Mr. President, I share Dr. Foster's view on the importance of preventing teen pregnancy, and on other crucial health and social issues as well. Where I believe we differ is on the level of responsibility we think parents should have in these areas and the steps each of us is prepared to take to achieve parental involvement. The question is: Would Dr. Foster, as Surgeon General, throw the moral authority of his office behind such initiatives?

By most accounts, Dr. Joycelyn Elders dismissed parents altogether from playing any role in the sexual education and development of their children. Dr. Foster, it appears, believes that parental involvement is something to be desired and encouraged, but because of the positions he has taken and will presumably continue to advocate, he will send a different, contradictory signal.

We need a Surgeon General who recognizes that parents must become very involved and will take positions that are consistent with that philosophy.

Mr. President, the final concern I have, and the one which not only leads me to oppose this nomination but to vote against cutting off debate, is the issue of Dr. Foster's credibility. In order to succeed, a surgeon general requires one asset above all others: utmost credibility. But Dr. Foster's credibility has been seriously compromised in several ways. A major credibility problem arose from Dr. Foster's stewardship of the ''I Have a Future'' Program. When announcing the selection of Dr. Foster as his nominee, President Clinton spoke of the doctor's work in this program and its emphasis on reducing teen pregnancy. The President cited these as primary reasons for selecting Dr. Foster. The H.H.S. press release sent out that same day stated, ''The program stresses abstinence * * *.''

Dr. Foster himself, during a February 8 ''Nightline'' broadcast, proclaimed, ''I favor abstinence. Abstinence, that's what I favor. That's the bedrock of our program.'' But there has been no concrete evidence presented to support that assertion.

It came as a great surprise to everyone on the committee, I think, when neither the administration, the nominee, nor the ''I Have A Future'' Program could produce the much-heralded abstinence brochures supposedly distributed during Dr. Foster's service as director. Nor was any other evidence forthcoming that abstinence was the bedrock principle of the program.

After repeated requests to the administration and to Dr. Foster for those materials, the only abstinence brochures which were ever produced were those which Senator DODD distributed at the hearing. And, as everybody knows, those brochures turned out to have been published earlier this year—long after Dr. Foster had ended his direct supervision of the ''I Have A Future'' Program. There are other reasons to doubt assertions that the ''I Have A Future'' Program had abstinence as its ''bedrock'' principle.

In an article written by Dr. Foster and two of his colleagues for the summer 1990 issue of the ''Journal of Health Care for the Poor and Underserved,'' entitled ''A Model for Increasing Access: Teenage Pregnancy Prevention,'' the authors clearly stated that the ''I Have A Future'' Program places considerable emphasis on widespread distribution of contraceptives to teenagers. This article and other ''I Have A Future'' materials make clear that reducing pregnancy among sexually active teens was the primary focus of the program, not promoting abstinence.

Mr. President, I find it difficult to believe that Dr. Foster and the administration would fail to provide documentation for their crucial claim, that abstinence was the dominant feature of the program, if such documentation existed. Considering the emphasis placed by Dr. Foster and the administration on the role abstinence and the ''I Have A Future'' Program played in this nomination, this was a devastating revelation and comment on the credibility of the nomination. The critical question here to me was not whether abstinence was the ''bedrock'' principle behind the program. What I found most disturbing was the apparent attempt to deceive people regarding the degree to which the program was based upon abstinence. Another credibility problem, Mr. President, exists with respect to Dr. Foster's position on the issue of parental consent in the area of abortion.

During the hearings, Senator MIKULSKI and I each queried Dr. Foster about whether he supported requiring parental consent in cases where minors seek abortions. In the end, Dr. Foster maintained that he supported parental consent laws as long as a judicial bypass provision was included. However, in a speech before a 1984 Planned Parenthood conference, Dr. Foster expressed strong opposition to consent statutes, including a Tennessee statute which included judicial bypass language. In that speech, Dr. Foster stated, ''However, the [Supreme] Court upheld consent laws for minors; hence our opponents can still create abortion deterrents by seeking legislation which will necessitate such an approval.'' And, moments later, Dr. Foster repeated this sentiment. ''The Supreme Court * * * upheld by a single vote margin the constitutionality of minority consent requirements, but in doing so, it did not examine how such laws work in actual practice. Hence, an opening has been left for those who would like to see such laws invalidated.''

Those are pretty definitive statements. And they are in direct conflict with the support Dr. Foster professed for consent legislation at the hearing in response to my questions. This lack of consistency was troubling, Mr. President, and further buttressed my concerns about Dr. Foster's credibility. Furthermore, this nomination has from the very beginning been dogged by another credibility issue: the question of how many abortions Dr. Foster actually performed over the years. The White House originally told the chairman of the Labor Committee that Dr. Foster had only performed one abortion. Then Dr. Foster issued a written statement claiming he had performed less than a dozen abortions. Days later, on ''Nightline,'' Dr. Foster changed his position and stated that he had performed 39 abortions since 1973. During the Labor Committee hearings he admitted that he had performed a 40th—albeit a ''pregnancy termination''—performed before 1973. During the same ''Nightline'' broadcast, Dr. Foster also was asked whether he was including in this count the 59 abortions obtained by women participating in a clinical trial he supervised for the drug prostaglandin.

Dr. Foster said that he did not include those abortions because they were part of a research study performed by a university trying to maintain accredition. Thus, Dr. Foster, at various times throughout this process, has said that he performed 1 abortion, then 12, then 39, then 40, then another 49. In short, the number has changed with too much frequency and is still somewhat dependent on semantics.

The issue here is no longer the actual number, but, again, one of credibility. Knowing that the issue of abortion was going to be of great concern, I believe it was Dr. Foster's responsibility from the start to provide a complete and accurate accounting so that the Labor Committee and the American people would have reliable information with which to judge his qualifications.

Finally, Mr. President, Dr. Foster's credibility has been undermined by his characterization of the transcript from the 1978 HEW Ethics Board meeting, a meeting at which he was an active participant, and at which he is specifically reported to have said that he performed ''perhaps'' 700 abortions. The White House's initial response to news of the transcript's existence was to suggest that Dr. Foster had not even been at the meeting. The White House then shifted its approach and began issuing statements calling the transcript a fraud. That charge later proved to be false as well.

Now, even if the White House issued these false statements without Dr. Foster's knowledge, I believe he had a responsibility—to the White House, to Congress and to the American people—to correct the errors once they appeared. To my knowledge, no such attempt was made.

Only after others verified that Dr. Foster was at this meeting and that the transcript was, in fact, genuine did the White House and Dr. Foster adopt their current position: They now contend that the remark attributed to Dr. Foster about performing 700 amniocentesis and therapeutic abortions was an error in the transcription.

However, after reviewing the transcript, it was clear to me that there was no transcription error. The only transcription problems occurred during different portions of the meeting and were corrected on the spot. Additionally, in response to my written questions, Dr. Foster did not deny other remarks about amniocentesis and therapeutic abortions attributed to him in the transcript. In fact, he admitted to having performed ''therapeutic abortions'' after diagnosing genetic disorders in unborn babies. This revelation conflicted with Dr. Foster's previous assertions about what was said at the meeting and raised even further questions in my mind about Dr. Foster's credibility.

Mr. President, on the matters I have just outlined, I believe Dr. Foster's credibility has been seriously damaged. Because I believe credibility is such an essential quality for any effective Surgeon General, I do not see how, given this liability, I could in good conscience support Dr. Foster's nomination.

Now, Mr. President, let me offer my reasons for voting against cloture in this instance. Generally speaking, it is my intention to vote to confirm qualified individuals that the President nominates. But in those circumstances where the integrity and credibility of a nominee—or the actions of an administration in presenting a nominee—are clearly or seriously in question, I will reserve my right to vote against the President's choice, or against efforts to close off debate on the Senate floor.

In my judgment, this nomination does present clear and serious questions about the nominee's credibility. For that reason, Mr. President, I felt a sincere obligation to vote against invoking cloture on the nomination of Dr. Henry Foster to be Surgeon General.●

THE INTRODUCTION OF THE HISTORIC HOMEOWNERSHIP ASSISTANCE ACT

● Mr. GRAHAM. Mr. President, today I join my colleague Senator CHAFEE in support of the Historic Homeownership Assistance Act, which he introduced yesterday. This will would spur growth and preservation of historic neighborhoods across the country by providing a limited tax credit for qualified rehabilitation expenditures to historic homes.

An understanding of the history of the United States serves as one of the cornerstones supporting this great Nation. We find American history reflected not only in books, films, and stories, but also in physical structures, including schools, churches, county courthouses, mills, factories, and personal residences.

The bill that Senators CHAFEE, SIMON, PRYOR, JOHNSTON, and I are cosponsoring focuses on the preservation of historic residences. The bill will assist Americans who want to safeguard, maintain, and reside in these living museums.

The Historic Homeownership Assistance Act will stimulate rehabilitation

of historic homes. The Federal tax credit provided in the legislation is modelled after the existing Federal commercial historic rehabilitation tax credit. Since 1981, this commercial tax credit has facilitated the preservation of many historic structures across this great land. For example in the last two decades, in my home State of Florida, $238 million in private capital was invested in over 325 historic rehabilitation projects. These investments helped preserve Ybor City in Tampa and the Springfield historic district in Jacksonville.

The tax credit, however, has never applied to personal residences. It is time to provide an incentive to individuals to restore and preserve homes in America's historic communities.

The Historic Homeownership Assistance Act targets Americans of all economic incomes. The bill provides lower income Americans with the option to elect a Mortgage Credit Certificate in lieu of the tax credit. This certificate allows Americans who cannot take advantage of the tax credit to reduce the interest rate on their mortgage that secures the purchase and rehabilitation of a historic home.

For example, if a lower-income family were to purchase a $35,000 home which included $25,000 worth of qualified rehabilitation expenditures, it would be entitled to a $5,000 Historic Rehabilitation Mortgage Credit Certificate which could be used to reduce interest payments on the mortgage. This provision would enable families to obtain a home and preserve historic neighborhoods when they would be unable to do so otherwise.

This bill will vest power to those best suited to preserve historic housing: the states. Realizing that the States can best administer laws affecting unique communities, the Act gives power to the Secretary of the Interior to enter into agreements with states to implement a number of the provisions.

The Historic Homeownership Assistance Act does not, however, reflect an untried proposal. In addition to the existing commercial historic rehabilitation credit, the proposed bill incorporates features from several State tax incentives for the preservation of historic homes. Colorado, Maryland, New Mexico, Rhode Island, Wisconsin, and Utah have pioneered their own successful versions of a historic preservation tax incentive for homeownership.

At the Federal level, this legislation would promote historic home preservation nationwide, allowing future generations of Americans to visit and reside in homes that tell the unique history of our communities. The Historic Homeownership Assistance Act will offer enormous potential for saving historic homes and bringing entire neighborhoods back to life.

I urge my colleagues to support this bill for the preservation of history.●

PAKISTAN: AMERICA'S LONG-TIME ALLY

● Mr. BROWN. Mr. President, the United States and Pakistan have a long-standing friendship. When South Asia gained its independence from Britain in 1947, the countries of the region faced an important choice—alignment with the United States or nonalignment and cooperation with the Soviet Union. Pakistan unabashedly chose the United States. In 1950, Pakistan's first Prime Minister visited the United States, laying the seeds for more than 40 years of close cooperation between our two countries.

In 1950, Pakistan extended unqualified support to the United States-led United Nations effort on the Korean peninsula. Pakistan joined in the fight against communism by joining the Central Treaty Organization [CENTO] in 1954 and the Southeast Asia Treaty Organization [SEATO] in 1955. In 1959, Pakistan and the United States signed a mutual defense treaty, under which the United States setup a military airbase near Peshawar from which reconnaissance flights over the Soviet Union were conducted. This concession came at great risk to Pakistan. After the 1960 shoot-down of Gary Powers over the Soviet Union, the Soviets issued threatening statements directed at Pakistan for its support of the United States.

Ten years later, Pakistan worked with the United States to arrange the first United States opening to China when then-Secretary of State Henry Kissinger secretly visited China from Pakistan in 1970. Partly as a result of Soviet pique over Pakistan's assistance to the United States, the Soviets entered into a treaty of friendship with India, which was shortly followed by India's invasion of East Pakistan in 1971.

From 1979 to 1989, Pakistan opened its borders and joined to United States forces assisting the Afghan rebels fighting against the Soviet occupation of Afghanistan. The reliable assistance of our friends in Pakistan played a significant role in the Soviet defeat in Afghanistan, thereby hastening the collapse of the Soviet empire and monolithic world communism.

Pakistan joined the United States during the Gulf war against Iraq, contributing significantly to the international forces arrayed against Saddam Hussein. Since 1992, Pakistan has been in the forefront of U.N. peacekeeping operations. In addition, Pakistan has cooperated extensively with the United States in our efforts to combat international terrorism, providing critical assistance in the apprehension and swift extradition of Ramzi Ahmed Yousef, the alleged mastermind of the terrorist attack on the World Trade Center in New York City. Pakistan has truly been a good friend of the United States.

Pakistan currently faces a nuclear threat from India who faces a nuclear threat from China. This circular threat coupled with conflict after conflict in the region has created a spiraling arms race in South Asia. In 1985 the Congress adopted an amendment to the Foreign Assistance Act of 1961 cutting off all assistance to Pakistan if the President could not certify that Pakistan did not possess a nuclear explosive device. In 1990, the President was unable to issue such a certification.

After 5 years, it is clear that the nonproliferation approach outlined in this amendment—known as the Pressler amendment—has not worked. The approach taken by the amendment attempts to penalize only one party to this regional nuclear arms race, while leaving the other parties free to produce nuclear weaponry and nuclear capable delivery systems

China has undertaken the single largest military build-up in the world. India's weapons program has continued unabated since 1974 and is now developing nuclear capable missile delivery technology that is perceived as a direct threat to Pakistan. Faced with these threats to its national security, the restrictions on United States assistance have not deterred Pakistan from developing a nuclear weapons capability. It is clear that no progress in non-proliferation has been made in South Asia since these restrictions took effect.

The President recognized this fact during the April 11, 1995, meeting with Prime Minister Bhutto of Pakistan after which he stated that ''in the end we're going to have to work for a nuclear-free subcontinent, a nuclear-free region, region free of all proliferation of weapons of mass destruction.'' Mr. President, I ask that the full text of the President's press conference with Mrs. Bhutto be printed in the RECORD.

The text is as follows:

PRESS CONFERENCE BY THE PRESIDENT AND PRIME MINISTER BENAZIR BHUTTO OF PAKISTAN, APRIL 11, 1995

THE PRESIDENT. Please be seated. Good afternoon. It's a great pleasure for me to welcome Prime Minister Bhutto to the White House. I'm especially pleased to host her today because of the tremendous hospitality that the Prime Minister and the Pakistani people showed to the First Lady and to Chelsea on their recent trip.

I've heard a great deal about the visit, about the people they met, their warm welcome at the Prime Minister's home, about the dinner the Prime Minister gave in their honor. The food was marvelous, they said, but it was the thousands of tiny oil lamps that lit the paths outside the Red Fort in Lahore that really gave the evening its magical air. I regret that here at the White House I can only match that with the magic of the bright television lights. (*Laughter*)

Today's meeting reaffirms the longstanding friendship between Pakistan and the United States. It goes back to Pakistan's independence. At the time, Pakistan was an experiment in blending the ideals of a young democracy with the traditions of Islam. In the words of Pakistan's first President, Mohammed Ali Jinnah, Islam and its idealism have taught us democracy. It has taught us the equality of man, justice, and fair play to everybody. We are the inheritors of the glorious traditions and are fully alive to our responsibilities and obligations. Today Pakistan is pursuing these goals of combining the

practice of Islam with the realities of democratic ideals, moderation, and tolerance.

At our meetings today, the Prime Minister and I focused on security issues that affect Pakistan, its neighbor, India, and the entire South Asian region. The United States recognizes and respects Pakistan's security concerns. Our close relationships with Pakistan are matched with growing ties with India. Both countries are friends of the United States, and contrary to some views, I believe it is possible for the United States to maintain close relations with both countries.

I told the Prime Minister that if asked, we will do what we can to help these two important nations work together to resolve the dispute in Kashmir and other issues that separate them. We will also continue to urge both Pakistan and India to cap and reduce and finally eliminate their nuclear and missile capabilities. As Secretary Perry stressed during his visit to Pakistan earlier this year, we believe that such weapons are a source of instability rather than a means to greater security. I plan to work with Congress to find ways to prevent the spread of nuclear weapons and to preserve the aims of the Pressler Amendment, while building a stronger relationship with a secure, more prosperous Pakistan. Our two nations' defense consultative group will meet later this spring.

In our talks the Prime Minister and I also discussed issues of global concern, including peacekeeping and the fight against terrorism and narcotics trafficking. I want to thank Prime Minister Bhutto and the Pakistani officers and soldiers who have worked so closely with us in many peacekeeping operations around the globe, most recently in Haiti, where more than 800 Pakistanis are taking part in the United Nations operation.

On the issue of terrorism, I thank the Prime Minister for working with us to capture Ramszi Yousef, one of the key suspects in the bombing in the World Trade Center. We also reviewed our joint efforts to bring to justice the cowardly terrorist who murdered two fine Americans in Karachi last month. I thanked the Prime Minister for Pakistan's effort in recent months to eradicate opium poppy cultivation, to destroy heroin laboratories, and just last week, to extradite two major traffickers to the United States. We would like this trend to continue.

Finally, the Prime Minister and I discussed the ambitious economic reform and privatization programs she has said will determine the well-being of the citizens of Pakistan and other Moslem nations. Last year, at my request, our Energy Secretary, Hazel O'Leary, led a mission to Pakistan which opened doors for many U.S. firms who want to do business there. Encouraged by economic growth that is generating real dividends for the Pakistani people. The United States and other foreign firms are beginning to commit significant investments, especially in the energy sector. I'm convinced that in the coming years, the economic ties between our peoples will grow closer, creating opportunities, jobs and profits for Pakistanis and Americans alike.

Before our meetings today, I was reminded that the Prime Minister first visited the White House in 1989 during her first term. She left office in 1990, but then was returned as Prime Minister in free and fair elections in 1993. Her presence here today testifies to her strong abilities and to Pakistan's resilient democracy. It's no wonder she was elected to lead a nation that aims to combine the best of the traditions of Islam with modern democratic ideals. America is proud to claim Pakistan among her closest friends. (*Applause*)

PRIME MINISTER BHUTTO: Mr. President, ladies and gentlemen: I'd like to begin by thanking the President for his kind words of support and encouragement.

Since 1989, my last visit to Washington, both the world and Pak-U.S. relations have undergone far-reaching changes. The post-Cold War era has brought into sharp focus the positive role that Pakistan, as a moderate, democratic, Islamic country of 130 million people, can play, and the fact that it is strategically located at the tri-junction of South Asia, Central Asia and the Gulf—a region of both political volatility and economic opportunity.

Globally, Pakistan is active in U.N. peacekeeping operations. We are on the forefront of the fight against international terrorism, narcotics, illegal immigration and counterfeit currency. We remain committed to the control and elimination of weapons of mass destruction, as well as the delivery systems on a regional, equitable and non-discriminatory basis.

Since 1993, concerted efforts by Pakistan and the United States to broaden the base of bilateral relations have resulted in steady progress. In September 1994, in a symbolic gesture, the United States granted Pakistan about $10 million in support for population planning. This was announced by the Vice President at the Cairo Summit on population planning. This was followed by the presidential mission, led by Energy Secretary Hazel O'Leary, which resulted in agreement, worth $4.6 billion being signed. And, now, during my visit here, we are grateful to the administration and the Cabinet secretaries for having helped us sign $6 billion more of agreements between Pakistan and the United States.

During the Defense Secretary's visit to Pakistan in January 1995, our countries decided to revive the Pakistan-United States Defense Consultative Group. And more recently, we had the First Lady and the First Daughter visit Pakistan, and we had an opportunity to discuss women's issues and children's issues with the First Lady. And we found the First Daughter very knowledgeable. We found Chelsea very knowledgeable on Islamic issues. I'm delighted to learn from the President that Chelsea is studying Islamic history and has also actually read our Holy Book, the Koran Shariah.

I'm delighted to have accepted President Clinton's invitation to Washington. This is the first visit by a Pakistani's Chief Executive in six years. President Clinton and I covered a wide range of subjects, including Kashmir, Afghanistan, Central Asia, Gulf, Pakistan-India relations, nuclear proliferation, U.N. peacekeeping, terrorism and narcotics.

I briefed him about corporate America's interest in Pakistan, which has resulted in the signing of $12 billion worth of MOUs in the last 17 months since our government took office. I urged an early resolution of the core issue of Kashmir, which poses a great threat to peace and security in our region. It has retarded progress on all issues, including nuclear and missile proliferation. A just and durable solution is the need of the hour, based on the wishes of the Kashmiri people, as envisaged in the Security Council resolutions. Pakistan remains committed to engage in a substantive dialogue with India to resolve this dispute, but not in a charade that can be used by our neighbor to mislead the international community. I am happy to note that the United States recognizes Kashmir as disputed territory and maintains that a durable solution can only be based on the will of the Kashmiri people.

Pakistan asked for a reassessment of the Pressler Amendment, which places discriminatory sanctions on Pakistan. In our view, this amendment has been a disincentive for a regional solution to the proliferation issue. Pakistan has requested the President and the administration to resolve the problem of our equipment worth $1.4 billion, which is held up. I am encouraged by my discussions with the President this morning and the understanding that he has shown for Pakistan's position. I welcome the Clinton administration's decision to work with Congress to revise the Pressler Amendment.

Thank you, Mr. President.

THE PRESIDENT. Thank you.

Terry.

QUESTION. Mr. President, you both mentioned the Pressler Amendment, but I'm not sure what you intend to do. Will you press Congress to allow Pakistan to receive the planes that it paid for or to get its money back?

THE PRESIDENT. Let me tell you what I intend to do. First of all, I intend to ask Congress to show some flexibility in the Pressler Amendment so that we can have some economic and military cooperation. Secondly, I intend to consult with them about what we ought to do about the airplane sale.

As you know, under the law as it now exists, we cannot release the equipment. It wasn't just airplanes, it was more than that. We cannot release the equipment. However, Pakistan made payment. The sellers of the equipment gave up title and received the money, and now it's in storage. I don't think what happened was fair to Pakistan in terms of the money. Now, under the law, we can't give up the equipment. The law is clear. So I intend to consult with the Congress on that and see what we can do.

I think you know that our administration cares very deeply about nonproliferation. We have worked very hard on it. We have lobbied the entire world community for an indefinite extension of the NPT. We have worked very hard to reduce the nuclear arsenals of ourselves and Russia and the other countries of the former Soviet Union. We are working for a comprehensive test ban treaty. We are working to limit fissile material production. We are working across the whole range of issues on nonproliferation. But I believe that the way this thing was left in 1990 and the way I found it when I took office requires some modification, and I'm going to work with the Congress to see what progress we can make.

QUESTION. Mr. President, what was your response to Pakistan's suggestion that the United States would play an active role in the solution of the Kashmir issue?

PRESIDENT CLINTON: The United States is willing to do that, but can, as a practical matter, only do that if both sides are willing to have us play a leading role. A mediator can only mediate if those who are being mediated want it. We are more than willing to do what we can to try to be helpful here.

And, of course, the Indians now are talking about elections. It will be interesting to see who is eligible to vote, what the conditions of the elections are, whether it really is a free referendum of the people's will there. And we have encouraged a resolution of this. When Prime Minister Rao was here, I talked about this extensively with him. We are willing to do our part, but we can only do that if both sides are willing to have us play a part.

QUESTION. Madam Prime Minister, why do you need nuclear weapons? And, Mr. President, don't you weaken your case to denuclearize the world when you keep making exceptions?

PRIME MINISTER BHUTTO: We don't have nuclear weapons; I'd like to clarify that—that we have no nuclear weapons. And this is our decision to demonstrate our commitment to——

QUESTION. But you are developing them?

PRIME MINISTER BHUTTO: No. We have enough knowledge and capability to make

and assemble a nuclear weapon, but we have voluntarily chosen not to either assemble a nuclear weapon, to detonate a nuclear weapon or to export technology. When a country doesn't have the knowledge and says it believes in nonproliferation, I take that with a pinch of salt. But when a country has that knowledge—and the United States and other countries of the world agree that Pakistan has that knowledge—and that country does not use that knowledge to actually put together or assemble a device, I think that that country should be recognized as a responsible international player which has demonstrated restraint and not taken any action to accelerate our common goals of nonproliferation.

THE PRESIDENT: On your question about making an exception, I don't favor making an exception in our policy for anyone. But I think it's important to point out that the impact of the Pressler Amendment is directed only against Pakistan. And instead, we believe that in the end we're going to have to work for a nuclear-free subcontinent, a nuclear-free region, a region free of all proliferation of weapons of mass destruction. And the import of the amendment basically was rooted in the fact that Pakistan would have to bring into its country, would have to import the means to engage in an arms race, whereas India could develop such matters within this own borders.

The real question is, what is the best way to pursue nonproliferation? This administration has an aggressive, consistent, unbroken record of leading the world in the area of nonproliferation. We will not shirk from that. But we ought to do it in a way that is most likely to achieve the desired results. And at any rate, that is somewhat different from the question of the Catch-22 that Pakistan has found itself in now for five years, where it paid for certain military equipment; we could not, under the law, give it after the previous administration made a determination that the Pressler Amendment covered the transaction, but the money was received, given to the sellers, and has long since been spent.

QUESTION. But will you get a commitment from them to sign the Non-Proliferation Treaty?

THE PRESIDENT: I will say again, I am convinced we're going to have to have a regional solution there, and we are working for that. But we are not making exceptions.

Let me also make another point or two. We are not dealing with a country that has manifested aggression toward the United States or—in this area. We're dealing with a country that just extradited a terrorist or a suspected terrorist in the World Trade Center bombing; a country that has taken dramatic moves in improving its efforts against terrorism, against narcotics; that has just deported two traffickers—or extradited two traffickers to the United States; a country that has cooperated with us in peacekeeping in Somalia, in Haiti, and other places.

We are trying to find ways to fulfill our obligations, our legal obligations under the Pressler Amendment, and our obligation to ourselves and to the world to promote nonproliferation and improve our relationships across the whole broad range of areas where I think it is appropriate.

PRIME MINISTER BHUTTO: May I just add that as far as we in Pakistan are concerned, we have welcomed all proposals made by the United States in connection with the regional solution to nonproliferation, and we have given our own proposals for a South Asia free of nuclear weapons and for a zero missile regime. So we have been willing to play ball on a regional level. Unfortunately, it's India that has not played ball. And what we are asking for is a leveling of the playing field so that we can attain our common goals of nonproliferation of weapons of mass destruction.

QUESTION. Mr. President, why has the United States toned down its criticism of India's human rights violations in Kashmir—why has the United States toned down its criticism of India's human rights violations in Kashmir?

PRESIDENT CLINTON: I'm sorry, sir. I'm hard of hearing. Could you——

QUESTION. Why has the United States toned down criticism of India's human rights violations in Kashmir?

PRESIDENT CLINTON: There's been no change in our policy there. We are still trying to play a constructive role to resolve this whole matter. That is what we want. We stand for human rights. We'd like to see this matter resolved. We are willing to play a mediating role. We can only do it if both parties will agree. And we would like very much to see this resolved.

Obviously, if the issue of Kashmir were resolved, a lot of these other issues we've been discussing here today would resolve themselves. At least, I believe that to be the case. And so, we want to do whatever the United States can do to help resolve these matters because so much else depends on it, as we have already seen.

QUESTION. Mr. President, a domestic question on the bill you signed today for health insurance for the self-employed. Other provisions in that bill send a so-called wrong message on issues like affirmative action, a wrong message on wealthy taxpayers. Why then did you sign it as opposed to sending it back? Were you given any kind of a signal that this was the best you'd get out of conference?

PRESIDENT CLINTON. Well, no. I signed the bill because—first of all, I do not agree with the exception that was made in the bill. I accept the fact that the funding mechanism that's in there is the one that's in there and I think it's an acceptable funding mechanism. I don't agree with the exception that was made in the bill. And it's a good argument for line-item veto that applies to special tax preferences as well as to special spending bills. If we had the line-item veto, it would have been a different story.

But I wanted this provision passed last year, and the Congress didn't do it. I think it's a down payment on how we ought to treat the self-employed in our country. Why should corporations get a 100-percent deductibility and self-employed people get nothing or even 35 percent or 30 percent? I did it because tax day is April 17th, and these people are getting their records ready, and there are millions of them, and they are entitled to this deduction. It was wrong for it ever to expire in the first place.

Now, I also think it was a terrible mistake for Congress to take the provision out of the bill which allows—which would have required billionaires to pay taxes on income earned as American citizens and not to give up their citizenship just to avoid our income tax. But that can be put on any bill in the future. It's hardly a justification to veto a bill that something unrelated to the main subject was not in the bill. It is paid for.

This definitely ought to be done. It was a bad mistake by Congress. But that is not a justification to deprive over three million American business people and farmers and all of their families the benefit of this more affordable health care through this tax break.

QUESTION. Mr. President, don't you think that the United States is giving wrong signals to its allies by dumping Pakistan who has been an ally for half a century in the cold after the Iran war?

PRESIDENT CLINTON. First of all, sir, I have no intention of dumping Pakistan. Since I've been President, we have done everything we could to broaden our ties with Pakistan, to deepen our commercial relationships, our political relationships and our cooperation. The present problem we have with the fact that the Pressler amendment was invoked for the first—passed in 1985, invoked for the first time in 1990, and put Pakistan in a no-man's land where you didn't have the equipment and you'd given up the money. That is what I found when I became President. And I would very much like to find a resolution of it.

Under the amendment, I cannot—I will say again—under the law, I cannot simply release the equipment. I cannot do that lawfully. Therefore, we are exploring what else we can do to try to resolve this in a way that is fair to Pakistan. I have already made it clear to you—and I don't think any American President has ever said this before—I don't think it's right for us to keep the money and the equipment. That is not right. And I am going to try to find a resolution to it. I don't like this.

Your country has been a good partner, and more importantly, has stood for democracy and opportunity and moderation. And the future of the entire part of the world where Pakistan is depends in some large measure on Pakistan's success. So we want to make progress on this. But the United States, a, has a law, and b, has large international responsibilities in the area of nonproliferation which we must fulfill.

So I'm going to do the very best I can to work this out, but I will not abandon Pakistan. I'm trying to bring the United States closer to Pakistan, and that's why I am elated that the Prime Minister is here today.

PRIME MINISTER BHUTTO. And I'd like to say that we are deeply encouraged by the understanding that President Clinton has shown of the Pakistan situation, vis-a-vis the equipment and vis-a-vis the security needs arising out of the Kashmir dispute. And also, that Pakistan is willing to play ball in terms of any regional situation.

We welcome American mediation to help resolve the Kashmir dispute. We are very pleased to note that the United States is willing to do so, if India responds positively. And when my President goes to New Delhi next month, this is an issue which he can take up with the Prime Minister of India. But let's get down to the business of settling the core dispute of Kashmir so that our two countries can work together with the rest of the world for the common purpose of peace and stability.

THE PRESIDENT. Thank you.

THE PRESS. Thank you.

Mr BROWN. Mr. President, the Senate Foreign Relations Committee was catalysed by the Prime Minister's recent visit, and agreed during our recent markup that a new approach is needed. We passed, by a vote of 16 to 2, an amendment to modify these existing restrictions. I ask that a copy of the amendment and the report language also be printed in the RECORD.

The amendment and report language are as follows:

AMENDMENT NO.—

At the appropriate place in the bill, add the following new section:

"SEC. 510. CLARIFICATION OF RESTRICTIONS UNDER SECTION 620E OF THE FOREIGN ASSISTANCE ACT OF 1961.

Subsection (e) of section 620E of the Foreign Assistance Act of 1961 (P.L. 87–195) is amended—

(1) by striking the words ''No assistance'' and inserting the words ''No military assistance'';

(2) by striking the words ''in which assistance is to be furnished or military equipment or technology'' and inserting the words ''in which military assistance is to be furnished or military equipment or technology''; and

(3) by striking the words ''the proposed United States assistance'' and inserting the words ''the proposed United States military assistance'';

(4) by adding the following new paragraph:

''(2) The prohibitions in this section do not apply to any assistance or transfer provided for the purposes of:

''(A) International narcotics control (including Chapter 8 of Part I of this Act) or any provision of law available for providing assistance for counternarcotics purposes;

''(B) Facilitating military-to-military contact, training (including Chapter 5 of Part II of this Act) and humanitarian and civic assistance projects;

''(C) Peacekeeping and other multilateral operations (including Chapter 6 of Part II of this Act relating to peacekeeping) or any provision of law available for providing assistance for peacekeeping purposes, except that lethal military equipment shall be provided on a lease or loan basis only and shall be returned upon completion of the operation for which it was provided;

''(D) Antiterrorism assistance (including Chapter 8 of Part II of this Act relating to antiterrorism assistance) or any provision of law available for antiterrorism assistance purposes'';

(5) by adding the following new subsections at the end—

''(f) STORAGE COSTS.—The President may release the Government of Pakistan of its contractual obligation to pay the United States Government for the storage costs of items purchased prior to October 1, 1990, but not delivered by the United States Government pursuant to subsection (e) and may reimburse the Government of Pakistan for any such amounts paid, on such terms and conditions as the President may prescribe, provided that such payments have no budgetary impact.

''(g) RETURN OF MILITARY EQUIPMENT.—The President may return to the Government of Pakistan military equipment paid for and delivered to Pakistan and subsequently transferred for repair or upgrade to the United States but not returned to Pakistan pursuant to subsection (e). Such equipment or its equivalent may be returned to the Government of Pakistan provided that the President determines and so certifies to the appropriate congressional committees that such equipment or equivalent neither constitutes nor has received any significant qualitative upgrade since being transferred to the United States.''

''(h) SENSE OF CONGRESS AND REPORT.—

''(1) It is the sense of the Congress that:

''(A) fundamental U.S. policy interests in South Asia include:

''(1) resolving underlying disputes that create the conditions for nuclear proliferation, missile proliferation and the threat of regional catastrophe created by weapons of mass destruction;

''(2) achieving cooperation with the United States on counterterrorism, counternarcotics, international peacekeeping and other U.S. international efforts;

''(3) achieving mutually verifiable caps on fissile material production, expansion and enhancement of the mutual ''no first strike pledge'' and a commitment to work with the United States to cap, roll-back and eliminate all nuclear weapons programs in South Asia;

''(B) to create the conditions for lasting peace in South Asia, U.S. policy toward the region must be balanced and should not reward any country for actions inimical to the United States interest;

''(C) the President should initiate a regional peace process in South Asia with both bilateral and multilateral tracks that includes both India and Pakistan;

''(D) the South Asian peace process should have on its agenda the resolution of the following—

''(1) South Asian nuclear proliferation, including mutually verifiable caps on fissile material production, expansion and enhancement of the mutual ''no first strike'' pledge and a commitment to work with the United States to cap, roll-back and eliminate all nuclear weapons programs in South Asia;

''(2) South Asian missile proliferation;

''(3) Indian and Pakistani cooperation with Iran;

''(4) The resolution of existing territorial disputes, including Kashmir;

''(5) Regional economic cooperation; and

''(6) Regional threats, including threats posed by Russia and China.

''(2) REPORT.—Consistent with the existing reporting requirements under subsection 620F(c) of the Foreign Assistance Act of 1961 as amended, the President shall submit a report to the appropriate congressional committees on the progress of these talks, on whether South Asian countries are working to further U.S. interests, and proposed U.S. actions to further the resolution of the conflict in South Asia as listed in (1) above and to further U.S. international interests, including—

''(A) The degree and extent of cooperation by South Asian countries with all U.S. international efforts, including voting support within the United Nations; and

''(B) Whether withholding of military assistance, dual-use technology, economic assistance and trade sanctions would further U.S. interests.''

EXCERPT FROM REPORT

Section 510.—Clarification of restrictions under section 620E of the Foreign Assistance Act of 1961

Section 510 amends section 620E(e) of the Foreign Assistance Act of 1961, as amended. Section 510(1) strikes the restrictions on all assistance to Pakistan and insert a restriction on military assistance in its stead. Section 510(e)(E) adds several sections to section 620E(e) of the Foreign Assistance Act, including: (1) a paragraph which specifies that prohibitions of military assistance to Pakistan do not apply to any assistance provided fro the purposes of international narcotics control, military to military contacts, training or humanitarian assistance, peacekeeping, multilateral operations or antiterrorism activities; (2) a waiver of storage costs for military equipment not delivered to Pakistan and authorized repayment of those costs; (3) authorization for the return of Pakistani owned, unrepaired military equipment sent to the United States; (4) a sense of Congress statement relating to United States policy toward South Asia; and (5) an enhanced reporting requirement under section 620F(c) of the Foreign Assistance Act of 1961.

The United States friendship with Pakistan dates from 1947, soon after Pakistani independence. Since then Pakistan's cooperation with the United States has been remarkable; Pakistan stood with the United States throughout the cold war against Soviet totalitarian expansionism; Pakistan has been in the forefront of U.S.-initiated United Nations peacekeeping operations; and Pakistan has cooperated extensively with the United States in counterterrorism, providing critical assistance in the apprehension and switch extradition of Ramzi Ahmed Yousef, the alleged mastermind of the terrorist attack on the World Trade Center in New York City.

For much of the last two decades, Pakistan has faced a nuclear threat from India. India's nuclear program, initiated in response to the threat perceived by China's development of a nuclear weapon, and three wars fought between the two countries, created the incentive for Pakistani pursuit of a nuclear program. The United States provided conventional military assistance to Pakistan, in part to discourage the development of a nuclear program. In October 1990, the President was unable to certify under section 620E(e) of the Foreign Assistance Act of 1961 as amended (known as the ''Pressler Amendment'') that Pakistan did not possess a nuclear explosive device, and United States assistance to Pakistan was ended.

The Pressler restrictions required a cut-off of all United States assistance to Pakistan, including assistance to United States companies doing business there. However, this legislation has not proven to be an effective tool of United States non-proliferation efforts in South Asia. In recognition of this, President Clinton called for a review of the Pressler amendment on April 11, 1995.

After careful and extensive consideration, the committee, on a vote of 16 to 2, agreed to modify the existing prohibitions on United States assistance to Pakistan under section 620E(e). The provision included by the committee specifically exempts from restrictions all assistance provided for bilateral international narcotics control activities, military-to-military contact, humanitarian assistance, peacekeeping and counterterrorism assistance.

The committee also clarified that the prohibition shall only apply to military assistance. Currently, the State Department has interpreted the Pressler amendment to include all United States assistance and sales. The committee is aware that certain aid, such as antiterrorism assistance, and certain sales of United States goods are warranted and should be encouraged. For example, equipment that assists in confidence building measures between Pakistan and India should not be prohibited. Such items would include border surveillance equipment, radar, radar warning receivers, etc. Items such as these not only promote border security and help prevent surprise attacks, but also prevent accidental incursions and incidents that could escalate into significant confrontations. As with sales of military and non-military items to India, sales of non-military equipment to Pakistan would be made on a case-by-case basis.

Notwithstanding President Clinton's commitment to resolve the outstanding issue of $1.4 billion worth of equipment that Pakistan bought, but that has not been delivered, the administration continues to investigate possible solutions and has yet to recommend a course of action. The committee generally agreed that some resolution 1 of this issue is important, but took no action pending an administration recommendation.

Section 511.—Statement of policy and requirement for report on oil pipeline through Azerbaijan, Armenia, Georgia, and Turkey

Section 511 states that it is the sense of the Senate to support construction of an oil pipeline through Azerbaijan, Armenia, Georgia, and turkey. The section also requires a report analyzing potential routes for construction of the pipeline. The report shall include a discussion of the advantages and disadvantages for different routes, including: (1) the amount of oil to be transported along each route of the pipeline; (2) the cost of constructing the pipeline; (3) options for commercial and public financing of construction

of each route of the pipeline; and (4) the impact on regional stability of the pipeline along each route.

The oil-rich Transcaucasus region that stretches between the Southern border of the Russian Federation and Iran is of great geostrategic interest to the United States. Development of an oil pipeline through Azerbaijan, Armenia and Turkey or Georgia would provide the countries in the Transcaucasus with economic access outside Russian or Iranian control. The committee believes that such a pipeline would help ensure that Armenia, Azerbaijan and Georgia remain strong and independent nations while simultaneously providing the United States with a major source of petroleum outside of the Persian Gulf.

Section 512.—Reports on eradication of production and trafficking in narcotic drugs and marijuana

Section 512 requires the President to submit a semiannual report to Congress on the progress made by the United States in eradicating production of and trafficking in illicit drugs. The report shall be submitted in unclassified form with a classified annex, if required.

Section 513.—Reports on commercial disputes with Pakistan

Section 513 requires the Secretary of State, in consultation with the Secretary of Commerce, to report 30 days after the bill's enactment, and every 90 days thereafter, on the status of disputes between the Government of Pakistan and United States persons with respect to cellular telecommunications and on the progress of efforts to resolve such disputes. The requirement to submit the report shall terminate upon certification by the Secretary of State to Congress that all significant disputes between the Government of Pakistan and United States persons with respect to cellular communications have been satisfactorily resolved.

In other sections of this bill, the committee broadened the Pressler amendment to allow, among other things, for United States trade and investment programs in Pakistan. However, the committee believes that United States companies should enjoy a friendly business atmosphere in Pakistan, without which further development of economic relations will be difficult.

Section 514.—Nonproliferation and disarmament fund

Section 514 authorizes $25 million for each of the fiscal years 1996 and 1997 for the Nonproliferation and Disarmament Fund [NDF]. The NDF supplements United States diplomatic efforts to halt the spread of both weapons of mass destruction and advanced conventional weapons, their delivery systems, and related weapons and their means of delivery.

Under authority provided in section 504 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Freedom Support Act), significant accomplishments in furthering these nonproliferation and disarmament goals have been made. The NDF has, for example, assisted in the purchase of unsafeguarded highly enriched uranium from Kazakhstan, the destruction of Hungarian SCUD missiles, and work on deploying seismic arrays in Egypt and Pakistan necessary to test a global network to verify a Comprehensive Test Ban Treaty.

The NDF seeks bilateral and multilateral project proposals that dismantle and destroy existing weapons of mass destruction, their components and delivery systems, that strengthen international safeguards and delivery systems, that strengthen international safeguards, and that improve export controls and nuclear smuggling efforts.

Beginning in fiscal year 1996, the NDF will assume responsibility for export control assistance to the Newly Independent States [NIS]. This assistance has been provided by the Department of Defense in earlier legislation authorized under the Nunn-Lugar Comprehensive Threat Reduction Program.

The committee believes the NDF is an important element in achieving the high priority national security and foreign policy goal of slowing and reversing the proliferation of weapons of mass destruction and advanced conventional weapons.

Section 515.—Russian nuclear technology agreement with Iran

Section 515 expresses the sense of Congress regarding Russia's nuclear agreement with Iran. The Committee is profoundly concerned about an agreement between Russia and Iran to sell nuclear power reactors to Iran. It is the sense of this Committee that the Russian Federation should be strongly condemned if it continues a commercial agreement to provide Iran with nuclear technology which would assist that country in its development of nuclear weapons. Moreover, if such a transfer occurs, Russia would be ineligible for assistance under the terms of the Freedom Support Act.

During the May 1995 summit in Moscow, Russian President Yeltsin was asked by President Clinton to cancel the reactor sale to Iran. President Yeltsin did not halt the sale, but instead cancelled the Russian sale of a gas centrifuge to Iran and halted the training of 10 to 20 Iranian scientists a year in Moscow.

Iran is aggressively pursuing a nuclear-weapons acquisition program. The Central Intelligence Agency stated in September 1994 that Iran probably could, with some foreign help, acquire a nuclear weapons capability within 8 to 10 years. Iran is receiving that foreign help from Russia and China. Specifically, China is helping Iran build a nuclear research reactor, and in April it concluded a deal to sell Iran two light-water reactors. Pakistan, a country with . . .

Mr. BROWN. Mr. President, the nearly unanimous action by the Foreign Relations Committee is only a first step. Most importantly, there remains $1.4 billion worth of military equipment which Pakistan bought and paid for but which has never been delivered because of existing restrictions. President Clinton himself has said this situation is ''not fair to Pakistan.'' On behalf of a country that has been one of our closest allies throughout the cold war, the United States must rectify this circumstance.

I am certain the administration is developing alternatives, and I stand ready to work with them to ensure that our relationship with our close ally is able to move forward. Pakistan deserves fair treatment.●

PAUL BRUHN—1995 HARRIS AWARD WINNER

● Mr. LEAHY. Mr. President, early last month, Paul Bruhn of South Burlington, Vermont, received the 1995 Harris Award. Paul is the Executive Director of the Preservation Trust of Vermont, and I know that he was given the Award because of his life-long devotion to improving the Burlington area and helping Vermont in all things. He was recognized as the Downtown Business Person of the Year, and the honor is justly deserved.

During the past 20 years, I cannot remember a thing done to help Burlington that did not involve Paul Bruhn. Those of us who think of Burlington as home know how much we owe to Paul. I ask that two articles from the Burlington Free Press regarding Paul, be printed in the RECORD.

The articles follow:

[From the Burlington Free Press, May 5, 1995]

ARCHITECT, CONSULTANT HONORED

(By Stacey Chase)

Breaking with tradition, the Downtown Burlington Development Association has announced the winners of the Nathan Harris and Hertzel Pasackow awards that will be presented at the association's annual dinner May 11.

The 1995 Harris Award will be given to Paul Bruhn, executive director of the Non-profit Preservation Trust of Vermont and a private public affairs consultant. This year's Pasackow Award goes to Bob Miller for the development of his namesake building, Miller's Landmark, on the Church Street Marketplace.

''I was surprised, flattered, a little embarrassed but very appreciative,'' said Bruhn, 48, of South Burlington.

The Harris Award has been given since 1978 to the person ''who best emulates the enthusiasm, dedication and foresight of Nate Harris in maintaining and improving the economic vitality of the Burlington central business district.''

''Paul Bruhn has been involved and concerned with the vitality of downtown Burlington all of his life,'' said Ed Moore, executive director of the development association. ''And the interesting part of Paul's accomplishment and contribution is that he's never in the limelight; he's always been behind the scenes working very, very hard.''

The Pasackow Award has been given since 1984 for significant contribution to the physical or architectural quality of downtown Burlington. Miller's Landmark contains 15 stores and office space.

''When J.C. Penny chose to leave the city, the thought of a vacant shell of a building caused concern for many in downtown,'' Moore said. ''Then Bobby Miller purchased the building, created a vision and began implementation of a plan that is represented by that building as we know it today.''

Miller, 59, of Shelburne is president of REM Development Co. The Williston company is a commercial and industrial development firm.

''I think the building certainly has increased the identity of that upper block,'' Miller said. ''And it's been kind of a fun project.''

Both Harris and Pasackow were founding members of the development association. The late Nathan Harris started Nate's men's clothing store; the late Hertzel Pasackow started Mayfair women's clothing store.

Moore said the decision to announce the winner before the annual dinner was made this year to give the recipients greater recognition for their work.

''We thought we could get a better turnout if people knew,'' Moore said.

[From the Burlington Free Press, May 12, 1995]

PASACKOW, HARRIS AWARDS GIVEN

(By Candy Page)

In a bittersweet moment Thursday evening, the Pasackow family, whose Church Street clothing store is closing, presented

the H. Hertzel Pasackow Award to Robert Miller of Miller's Landmark, one of downtown's newest businesses.

The award, for architectural excellence, was one of two presented by the Downtown Burlington Development Association to downtown leaders.

The audience of 200 gave a standing ovation to Paul Bruhn, who received the Nate Harris Award as the downtown businessperson of the year.

Bruhn, executive director of the Preservation Trust of Vermont, was recognized for 20 years of behind-the-scenes work in helping to create the Church Street Marketplace and to keep it strong.

''I'm proud to have been part of this Marketplace,'' Jay Pasackow said as he presented the Pasackow award to Miller.

Pasackow said Miller's $3.5 million renovation of the former J.C. Penny building meant that ''what was potential urban decay became a jewel for downtown.''

Miller said he was sad the Pasackow family is closing their business but that he is excited about the Marketplace's future.

Bruhn's work has been less visible than Miller's.

As an aide to Sen. Patrick J. Leahy in the 1970s, Bruhn helped obtain the seven federal grants that helped finance creation of the Church Street pedestrian mall.

Mayor Peter Clavelle praised Bruhn for more recent work, organizing opposition to suburban mega-developments like Wal-Mart and Pyramid mall.

''Paul has been the most persistent and effective organizer of opposition to Pyramid and Wal-Mart . . . and downtown Burlington would not be what it is today if Pyramid or Wal-Mart had been built,'' the mayor said.●

NATO EXPANSION

● Mr. WARNER. Mr. President, one of the critical national security issues that the Senate, and indeed the Nation, is currently facing is the future of the North Atlantic Alliance. NATO, which has been the bedrock of European peace and stability for almost 50 years, is in a period of transition—adjusting to the realities of the post-cold war world. Key among the issues confronting NATO is its possible expansion to include the nations of Central and Eastern Europe, and, possibly, the states of the former Soviet Union.

Last Thursday, June 22, Senator NUNN addressed this issue in a speech to the Supreme Allied Command Atlantic [SACLANT] conference in my State at Norfolk, VA. I have enormous respect for the views of Senator NUNN, my friend and colleague for 17 years in the Senate. We have traveled together extensively and jointly worked on projects such as the Nunn-Warner Nuclear Risk Reduction Centers, currently located in Washington, DC and Moscow.

He is recognized around the world as an expert on national security issues, and in particular on issues related to NATO. While I might not agree with all of the points made in Senator NUNN's speech on NATO expansion, it is a very thoughtful contribution to this important international dialog. I commend it to the attention of my colleagues, and I ask that the text of Senator NUNN's speech be printed in the RECORD.

The text of the speech follows:

THE FUTURE OF NATO IN AN UNCERTAIN WORLD

(By Senator Sam Nunn)

1. INTRODUCTION: THE IMPORTANCE OF NATO ENLARGEMENT

Thank you, General Sheehan, for your kind introduction. Secretary General Claes, NATO Military Committee Chairman Field Marshal Vincent, distinguished NATO ambassadors, distinguished military commanders, distinguished guests, I am honored to be with you this morning to discuss the role of NATO in the post Cold War period.

The pivotal issue of NATO expansion deserves thorough and careful consideration, because it has important ramifications: for the future of NATO; for the countries of central and eastern Europe; for the future of Russia and the other countries of the former Soviet Union; and for the future security and order throughout Europe, east and west.

II. NEW SECURITY SITUATION

NATO was established primarily to protect the Western democracies from an expansionist Soviet Union that seemed determined to spread its influence through subversion, political intimidation and the threat of military force.

When NATO was formed in the late 1940's, Europe was faced with postwar devastation and the emergence of Soviet aggression and confrontation. Western consensus developed around two critical concepts that were decisive in winning the Cold War and in winning the peace; First, Germany and Japan should not be isolated but should be integrated into the community of democratic nations. Second, the western democracies should pursue together a policy of containment, and unite in NATO to carry out this policy.

Integration and containment succeeded; The Berlin Wall is down and Germany is united. Eastern Europe and the Baltics are free at last. The Soviet Empire has disintegrated and Russia is struggling to try to establish a market economy and some semblance of democracy.

For almost half a century, NATO's military strength was our defensive shield against aggression by the Soviet Union, but our offensive sword was our free societies, our innovative and energetic peoples, our free market systems and our free flow of ideas.

With the end of the Cold War, we have witnessed a heart-pounding, terrain-altering set of earthquakes centered in the former Soviet Union and in Easter Europe. These seismic events have ended an international era.

The European security environment has changed. We have moved from a world of high risk, but also high stability because of the danger of escalation and balance of terror, to a world of much lower risk but must less stability. In a strange and even tragic sense, the world has been made safer for racial, ethnic, class and religious vengeance, savagery and civil war. Such tragedy has come to the people of Bosnia, Somalia, Haiti, Rwanda, Burundi, Liberia, Sudan, Tajikistan, Georgia, Azerbaijan, and many others.

The dust has not settled. Bosnia continues to erode NATO's credibility and confidence. Yet it is clear that the overall security and freedom of Europe has dramatically improved.

The Eastern European countries, the Baltic countries, and many of the countries of the former Soviet Union have become fully independent, are turning westward, and are anxious to become part of the European community and to join NATO as full members.

We are no longer preoccupied with the crucial Cold War issue of how much warning time NATO would have in advance of a massive conventional attack westward by the Warsaw Pact.

During the Cold War, we worried about a Soviet invasion deep into Western Europe. As Michael Mandelbaum points out, the current debacle in Chechnya indicates that Russia today has serious trouble invading itself.

Today, our military planners estimate that preparation for a Russian conventional military attack, even against Eastern Europe, would take several years at a minimum—assuming the resources could be found to rebuild the undermanned, underfunded, poorly trained and poorly disciplined Russian military establishment.

Russia itself has gone from being the center of a menacing, totalitarian global empire to an economically-weak, psychologically-troubled country struggling to move toward democracy and a market-based economy.

A multilateral security system is forming across Europe that reduces nuclear and conventional armaments and makes a surprise attack by Russian conventional military forces toward the West increasingly unlikely.

I have in mind the cumulative effect of such agreements as the INF Treaty, the CFE Treaty, the unilateral U.S. and Soviet decisions to reduce tactical nuclear weapons in Europe, the START I and pending START II Treaties, and the pending Chemical Weapons Convention and Open Skies Treaty.

These mechanisms are far from perfect, several await ratification, and they require vigorous verification and full implementation. Yet even at this stage, they significantly enhance warning time that today is measured in years rather than in days or in months.

We are all aware of the dramatic change in the threat environment in Europe resulting from these changes.

The immediate danger is posed by violent terrorist groups; by isolated rogue states, by ethnic, religious, and other types of sub-national passion that can flare into vicious armed conflict. The lethality of any and all of these threats can be greatly magnified by the proliferation of nuclear, chemical and biological weapons, as well as by the spread of destabilizing conventional weapons.

This audience is well aware that Russia currently possesses over 20,000 nuclear weapons, at least 40 thousand tons of chemical weapons, advanced biological warfare capabilities, hundreds of tons of fissile material, huge stores of conventional weapons, plus thousands of scientists and technicians skilled in manufacturing weapons of mass destruction.

This is the first time in history that an empire has disintegrated while possessing such enormous destructive capabilities. Even if these capabilities are greatly reduced, the know-how, the production capability, and the dangers of proliferation will endure for many years. This is the number one security threat for America, for NATO, and for the world.

As we contemplate NATO enlargement, we must carefully measure its effect on this proliferation threat.

In the longer term, we cannot dismiss the possibility of a resurgent and threatening Russia.

Russia not only has inherited the still dangerous remnants of the Soviet war machine. In addition, even in its currently weakened condition, Russia possesses great potential in human and material resources. By virtue of its size and strategic location, Russia exerts considerable weight in Europe, Asia and the Middle East. Meanwhile, Russia has inherited the USSR's veto power in the UN Security Council and therefore has a major voice in multilateral decision making.

Russia will be a major factor, for better or worse, across the entire spectrum of actual and potential threats.

Russia can fuel regional conflicts with high technology conventional weapons, along with political and other material support.

Or Russia can cooperate with us in defusing such conflicts, particularly by preventing the spread of Russian weaponry to irresponsible hands.

Russia can itself emerge as a militarily aggressive power.

Or Russia can assist us in averting new rivalry among major powers that poisons the international security environment.

Russia can pursue a confrontational course that undermines security and cooperation in Europe.

Or it can work with us to broaden and strengthen the emerging system of multilateral security in Europe.

Out of all this background come five fundamental points:

First, preventing or curbing the proliferation of weapons of mass destruction is the most important and most difficult security challenge we face.

Second, Russia is a vast reservoir of weaponry, weapons material and weapons know-how. Thousands of people in Russia and throughout the former Soviet Union have the knowledge, the access, and strong economic incentives to engage in weapons traffic.

Third, increased Russian isolation, paranoia or instability would make this security challenge more difficult and more dangerous.

Fourth, although the West cannot control events in Russia, and probably can assist political and economic reform there only on the margins, as the medical doctors say, our first principle should be DO NO HARM.

Fifth, we must avoid being so preoccupied with NATO enlargement that we ignore the consequences it may have for even more important security priorities.

III. PROBLEMS WITH THE CURRENT APPROACH TO NATO ENLARGEMENT

It is against this background that I offer a few observations on the current approach to NATO enlargement.

NATO's announced position is that the question of enlargement is not whether, but when and how. Somehow I have missed any logical explanation of WHY. I cannot speak of public opinion in other countries, but in America when the enlargement debate focuses on issues of NATO nuclear policy, NATO troop deployments, and formal NATO military commitments—played against the background of repercussions in Russia—somebody had better be able to explain to the American people WHY, or at least WHY NOW.

NATO was founded on a fundamental truth: the vital interests of the countries of NATO were put at risk by the military power and political intimidation of the Soviet Union. As President Harry Truman said in his memoirs: ''The [NATO] pact was a shield against aggression and against the fear of aggression. . . .'' Because NATO was built on this fundamental truth, and because we discussed it openly and faced it truthfully with our people, the alliance endured and prevailed.

Today, we seem to be saying different things to different people on the subject of NATO enlargement.

To the Partnership for Peace countries, we are saying that you are all theoretically eligible and if you meet NATO's entrance criteria (as yet not fully spelled out), you will move to the top of the list.

To the Russians, we are also saying that NATO enlargement is not threat-based and not aimed at you. In fact, you too can eventually become a member of NATO. This raises serious questions.

Are we really going to be able to convince the East Europeans that we are protecting them from their historical threats, while we convince the Russians that NATO's enlargement has nothing to do with Russia as a potential military threat?

Are we really going to be able to convince Ukraine and the Baltic countries that they are somehow more secure when NATO expands eastward but draws protective lines short of their borders and places them in what the Russians are bound to perceive as the ''buffer zone?''

In short, are we trying to bridge the unbridgeable, to explain the unexplainable? Are we deluding others or are we deluding ourselves?

The advantages of NATO's current course toward enlargement cannot be ignored. If NATO expands in the near term to take in the Visegrad countries, these countries would gain in self-confidence and stability. It is possible that border disputes and major ethnic conflicts presumably would be settled before entry—for instance, the dispute involving the Hungarian minority in Romania.

However, the serious disadvantages must be thought through carefully.

For example, my conversations with Russian government officials, members of the Russian parliament across the political spectrum, and non-official Russian foreign policy specialists convince me that rapid NATO enlargement will be widely misunderstood in Russia and will have a serious negative impact on political and economic reform in that country. There are several reasons for this:

At the moment, Russian nationalism is on the rise and reformers are on the defensive. The Russian military establishment and the still huge military-industrial complex that undergirds it are dispirited and resentful.

The average Russian voter has trouble making ends meet, is unsure what the future may hold, but is well aware that Russia has gone from being the seat of a global empire and the headquarters of a military superpower to a vastly weakened international status.

Russian nationalists feed this sense of loss and uncertainty by proclaiming that rapid NATO enlargement is intended to take advantage of a weakened Russia and will pose a grave security threat to the Russian people. Russian demagogues argue that Russia must establish a new global empire to counter an expansionist west. They smile with glee every time NATO expansion is mentioned.

Russian democrats do not see an immediate military threat from an enlarged NATO but fear the reaction of the Russian people. The democrats worry that alarmist messages, however distorted, will set back democracy by increasing popular tolerance for authoritarianism and renewed military spending within Russia, and by isolating Russia from western democracies.

In short, if NATO enlargement stays on its current course, reaction in Russia is likely to be a sense of isolation by those committed to democracy and economic reform, with varying degrees of paranoia, nationalism and demagoguery emerging from across the current political spectrum.

In the next few years, Russia will have neither the resources nor the wherewithal to respond with a conventional military build-up. If, however, the more nationalist and extreme political forces gain the upper hand, by election or otherwise, we are likely to see other responses that are more achievable and more dangerous to European stability. For example:

While Russia would take years to mount a sustained military threat to eastern Europe, it can within weeks or months exert severe external and internal pressure on its immediate neighbors to the west—including the Baltic countries and Ukraine. This could set in motion a dangerous action-reaction cycle.

Moreover, because a conventional military response from Russia in answer to NATO enlargement is infeasible, a nuclear response, in the form of a higher alert status for Russia's remaining strategic nuclear weapons and conceivably renewed deployment of tactical nuclear weapons, is more likely. The security of NATO, Russia's neighbors, and the countries of eastern Europe will not be enhanced if the Russian military finger moves closer to the nuclear trigger.

By forcing the pace of NATO enlargement at a volative and unpredictable moment in Russia's history, we could place ourselves in the worst of all security environments: rapidly declining defense budgets, broader responsibilities, and heightened instability. We will also find ourselves with increasingly difficult relations with the most important country in the world in terms of potential for proliferation of weapons of mass destruction.

This is the stuff that self-fulfilling prophecies, and historic tragedies, are made of.

IV. SPECIFIC RECOMMENDATIONS FOR ALLIANCE POLICY

Where do we go from here? I recognize that it is much easier to criticize than to construct, but I do have a few suggestions.

I suggest a two-track approach to NATO enlargement.

The first track would be evolutionary and would depend on political and economic developments within the European countries who aspire to full NATO membership. When a country becomes eligible for European Union membership, it will also be eligible to join the Western European Union and then be prepared for NATO membership, subject to course to NATO approval.

This is a natural process connecting economic and security interests.

We can honestly say to Russia that this process is not aimed at you.

The second track would be threat-based. An accelerated, and if necessary immediate, expansion of NATO would depend on Russian behavior. We should be candid with the Russian leadership, and above all honest with the Russian people, by telling them frankly:

If you respect the sovereignty of your neighbors, carry out your solemn arms control commitments and other international obligations, and if you continue on the path toward democracy and economic reform, your neighbors will not view you as a threat, and neither will NATO.

We will watch, however, and react:

(1) to aggressive moves against other sovereign states;

(2) to militarily significant violations of your arms control and other legally binding obligations pertinent to the security of Europe;

(3) to the emergence of a non-democratic Russian government that impedes fair elections, suppresses domestic freedoms, or institutes a foreign policy incompatible with the existing European security system.

These developments would be threatening to the security of Europe and would require a significant NATO response, including expansion eastward. We would be enlarging NATO based on a real threat. We would not, however, be helping to create the very threat we are trying to guard against.

Finally, Partnership for Peace is a sound framework for this two-track approach. Its role would be to prepare candidate countries and NATO itself for enlargement on either

track. Programs of joint training and exercises, development of a common operational doctrine, and establishment of inter-operable weaponry, technology and communications would continue, based on more realistic contingencies. Tough issues such as nuclear policy and forward stationing of NATO troops would be discussed in a threat-based framework, one which we hope would remain theoretical.

As the Russian leaders and people make their important choices, they should know that Russian behavior will be a key and relevant factor for NATO's future. This straightforward approach is also important for our citizens, who will have to pay the bills and make the sacrifices required by expanded NATO security commitments.

The profound historical contrast between post-World War I Germany and post-World War II Germany should tell us that neo-containment of Russia is not the answer at this critical historical juncture. If future developments require the containment of Russia, it should be real containment, based on real threats.●

CELEBRATING THE CENTENNIAL OF THE CHURCH PUBLIC SCHOOL

● Mr. LEVIN. Mr. President, I am pleased to call the attention of my colleagues to an institution in Michigan that is celebrating their 100th anniversary. On July 9, 100 years ago land for the church school, formally known as Lincoln No. 2, was deeded to the school district by Julius and Sophia Labute for the price of $49.50. The Huron Tribune posted a notice on June 21, 1895, that requested sealed tenders for the erection of a veneered schoolhouse in District No. 2, Township of Lincoln.

While the complete records of who taught at the school that first year were not preserved, we do know that the school was completed and was most likely in session because of June Nelson who authored the story, A Long Trek. The story is one of many in Ms. Nelson's book entitled ''Tales From the Tip of the Thumb.'' The story tells of a wagon train leaving from Filion, MI, in October 1895 and the travelers were looking for a map of the United States. One of them remembered that the new Lincoln No. 2 schoolhouse on the corner had such a map in its geography chart and they had no trouble obtaining it in the middle of the night.

For 100 years that schoolhouse on the corner has taught thousands of students the basic building blocks that lead to a life of learning. I congratulate them on a century of success and wish them well as they enter the new millennium with the timeless values that have served them and their students well since the 19th century.●

NATIONAL INFORMATION INFRASTRUCTURE PROTECTION ACT OF 1995

● Mr. KYL. Mr. President, I ask that S. 982, the National Information Infrastructure Protection Act of 1995, be printed in the RECORD.

The text of the bill follows:

S. 982

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 ''National Information Infrastructure Protection Act of 1995''.

SEC. 2. COMPUTER CRIME.

Section 1030 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''knowingly accesses'' and inserting ''having knowingly accessed'';

(ii) by striking ''exceeds'' and inserting ''exceeding'';

(iii) by striking ''obtains information'' and inserting ''having obtained information'';

(iv) by striking ''the intent or'';

(v) by striking ''is to be used'' and inserting ''could be used''; and

(vi) by inserting before the semicolon at the end the following: ''willfully communicates, delivers, transmits, or causes to be communicated, delivered, or transmitted, or attempts to communicate, deliver, transmit or cause to be communicated, delivered, or transmitted the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it to the officer or employee of the United States entitled to receive it'';

(B) in paragraph (2)—

(i) by striking ''obtains information'' and inserting ''obtains—

''(A) information''; and

(ii) by adding at the end the following:

''(B) information from any department or agency of the United States; or

''(C) information from any protected computer if the conduct involved an interstate or foreign communication;'';

(C) in paragraph (3)—

(i) by striking ''the use of the Government's operation of such computer'' and inserting ''that use by or for the Government of the United States''; and

(ii) by striking ''adversely'';

(D) in paragraph (4)—

(i) by striking ''Federal interest'' and inserting ''protected''; and

(ii) by inserting before the semicolon the following: ''and the value of such use is not more than $5,000 in any 1-year period'';

(E) by amending paragraph (5) to read as follows:

''(5)(A) knowingly causes the transmission of a program, information, code, or command, and as a result of such conduct, intentionally causes damage without authorization, to a protected computer;

''(B) intentionally accesses a protected computer without authorization, and as a result of such conduct, recklessly causes damage; or

''(C) intentionally accesses a protected computer without authorization, and as a result of such conduct, causes damage;''; and

(F) by inserting after paragraph (6) the following new paragraph:

''(7) with intent to extort from any person, firm, association, educational institution, financial institution, government entity, or other legal entity, any money or other thing of value, transmits in interstate or foreign commerce any communication containing any threat to cause damage to a protected computer;'';

(2) in subsection (c)—

(A) in paragraph (1), by striking ''such subsection'' each place it appears and inserting ''this section'';

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by inserting '', (a)(5)(C),'' after ''(a)(3)''; and

(II) by striking ''such subsection'' and inserting ''this section'';

(ii) by redesignating subparagraph (B) as subparagraph (C);

(iii) by inserting immediately after subparagraph (A) the following:

''(B) a fine under this title or imprisonment for not more than 5 years, or both, in the case of an offense under subsection (a)(2), if—

''(i) the offense was committed for purposes of commercial advantage or private financial gain;

''(ii) the offense was committed in furtherance of any criminal or tortuous act in violation of the Constitution or laws of the United States or of any State; or

''(iii) the value of the information obtained exceeds $5,000;''; and

(iv) in subparagraph (C) (as redesignated), by striking ''such subsection'' and inserting ''this section'';

(C) in paragraph (3)—

(i) in subparagraph (A)—

(I) by striking ''(a)(4) or (a)(5)(A)'' and inserting ''(a)(4), (a)(5)(A), (a)(5)(B), or (a)(7)''; and

(II) by striking ''such subsection'' and inserting ''this section''; and

(ii) in subparagraph (B)—

(I) by striking ''(a)(4) or (a)(5)'' and inserting ''(a)(4), (a)(5)(A), (a)(5)(B), (a)(5)(C), or (a)(7)''; and

(II) by striking ''such subsection'' and inserting ''this section''; and

(D) by striking paragraph (4);

(3) in subsection (d), by inserting ''subsections (a)(2)(A), (a)(2)(B), (a)(3), (a)(4), (a)(5), and (a)(6) of'' before ''this section.'';

(4) in subsection (e)—

(A) in paragraph (2)—

(i) by striking ''Federal interest'' and inserting ''protected'';

(ii) in subparagraph (A), by striking ''the use of the financial institution's operation or the Government's operation of such computer'' and inserting ''that use by or for the financial institution or the Government''; and

(iii) by amending subparagraph (B) to read as follows:

''(B) which is used in interstate or foreign commerce or communication;'';

(B) in paragraph (6), by striking ''and'' the last place it appears;

(C) by striking the period at the end of paragraph (7) and inserting ''; and''; and

(D) by adding at the end the following new paragraphs:

''(8) the term 'damage' means any impairment to the integrity or availability of data, a program, a system, or information, that—

''(A) causes loss aggregating at least $5,000 in value during any 1-year period to one or more individuals;

''(B) modifies or impairs, or potentially modifies or impairs, the medical examination, diagnosis, treatment, or care of one or more individuals;

''(C) causes physical injury to any person; or

''(D) threatens public health or safety; and

''(9) the term 'government entity' includes the Government of the United States, any State or political subdivision of the United States, any foreign country, and any state, province, municipality, or other political subdivision of a foreign country.''; and

(5) in subsection (g)—

(A) by striking '', other than a violation of subsection (a)(5)(B),''; and

(B) by striking ''of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb)'' and inserting ''involving damage as defined in subsection (e)(8)(A)''.●

HOT AIR BAKING ALASKA

● Mr. STEVENS. Mr. President, I ask that the following article be printed in the RECORD.

The article follows:

[From the Washington Times, June 9, 1995]

HOT AIR BAKING ALASKA

(By Alston Chase)

Our helicopter swooped down on a black bear that was lazily grazing lush grass beside a crystal clear mountain river. Around him, I could see an intense green mosaic of meadows and, beyond them, thick forests that stretched to the skyline, where dark peaks loomed through the mist.

I was flying over the Thorne River on Prince of Wales Island in Southeast Alaska's Tongass National Forest—a stream that in April the conservation group American Rivers, claiming that ''extensive logging'' would harm ''potentially threatened'' creatures, designated one of the country's ''most endangered'' rivers.

But environmentalists, I discovered, had things backward. Prince of Wales, which has been extensively logged, is thriving. By contrast, more than 96 percent of the Tongass remains untouched, yet is dying.

For more than a decade, various groups have insisted that the Tongass, ''America's rain forest,'' is in deep trouble due to unprincipled logging. I found that while this region is indeed at risk, the culprit is conservationism. The Thorne, in particular, is flourishing.

Contrary to activist claims, the Forest Service manages it as a ''Scenic and Recreational River'' and plans no logging there, except in a tiny portion of one tributary. Where harvests are under consideration, they would be prohibited within a half-mile of any stream. And although 21 percent of the drainage has already been logged—much of it long ago—pink salmon runs have risen from lows of 300 in the 1960s to highs of 350,000 in the 1990s.

This reveals what foresters know: that in this land which annually receives 160 inches of rain and where trees grow like weeds, logging can be nature's best friend. Properly harvested, these forests could grow at the rate of 1.35 billion board feet a year. But left alone, they are dying. Meanwhile, the lack of cutting ensures few recreational opportunities are available for ordinary people. Dotted with muskeg swamps, littered with deadfall and covered with a solid curtain of densely packed trees, the land is nearly impenetrable. Only the super-rich can afford the helicopters needed to reach camping and fishing spots in its interior.

That is what makes Prince of Wales different. Thanks to logging, it is experiencing phenomenal tree growth and has a wonderful road and trail network that puts the lakes and streams within reach of hikers.

Unfortunately, such accessibility displeases the scions of Grosse Point and the Barons of the Beltway, whose largess and appetite for power sustains the environmental movement. These elite prefer to keep the Tongass so remote its choice spots can only be reached by qualified governmental authorities or refined persons such as themselves, who have access to, or can afford, guides and helicopters. So to make their playground safe from democracy, they successfully lobbied and litigated to reduce harvest plans until, today, cutting approaches zero.

Of the Tongass' 17 million acres, 10 million are forested, and of that 5.7 million are accessible for ''commercial'' forestry. In 1980, federal legislation set aside around 1.6 million of this as wilderness. After the 1990 Tongass Timber Reform Act and other conservation measures, only 1.71 million was left for logging. And 400,000 of that was second-growth that could not be ready to cut for 40 years. Now, the Clinton administration has invoked the Endangered Species Act to create Habitat Conservation Areas totaling 600,000 acres of the remainder for ''potentially endangered species.''

Thus, of the Tongass' 17 million acres, 600,000 is actually available for logging. In a forest that grows more than a billion board feet annually, loggers last year cut a mere 276 million. And as harvests plummet, mills close and unemployment rises. In 1989, the pulp mill in Sitka ran out of logs and closed its doors, and last winter, the saw mill in Wrangell went belly up for the same reason. And while Alaska's congressmen promise to open the forest, the citizens of this region are not optimistic. They have heard that kind of talk before.

Citizens of the Tongass are victims of phoney science that supposes mythical ''ecosystem health'' is more important than people; of preservation laws that provide lush grazing for activist attorneys; of shark pack activists who ride piggyback on each others' media campaigns, repeating half-truths until the public believes them; of federal subsides to groups who sue ''to protect the environment;'' of public ignorance and activist propaganda; of media arrogance and government's inexorable urge to grow.

They wonder when America will learn the truth: that without logging, trees die and people suffer. Without logging, the Tongass will remain an exclusive preserve of the affluent or anointed, who don't deserve it.

They know this is a national outrage. But they wonder: Does anyone in Washington care?●

THE DISASTER VICTIMS CRIME PREVENTION ACT OF 1995

● Mr. AKAKA. Mr. President, shortly after the Senate returns from the Fourth of July recess, I plan to introduce the Federal Disaster Preparedness and Response Act of 1995. This bill will be very similar to the measure I offered in the 103d Congress with Senator GLENN and GRAHAM of Florida.

It is very appropriate to announce my intention to reintroduce this legislation as we debate the conference report on the supplemental disaster bill. We are all aware of the tremendous costs incurred during a natural disaster. What many of us are unaware of is the need to combat fraud against victims of Federal disasters. The legislation I plan to introduce would make it a Federal crime to defraud persons through the sale of materials or services for cleanup, repair, and recovery following a federally declared disaster.

Because of instant media coverage of the destruction caused by these catastrophic events, we are able to see first-hand the concern of others, such as Red Cross volunteers passing out blankets and food and citizens traveling hundreds of miles to help rebuild strangers' homes.

Despite the outpouring of public support that follows these catastrophes, there are unscrupulous individuals who prey on trusting and unsuspecting victims. This measure would criminalize some of the activities undertaken by these unprincipled people whose sole intent is to defraud hard-working men and women.

Every disaster has examples of individuals who are victimized twice—first by the disaster and later by unconscionable price hikes and fraudulent contractors. In the wake of the 1993 Midwest flooding, Iowa officials found that some vendors raised the price of portable toilets from $60 a month to $60 a day! In other flood-hit areas, carpet cleaners hiked their prices to $350 per hour, while telemarketers set up telephone banks to solicit funds for phony flood-rated charities.

Nor will television viewers forget the scenes of beleaguered South Floridians buying generators, plastic sheeting, and bottled water at outrageous prices in the aftermath of Hurricane Andrew.

After Hurricane Iniki devastated the Island of Kauai, a contractor promising quick home repair took disaster benefits from numerous homeowners and fled the area without completing promised construction.

While the Stafford Natural Disaster Act currently provides for civil and criminal penalties for the misuse of disaster funds, it fails to address contractor fraud. To fill this gap, my legislation would make it a Federal crime to fraudulently take money from a disaster victim and fail to provide the agreed upon material or service for the cleanup, repair, and recovery.

The Stafford Act also fails to address price gouging. Although it is the responsibility of the States to impose restrictions on price increases prior to a Federal disaster declaration, Federal penalties for price gouging should be imposed once a disaster has been declared. I am pleased to incorporate in this measure an initiative Senator GLENN began following Hurricane Andrew to combat price gouging and excessive pricing of goods and services.

There already is tremendous cooperation among the various State and local offices that deal with fraud and consumer protection issues and it is quite common for these fine men and women to lend their expertise to their colleagues from out-of-State during a natural disaster. This exchange of experiences and practical solutions has created a strong support network.

However, a Federal remedy is needed to assist States when a disaster occurs. There should be a broader enforcement system to help overburdened State and local governments during a time of disaster. The Federal Government is in a position to ensure that residents within a federally declared disaster area do not fall victim to fraud. Federal agencies should assist localities to provide such a support system.

In addition to making disaster-related fraud a Federal crime, this bill would also require the Director of the Federal Emergency Management Agency to develop public information materials to advise disaster victims about ways to detect and avoid fraud. I have seen a number of anti-fraud material prepared by State consumer protection

offices and believe this section would assist States to disseminate anti-fraud related material following the declaration of a disaster by the President.

I look forward to working with my colleagues in enacting this legislation.●

THE UNITED NATIONS AT 50

● Mr. SARBANES. Mr. President, 50 years ago this week in San Francisco, the U.N. Charter was opened for signature. After some 9 weeks of negotiations, as World War II was drawing to a close, representatives from 50 countries unanimously adopted the charter. On the 24th of October 1945, the charter came into force, and the United Nations was effectively born.

During this, the 50th anniversary year of the United Nations, I am deeply concerned that, rather than celebrating its endurance, we are witnessing a disturbing series of attacks upon it. Ironically, these attacks come at a challenging time for the United Nations. For now, with the end of the cold war, the United Nations has a genuine opportunity to function as it was intended to at the end of World War II.

For many years, a constant Soviet veto in the Security Council effectively neutralized the United Nations. Between 1946 and 1970, for example, the Soviet Union vetoed Security Council actions more than 100 times before the United States even cast its first veto.

But the United States chose to persevere within the existing U.N. framework. Even when casting their votes in 1945 to support ratification of the U.N. Charter, Senators recognized the challenging agenda faced by the United Nations in the years ahead. Senator Mead, a Democrat from New York, offered the following admonition:

> The Charter is not a key to utopia. Words written upon paper have no power in and of themselves to alter the course of events. It is only the spirit of men and nations behind those words which can do that.

Today we continue to face the question: What kind of spirit do we wish to guide our discussion of the United Nations in 1995?

There are two sharply contrasting directions in which our discussion of the United Nations can proceed. One is tantamount to withdrawing U.S. support from the United Nations by constantly searching out ways of undermining and weakening the institution. Unfortunately there are legislative proposals before this Congress which would move in this direction. Alternatively, we could apply our energies toward ensuring that the United States plays a key role in reforming and strengthening the United Nations as we prepare to enter a new century. I strongly believe that the hope of building a peaceful and prosperous world lies in choosing the latter course.

There have been times in our history when Americans believed that we could go it alone and simply ignore conflicts and problems originating in other parts of the world. Indeed, isolationist sentiment succeeded in preventing the United States from joining the League of Nations at the end of World War I, despite the fact that President Woodrow Wilson was its leading architect.

Those who labored in San Francisco and elsewhere to create the United Nations half a century ago learned from the mistakes of their predecessors with respect to the League of Nations. Parties to the initial negotiations at Dumbarton Oaks on establishing a United Nations, and to later preparations in San Francisco, insisted, for example, that the U.N. organization recognize the reality of great powers by granting significant authority to a Security Council. In that Council, the United States and other major powers were given the veto power—thereby ensuring that the United Nations could not undertake operations which United States opposed. In recognition of the leadership role taken by the United States in building the United Nations, New York was later chosen to serve as U.N. headquarters.

Ensuring responsible U.S. engagement within the United Nations in 1995 remains nearly as demanding as in 1945. Much of the advice offered by Senator Gurney, a Republican from South Dakota, to his Senate colleagues in 1945 rings true today:

> . . . let me caution that after our almost unanimous vote for the Charter today we cannot merely sit back and feel and say, ''Everything is fixed now, everyone is safe.'' No; our people are entitled by their sacrifices in this war and others to more than that. We and all other nations must give the Charter organization the all-out support of all our people—sincere, honest support, continuing for years to come—in order that this world organization may be a growing, living instrumentality, capable of handling world problems in a fair and effective way.

Even as we mark the United Nation's first 50 years, we must look to the challenges of a new century. In past decades, others designed the United Nations, drafted the charter, passed the enabling legislation, and persevered throughout the cold war. The task facing us in this decade is to assist the United Nations to adapt to the end of the cold war and to a new century. The need for a United Nations remains clear, for, as Madeleine Albright, the U.S. representative to the United Nations, has commented:

> The battle-hardened generation of Roosevelt, Churchill and De Gaulle viewed the U.N. as a practical response to an inherently contentious world; a necessity not because relations among states could ever be brought into perfect harmony, but because they cannot.

This sense of realism seems absent from many of the current discussions of the United Nations. While many rail about the deficiencies of the United Nations, they have not proposed a viable alternative to the United Nations. If we look back at the debate 50 years ago, we see that Senators recognized the necessity of U.N. membership partly because they acknowledged the absence of an alternative.

While the United Nations work for peace and prosperity has never been easy, current challenges to peace have grown more complex partly because the nature of the conflicts the United Nations is asked to address has changed. Complex interethnic conflicts are resurfacing after having been suppressed. Guerrilla warfare is increasingly conducted by warring factions who do not respond to political or economic pressure. Conflict is frequently within borders and involves militias and armed civilians who lack discipline and clear chains of command. Disputes often take place without clear front lines. The fact that combatants often target civilians leads to increasing numbers both of displaced persons and refugees.

In an effort to address such conflicts, the United Nations has expanded its operational responsibilities. As a result, U.N. peacekeeping missions have been deployed in places like Somalia or Rwanda where personnel must grapple with the fact that no effective state structure exists. In many trouble sports, the police and judiciary have collapsed, and general banditry and chaos prevail. Government assets have been destroyed and stolen; experienced officials have been killed or forced to flee the country. These realities are forcing the U.N. personnel to reconsider their terms of reference and to grapple with inadequate mandates. The truth is that the United Nations has been asked to handle some of the most uncertain, intractable, and dangerous cases of conflict.

Clearly, the United Nations must be practical about the limits of its peacekeeping and must not undertake efforts that will drain U.N. resources without achieving the mission's goals. It is frustrating not to be able to resolve all the many conflicts on the international agenda, but do we abandon the United Nations if it cannot completely and successfully solve every problem in our world? Few institutions dealing with such complex matters (or for that matter much simpler ones) have 100-percent success records.

In 1945, President Truman made an observation that is relevant to the current examination of U.N. peacekeeping efforts. He said,

> Building a peace requires as much moral stamina as waging a war. Perhaps it requires even more, because it is so laborious and painstaking and undramatic. It requires undying patience and continuous application. But it can give us, if we stay with it, the greatest reward that there is in the whole field of human effort.

I believe Americans recognize the wisdom of President Truman's words and want to do their part; the United Nations is one means by which they can do so.

While U.N. peacekeeping has recently been the focus of attention, much of the United Nations work takes place in other areas. Less in the spotlight are the steadfast efforts of U.N. agencies

working to alleviate poverty, to slow the spread of HIV/A.I.D.S., and to feed and educate the world's children. Where conflict leads to destabilization of families and societies, the United Nations is there to shelter and feed refugees and displaced persons. Progress made on upholding international norms on human rights also stems from the work of U.N. agencies. Finally, the United Nations is responsible for many of the gains made in reducing the use of ozone-depleting substances, evaluating environmental impacts, and conserving biological diversity. These are but a few of the challenges facing the world today. Many of these problems have effects that do not respect national or geographic borders, and the United Nations offers a coherent and coordinated approach for meeting such challenges.

Mr. President, whether Americans feel the responsibility of exercising global leadership, are responding to humanitarian concerns, or seeking to expand opportunities for international trade and commerce, the United Nations offers us a critical world forum. to cripple the United Nations by an erosion or withdrawal of American participation would be a terrible mistake. The United Nations provides the institutional means for leveraging American diplomatic, economic, and military resources in ways that enhance our vital National interests. Opinion surveys consistently indicate that a solid majority of the American people recognize the positive role that the United Nations can play. I hope such recognition of the United Nations value and importance will be demonstrated when the Senate considers U.S. participation in and support for the United Nations. Let us heed the words of warning offered by President Truman in 1945: ''The immediate, the greatest threat to us is the threat of disillusionment, the danger of insidious skepticism—a loss of faith in the effectiveness of international cooperation.''●

ONE HUNDRED YEARS IN HARDWARE

● Mr. LEVIN. Mr. President, my hearty congratulations to the Michigan Retail Hardware Association on its 100th anniversary. This fine organization has been serving the hardware, home center, and lumber industry since July 9, 1895, when it was founded in Detroit. In reaching this milepost, they have weathered the years, surviving wars and depression, growing to be a robust and vigorous organization.

The backbone of this association is in the ranks of the hundreds of small business men and women who stand behind those hardware store counters each day, ready to serve their customers with a smile and a helping hand. Those weekend chores we all face, to fix up or cleanup our homesteads, becomes a pleasant endeavor after that cheerful visit to the neighborhood hardware store.

Over the years business leaders in this enterprise have come together and prospered, exercising that grand democratic tradition of flexing their common interests and gathering strength in numbers. By coming together, the members of the Michigan Retail Hardware Association make our communities and our economy solid, the skills of managers and workers are fortified, and camaraderie and good fellowship grows.

The trip to the hardware store has become a valued ritual for American families as they labor to make improvements on hearth and home. As we build and fix and sand and paint, we look to our hardware centers to give us the tools and gadgets we need to make our lives more comfortable and bright. For me, the nostalgia of the hardware store is that no small town in America really seems complete without a hardware store plunked down in the middle of Main Street.

My best wishes for this business group on the centennial anniversary of their founding. My best hopes for many more additional years of productivity ahead.●

HOUSE CUTS CRIME-FIGHTING DOLLARS

● Mr. BIDEN. Mr. President, I rise to offer my strong opposition to actions taken by the House Commerce/State/Justice Appropriations Subcommittee earlier this week. In passing the 1996 appropriation's bill the subcommittee Republicans have set off on a course which would cripple Federal, State, and local efforts to combat crime. If the subcommittee Republicans' plan is adopted: New FBI agents will not be hired; 20,000 State and local police will not be hired; thousands of wife-beaters will not be arrested, tried or convicted; new DEA agents will not be hired; 80,000 offenders released on probation will not be tested for drugs or subject to certain punishment; and digital telephony technology vital to law enforcement will not be developed.

First, let me address the cuts to Federal law enforcement. The President requested an increase of $122 million for FBI agents and other FBI activities—but the subcommittee Republicans cut $45 million from that request.

I would also point out that the subcommittee Republicans provides no dollars of the $300 million authorized for FBI in the Dole/Hatch counter-terrorism bill. This legislation has not passed into law, so some might say that is the reason that none of these dollars are made available. But, the subcommittee Republicans did find a way to add their block grant which passed the House, but not the Senate.

So, I do not think there is any explanation for cutting the FBI other than a fundamental lack of commitment to Federal law enforcement by the subcommittee Republicans. I have heard time and again over the past several months from my Republican colleagues in the Senate that the President was not committed to Federal law enforcement. I have heard time and again from my Republican colleagues that they would increase funding for Federal law enforcement.

Well, something just does not add up—House subcommittee Republicans will not give the President the increase he requested for the FBI, despite all the rhetoric I have heard over the past several months.

The cuts to Federal law enforcement do not even stop there. The House subcommittee Republicans cut $17 million from the $54 million boost requested for DEA agents by the administration. That is more than a 30-percent cut. The House subcommittee Republicans provide no dollars of the $60 million authorized for DEA in the Dole/Hatch counterterrorism bill.

Let me review another area where the actions of these subcommittee Republicans are completely opposite the rhetoric I have heard from the other side here in the Senate.

The Violence Against Women Act—having first introduced the Violence Against Women Act 5 years ago, I had welcomed the bipartisan support finally accorded the act last year. I would note the strong support provided by Senators HATCH and DOLE.

But, when we have gotten past the rhetoric and it came time to actually write the check in the Appropriations Subcommittee, the women of America were mugged. The President requested $175 million for the Justice Department's violence against women programs, and the House subcommittee Republicans have provided less than half—$75 million.

While the specific programs have not been yet identified, that $100 million will mean the key initiatives will not get the funding that everyone on both sides of the aisle agreed they should: $130 million was requested for grants to State and local police, prosecutors and victims groups; $28 million was requested to make sure that every man who beats his wife or girlfriend is arrested; $7 million was requested for enforcement efforts against family violence and child abuse in rural areas; and $6 million was requested to provide special advocates for abused children who come before a court.

I keep hearing about how the Violence Against Women Act is a bipartisan effort. In all the new so-called crime bills I have seen proposed by Members of the other side, not once have I seen any effort to repeal or cut back on any element of the Violence Against Women Act. But, the actions of the House subcommittee Republicans tell a completely different story.

To discuss yet another troubling aspect of the House subcommittee Republican bill—this bill eliminates the $1.9 billion sought for the second year of the 100,000 police program. That $1.9

billion would put at least 20,000 more State and local police officers on the streets—and probably many more, for the $1.1 billion spent so far this year has put well over 16,000 more police on the streets.

What happens to the $1.9 billion? In the House Republican bill, these dollars are shifted to a LEAA-style block grant for ''a variety of programs including more police officers, crime prevention programs, drug courts and equipment and technology,'' quoting the summary provided by the House Republicans on the subcommittee.

In other words, not $1 must be spent to add State and local police officers. I keep hearing about support for State and local police from the other side of the aisle. But, just when it really matters, just when we are writing checks and not just making speeches, America's State and local police officers are being ripped-off. Instead of a guarantee that police officers and police departments get each and every one of these $1.9 billion, the House subcommittee Republicans propose empty deal—money in the same type of grants that failed in the 1970's and under standards so lax that America's police could wait through all next year without a single dollar.

Mr. President, I hope that the actions of the House Republicans on the subcommittee are reversed in the full Appropriations Committee. And if not there, then I hope these actions will be reversed on the floor of the House.

But, if the House Republicans stand with the subcommittee and against Federal law enforcement, against FBI agents, against DEA agents, against the women of America, and against State and local police officers, I urge all my colleagues in the Senate to stand by the positions they have taken all year and stand up to the House Republicans.●

SENATOR PELL AND THE U.N. CHARTER

● Mr. MOYNIHAN. Mr. President, last weekend I was honored to have participated in the ceremonies in San Francisco commemorating the 50th anniversary of the signing of the U.N. Charter. The event was an important reaffirmation of the commitment of member nations to abide by the rule of law.

The ceremonies were enriched by the participation of those who had participated in the conference 50 years ago. We in the Senate are honored to have the beloved former chairman of the Senate Foreign Relations Committee, CLAIBORNE PELL, counted among those who were ''Present at the Creation'' of the Charter.

Senator PELL served throughout World War II in the Coast Guard. He continued to serve his country, as he has all his life, when he was called to be a member of the International Secretariat of the San Francisco Conference, as it worked to draft the Charter. Senator PELL served as the Assistant Secretary of Committee III, the Enforcement Arrangements Committee, and worked specifically on what became articles 43, 44, and 45 of the Charter.

In an article in the New York Times by Barbara Crossette, Senator PELL recalls the trip to San Francisco:

It started out just right, he recalled in a recent conversation in his Senate office. Instead of flying us to San Francisco, they chartered a train across the United States.

You could see the eyes of all those people who had been in wartorn Europe boggle as we passed the wheat fields, the factories, he said. You could feel the richness, the clean air of the United States. It was a wonderful image. We shared a spirit, a belief, that we would never make the same mistakes; everything would now be done differently.

Senator PELL's commitment to the Charter was properly noted by the President, when during his address in San Francisco on Monday, he stated ''Some of those who worked at the historic conference are still here today, including our own Senator CLAIBORNE PELL, who to this very day, every day, carries a copy of the U.N. Charter in his pocket.''

On Sunday, the Washington Post carried an article by William Branigin on the drafting of the Charter. I ask that it be printed in the RECORD.

The article follows:

[From the Washington Post, June 25, 1995]

U.N.: 50 YEARS FENDING OFF WWIII—CHARTER FORGED IN HEAT OF BATTLE PROVES DURABLE, AS DO ITS CRITICS

(By William Branigin)

UNITED NATIONS.—It was the eve of her first speech before the 1945 organizing conference of the United Nations, and Minerva Bernardino was eager to seize the opportunity to push for women's rights. Then, while serving drinks to fellow delegates in her San Francisco hotel suite, she fell and broke her ankle.

For the determined diplomat from the Dominican Republic, however, nothing was more important than delivering her speech. So after being rushed to the hospital in an ambulance, she refused a cast, had doctors tape up her ankle instead and enlisted colleagues the next day to help her hobble to the podium.

Bernardino, 88, is one of four surviving signatories of the U.N. Charter, which was hammered out during the two-month conference by representatives from 50 nations and signed in San Francisco on June 26, 1945. With a handful of other women delegates, she claims credit for the charter's reference to ''equal rights of men and women.''

Just as she witnessed the birth of the United Nations that day in the presence of President Harry S. Truman, Bernardino plans to be in the audience Monday when President Clinton caps the 50th birthday ceremonies with a speech at San Francisco's War Memorial Opera House, scene of the historic conference. Truman, whose first decision after taking office in April 1945 was to go ahead with the conference, had flown to San Francisco to carry the charter back to Washington for ratification by the Senate.

Gathering for the anniversary are envoys from more than 100 countries, senior U.N. officials led by Secretary General Boutros Boutros-Ghali, Britain's Princess Margaret and several Nobel peace prize laureates, including Polish President Lech Walesa and South Africa's Archbishop Desmond Tutu.

In creating the United nations 50 years ago, the more than 1,700 delegates and their assistants were driven by the horror of a war that had cost an estimated 45 million lives. Among the founders were prominent diplomats: Vyacheslav Molotov and Andrei Gromyko of the Soviet Union, Edward R. Stettinius of the United States and Anthony Eden of Britain. The sole surviving U.S. signatory is Harold Stassen, the former Republican governor of Minnesota and presidential aspirant, now 88.

The leading conference organizer was its secretary general, Alger Hiss, then a rising star in the State Department. He later spent four years in prison for perjury in a controversial spy case that launched the political ascent of Richard M. Nixon. Now 90, in poor health and nearly blind, Hiss has been invited to the commemoration but is unable to attend.

''We had a sense of creation and exhilaration,'' said Sen. Claiborne Pell (D-R.I.), who was then a young Coast Guard officer attached to the conference's secretariat. World War II was drawing to a close, and the assembled delegates were determined to put into practice their lofty ideals of a peaceful new world order.

As the United Nations celebrates its golden anniversary, however, the world body seems to be under criticism as never before. The credibility it gained after the end of the Cold War and its role in the Persian Gulf conflict seem to have been largely squandered by debacles in Somalia, Angola and Bosnia, by its tardy response to carnage in Rwanda and by its inability so far to undertake serious internal reforms.

From relatively lean beginnings with 1,500 staffers, the United Nations has burgeoned into a far-flung bureaucracy with more than 50,000 employees, plus thousands of consultants. In many areas, critics say, it has become a talk shop and paper mill plagued by waste, mismanagement, patronage and inertia.

Although most Americans strongly support the United Nations, a ''hard core of opposition'' to the body appears to be growing, according to a new poll by the Times Mirror Center for the People and the Press. It showed that 67 percent of Americans hold a favorable attitude toward the United Nations, compared to 53 percent for Congress and 43 percent accorded the court system.

However, the poll showed, 28 percent expressed a ''mostly'' or ''very'' unfavorable opinion of the United Nations, the highest of four such polls since 1990.

In fact, after the demise of the ''red menace'' with the end of the Cold War, the organization seems to have become something of a lightning rod for extreme right-wing groups, which see it as part of a plot to form a global government.

For the United Nations, the 50th birthday bash is an opportunity to trumpet a list of achievements. To celebrate the occasion, the organization is spending $15 million, which it says comes entirely from voluntary contributions.

Over the years, U.N. officials point out, the world body and its agencies have performed dangerous peacekeeping missions, promoted decolonization, assisted refugees and disaster victims, helped eradicate smallpox, brought aid and services to impoverished countries and won five Nobel peace prizes.

At the same time, the anniversary is focusing attention on the organization's shortcomings and on efforts to chart a new course for its future. Among the proposals in a recent study funded by the Ford Foundation, for example, are expanding the Security Council, curtailing veto powers, establishing a permanent U.N. armed force and creating an international taxation system to help finance the organization.

As the United Nations has expanded, some of its agencies have lost their focus and become bogged down in tasks that duplicate efforts elsewhere in the system or serve little purpose but to employ bureaucrats, critics charge. Meanwhile, financing problems have grown acute, especially with the explosion in recent years of expenses for peacekeeping, a function that was not specifically spelled out in the original charter.

The U.N. peacekeeping budget this year bulged to $3.5 billion, far exceeding the regular U.N. budget of $2.6 billion. Moreover, several countries, including the United States, owe U.N. dues totaling hundreds of millions of dollars. Unpaid peacekeeping dues for Bosnia alone come to $900 million.

The Bosnian quagmire has underscored the limits of U.N. peacekeeping. Critics, notably in the U.S. Congress, have tended to blame U.N. bureaucrats for the mess, while U.N. officials say the operation exemplifies a penchant by member states for setting heavy new mandates without providing the resources to carry them out.

''Member countries should take advantage of the 50th anniversary to really look hard at the U.N. and to revise and strengthen it,'' said Catherine Gwin of the Washington-based Overseas Development Council. ''Increased demands are being made on an organization that has been neglected, misused and excessively politicized by its member governments for years, and it is showing the strain.''

As the United Nations has expanded, forming entities that deal with topics from outer space to seabeds, the original purpose often has been overlooked. That is, as the U.N. Charter's preamble states, ''to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind.''

While scores of conflicts costing millions of lives have broken out since that signing 50 years ago, some of the organization's promoters say it deserves a share of credit for averting its founders' worst nightmare: World War III. Clearly, the atomic bombing of Hiroshima and Nagasaki and the subsequent nuclear standoff between the United States and the Soviet Union may have been the main deterrents, but the world body also played a role, U.N. supporters say.

''If we didn't have the United Nations, we would have had another world war,'' said Bernardino in an interview in her New York apartment, where she keeps an office filled with U.N. mementos. On her desk is a large silverframed, personally dedicated photograph of her role model, Eleanor Roosevelt, and in her drawer is an original signed copy of the U.N. Charter.

At the time of the signing, U.S. public opinion held that there would be a third world war by the early 1970s, Stassen said.

''We believed we were going to stop future Hitlers from future acts of aggression,'' said Brian Urquhart, a Briton who joined the United Nations shortly after the conference and rose to become an undersecretary general. ''There was an enormous sense of confidence and optimism in the charter . . . led by the Untied States. This was predominantly a U.S. achievement.''

Indeed, the United Nations was principally the brainchild of President Franklin D. Roosevelt, who gave the organization its name and reached agreement on its formation with British Prime Minister Winston Churchill and Soviet leader Joseph Stalin.

At the San Francisco conference, however, major problems developed over decolonization and the Soviets' insistence on a broad veto power over virtually all Security Council business, even the setting of agenda items and the discussion of disputes. Initially, the Soviets had also wanted 16 votes in the General Assembly, adding one for each of their 15 republics. They eventually settled for three after it was pointed out that by that logic, the United States ought to have 49 votes.

According to Stassen, who served as Minnesota's youngest governor before joining the Navy during the war and who went on to seek the Republican nomination for president four times, his wife Esther played a key role in resolving the veto impasse. Some of the Soviet delegates' wives had told her that Stalin had set the veto position and none of their husbands dared ask the dictator to modify it, Stassen said. But if the Americans could present their arguments directly to Stalin, he might change his mind, the wives advised.

Stassen said he reported this to President Truman, who had taken office upon Roosevelt's death. Truman dispatched Harry Hopkins, Roosevelt's closest adviser, to Moscow, and Stalin was persuaded to limit the veto to the Security Council's final resolutions.

The lone American woman delegate, Virginia Gildersleeve, the dean of Barnard College, played a key role in drafting the U.N. Charter's preamble.

Stassen recalls her exasperation after the drafting committee's first meeting, where language along the lines of ''the high contracting parties have assembled and entered this treaty'' was proposed. ''That's no way to start a charter for the future of the world,'' fumed Gildersleeve. ''It's got to say, 'We the peoples of the United Nations . . .''' Her proposal was ridiculed by diplomats, who insisted that the charter could not be formed by ''peoples,'' but only by the representatives of governments. Eventually, however, she prevailed and eloquence overcame diplomatese.

For Stassen, the defining moment came five days before the signing when Secretary of State Stettinius, the conference chairman, announced that there was nothing else on his agenda. He then asked all heads of delegations who were ready to sign the charter to stand.

''Chairs began to scrape . . . and suddenly the delegations realized that every one of the 50 chairmen was standing, and they broke out into applause for the first time in those sessions,'' Stassen recalled.

Still, the seeds of the Cold War evidently had been planted. Pell, now 76 and the ranking Democrat on the Senate Foreign Relations Committee, recalls walking to a restaurant with a Soviet admiral when a big black car suddenly pulled over and picked up the Russian.

''He wasn't supposed to go to lunch with capitalists,'' Pell said.

The senator also vividly remembers traveling to San Francisco by train from the East Coast with other young officers from Europe. As the train rolled past the seemingly endless grain fields and the unscathed cities and towns of America's heartland, the Europeans were stunned by the contrast with their own war-ravaged countries. ''Their eyes got wider and wider,'' Pell said, and they arrived in San Francisco with a sense of awe for the power and resources of the United States.

Bernardino's most vivid memory was of the day the war in Europe ended while the conference was underway in may 1945. A Honduran delegate, who had just heard the news of the street, burst into her committee meeting and shouted, ''The war is over!'' and the room erupted in celebration, she said.

For Betty Teslenko, then a 22-year-old stenographer at the conference, the imposing cast of characters was most impressive. One who deserved special credit as a mediator of many disputes was the Australian foreign minister, Herbert Evatt, whose broad accent prompted some good-natured ribbing, she recalled. One joke that made the rounds: What's the difference between a buffalo and a bison? Answer: a bison is what Evatt uses to wash his hands in the morning.

According to Teslenko, Hiss was so efficient in organizing the conference that he became the choice of many delegates to be the United Nations' first secretary general. However, an unwritten rule that the organization's head should not come from one of the five permanent, veto-wielding members of the Security Council—the United States, Soviet Union, Britain, France and China—made that impossible.

For Piedad Suro, then a young reporter from Ecuador, the conference was memorable chiefly for the difficulties of finding out what was going on in the closed sessions—and for a whirlwind courtship by the man who became her husband, Guillermo Suro, the State Department's chief of language services. Their son, Roberto Suro, is now a Washington Post editor.

''That was where we dated and he proposed,'' Suro said of the San Francisco conference. ''We became engaged the last week and were married in New York two months later.'' She denies, however, that her fiance ever gave her a scoop.

As Truman arrived in San Francisco to witness the signing 50 years ago, an estimated 250,000 cheering people turned out to greet his mile-long motorcade, giving him what The Washington Post at the time described as ''the most tumultuous demonstration since he entered the White House.''

''You have created a great instrument for peace,'' Truman said at the signing ceremony to a standing ovation, ''Oh, what a great day this can be in history.''

Today a common view among both U.N. supporters and critics seems to be that if the world body were to disappear, it would have to be quickly reinvented.

''While it hasn't been altogether a 100 percent success,'' said Sen. Pell, ''we're certainly far better off for having the United Nations exist than we would be without it.''●

CHANGING TIME FOR VOTE

Mr. DOLE. Mr. President, I ask unanimous consent that the previously scheduled vote on Monday, July 10, be changed to begin at 5:15 p.m.

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

AUTHORITY FOR COMMITTEES TO REPORT

Mr. DOLE. Mr. President, I ask unanimous consent, notwithstanding adjournment of the Senate, that on Wednesday, July 5, committees have from 10 a.m. to 2 p.m. to file any legislative or executive reported business

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

REMOVAL OF INJUNCTION OF SECRECY—EXCHANGE OF NOTES RELATING TO THE TAX CONVENTION WITH UKRAINE (TREATY DOCUMENT NO. 104–11)

Mr. DOLE. As in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Exchange of Notes Relating to the Tax Convention of the Ukraine (Treaty Document No. 104–11), transmitted to

the Senate by the President on June 28, 1995; and that the treaty be considered as having been read the first time; referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and ordered that the President's message be printed in the RECORD.

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

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith an exchange of notes dated at Washington May 26 and June 6, 1995, for Senate advice and consent to ratification in connection with the Senate's consideration of the Convention Between the Government of the United States of America and the Government of Ukraine for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, together with a related Protocol, signed at Washington on March 4, 1994 (''the Taxation Convention''). Also transmitted for the information of the Senate is the report of the Department of State with respect to the exchange of notes.

This exchange of notes addresses the interaction between the Taxation Convention and other treaties that have tax provisions, including in particular the General Agreement on Trade in Services (GATS), annexed to the Agreement Establishing the World Trade Organization, done at Marrakesh April 15, 1994.

I recommend that the Senate give favorable consideration to this exchange of notes and give its advice and consent to ratification in connection with the Taxation Convention.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 28, 1995.*

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations, executive calendar nomination numbers 178 through 183, and 206, 207, 208, and 210 through 231.

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

Mr. DOLE. Mr. President, I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table en bloc, and any statements relating to the nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

FEDERAL INSURANCE TRUST FUNDS

Stephen G. Kellison, of Texas, to be a Member of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for a term of four years.

Marilyn Moon, on Maryland, to be a Member of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for a term of four years.

FEDERAL HOSPITAL INSURANCE TRUST FUND

Stephen G. Kellison, of Texas, to be a Member of the Board of Trustees of the Federal Hospital Insurance Trust Fund for a term of four years.

FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND

Stephen G. Kellison, of Texas, to be a Member of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund for a term of four years.

FEDERAL HOSPITAL INSURANCE TRUST FUND

Marilyn Moon, of Maryland, to be a Member of the Board of Trustees of the Federal Hospital Insurance Trust Fund for a term of four years.

FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND

Marilyn Moon, of Maryland, to be a Member of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund for a term of four years.

DEPARTMENT OF LABOR

Edmundo A. Gonzales, of Colorado, to be Chief Financial Officer, Department of Labor. (New Position)

NATIONAL COUNCIL ON DISABILITY

John D. Kemp, of the District of Columbia, to be a Member of the National Council on Disability for a term expiring September 17, 1997.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Clifford Gregory Stewart, of New Jersey, to be General Counsel of the Equal Employment Opportunity Commission for a term of four years.

THE JUDICIARY

Carlos F. Lucero, of Colorado, to be United States Circuit Judge for the Tenth Circuit.

Peter C. Economus, of Ohio, to be United States District Judge for the Northern District of Ohio.

Wiley Y. Daniel, of Colorado, to be United State District Judge for the District of Colorado.

Nancy Friedman Atlas, of Texas, to be United States District Judge for the Southern District of Texas.

Donald C. Nugent, of Ohio, to be United States District Judge for the Northern District of Ohio.

DEPARTMENT OF JUSTICE

Andrew Fois, of New York, to be an Assistant Attorney General.

STATE JUSTICE INSTITUTE

Janie L. Shores, of Alabama, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1997.

Terrence B. Adamson, of the District of Columbia, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1997. (Reappointment)

EXECUTIVE OFFICE OF THE PRESIDENT

Martin Neil Baily, of Maryland, to be a Member of the Council of Economic Advisers.

NATIONAL INSTITUTE OF BUILDING SCIENCES

Steve M. Hays, of Tennessee, to be a Member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 1997.

SECURITIES INVESTOR PROTECTION CORPORATION

Charles L. Marinaccio, of the District of Columbia, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1996.

Deborah Dudley Branson, of Texas, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1996.

Marianne C. Spraggins, of New York, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1997.

Albert James Dwoskin, of Virginia, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1998. (Reappointment)

NATIONAL CONSUMER COOPERATIVE BANK

Tony Scallon, of Minnesota, to be a Member of the Board of Directors of the National Consumer Cooperative Bank for a term of three years.

Sheila Anne Smith, of Illinois, to be a Member of the Board of Directors of the National Consumer Cooperative Bank for a term of three years.

EXECUTIVE OFFICE OF THE PRESIDENT

Ira S. Shapiro, of Maryland, for the rank of Ambassador during his tenure of service as Senior Counsel and Negotiator in the Office of the United States Trade Representative.

AIR FORCE

The following-named officer for appointment to the grade of general while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be general

Lt. Gen. Richard E. Hawley, 000–00–0000, United States Air Force.

THE JUDICIARY

Diane P. Wood, of Illinois, to be United States Circuit Judge for the Seventh Circuit.

George H. King, of California, to be United States District Judge for the Central District of California vice a new position created by Public Law 101–650, approved December 1, 1990.

Robert H. Whaley, of Washington, to be United States District Judge for the Eastern District of Washington.

Tena Campbell, of Utah, to be United States District Judge for the District of Utah.

STATEMENT ON NOMINATION OF TENA CAMPBELL

Mr. HATCH. Mr. President, I rise today to urge my colleagues to support the nomination of Tena Campbell for the position of U.S. district judge for the district of Utah.

As chairman of the Judiciary Committee, I am keenly aware of the importance of the Federal judiciary and its impact on our citizens; not only litigants whose cases are decided by Federal courts, but all Americans who, in so many ways, are affected in their daily lives by rulings handed down by Federal judges. It is for this reason that I have always believed that nominees for Federal judicial positions must be individuals of the highest caliber, both professionally and personally. I am pleased to say that Tena Campbell is such a nominee.

Tena Campbell is an individual whose accomplishments and qualifications for the position of Federal district court judge speak for themselves. After working in private practice and in the

Salt Lake County attorney's office, Mrs. Campbell became an assistant U.S. attorney in Utah, where she has served with distinction since 1982. During that time, she has tried more than 60 felony cases—more cases than most lawyers try in their entire career.

She has risen to become the Financial Institution Fraud Coordinator for the U.S. attorney's office, in charge of all cases involving federally insured institutions, in addition to prosecuting other complex white-collar crime cases. It is a measure of her dedication that despite the complexity and time-consuming nature of white-collar crime cases, she has also chosen to continue to prosecute violent crime cases.

Throughout her service as an assistant U.S. attorney, Tena Campbell has earned the respect of the Federal bench and a reputation as a hardworking, tough, yet compassionate, prosecutor. She has received the highest rating, Well Qualified, from the American Bar Association. I am convinced that as a Federal judge, where she would be the first woman in Utah history to serve in that position, Tena Campbell will be fair, honest, and knowledgeable, and I am proud to support her nomination.

For these reasons, I urge my colleagues to support her nomination.

STATEMENT OF THE NOMINATION OF CLIFFORD GREGORY STEWART

Mr. LAUTENBERG. Mr. President, I rise in strong support of the nomination of Greg Stewart to be general counsel of the Equal Employment Opportunity Commission [EEOC].

Greg Stewart is a native New Jerseyan and has most recently served as the director of the division of civil rights for the State of New Jersey. I believe that Greg Stewart has the qualifications and the experience to make an excellent general counsel at EEOC.

Mr. President, Greg Stewart has been involved in civil rights issues for over 13 years. He has served as the director of the division of civil rights in New Jersey under both a Democratic and Republican governor. He has also worked for the department of the public advocate in New Jersey, again under Democratic and Republican Governors. During whatever free time he has had since he graduated from Rutgers Law School in 1981, he has taught constitutional and civil rights law at Rutgers School of Law and John Jay College.

Greg Stewart has an outstanding scholar. He has a three degrees from Rutgers; a B.A. in political science, an M.A. in political science, and a J.D. from the Rutgers Law School in Newark. He has received several academic honors including an Eagleton Institute of Politics fellowship. In addition to his academic accomplishments, Greg has also been involved in community service. In fact, he received the Community Service Award for the New Jersey Conference of the NAACP branches and the Equal Justice Medal for the Legal Services of New Jersey.

Mr. President, our country is on the brink of a national debate on affirmation action and civil rights laws. I think Greg Stewart can make an excellent contribution to this debate as general counsel to the EEOC. He has a vast amount of experience in civil rights law and he has served under Republicans and Democrats with a sincere respect for the law, objectivity, and a unique sense of balance. I am proud to support his nomination and urge the Senate to confirm his nomination to EEOC general counsel.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

THE FEDERAL COURT CASE REMOVAL ACT

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 32 S. 533.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 533) to clarify te rules governing removal of cases to Federal court, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

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

Mr. DOLE. I ask unanimous consent that the bill be considered, deemed read a third time and passed, the motion to reconsider be laid upon the table, and that any statements appear in the appropriate place in the RECORD.

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

So the bill (S. 533) was deemed read for the third time, and passed as follows:

S. 533

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

SECTION 1. REMOVAL.

The first sentence of section 1447(c) of title 28, United States Code, is amended by striking ''any defect in removal procedure'' and inserting ''any defect other than lack of subject matter jurisdiction''.

REDUNDANT VENUE REPEAL ACT

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration of calendar No. 112, S. 677.

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

The clerk will report.

The legislative clerk read as follows:

A bill (S. 677) to repeal a redundant venue provision, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider of the bill.

Mr. DOLE. Mr. President, I ask unanimous consent that the bill be considered and deemed 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 the appropriate place in the RECORD.

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

So the bill (S. 677) was deemed read for the third time, and passed as follows:

S. 677

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

SECTION 1. REPEAL.

(a) REPEAL.—Subsection (a) of section 1392 of title 28, United States Code, is repealed.

(b) TECHNICAL AMENDMENT.—Subsection (b) of section 1392 of title 28, United States Code, is amended by striking ''(b) Any'' and inserting ''Any''.

REGARDING THE ARREST OF HARRY WU BY THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA

Mr. DOLE. Mr. President, I ask unanimous consent that Senate proceed to immediate consideration of Senate Resolution 148, submitted earlier today by Senator HELMS.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 148) expressing the sense of the Senate regarding the arrest of Harry Wu by the Government of the People's Republic of China.

The PRESIDING OFFICER. Is there objection to proceeding to the immediate consideration of the resolution?

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

RED CHINESE UP TO NO GOOD—AGAIN

Mr. HELMS. The resolution condemns the arrest of Mr. Peter H. W., a personal friend of mine who has been arrested by the Red Chinese. I understand the House of Representatives Committee on International Relations reported a similar resolution yesterday that is expected to be considered by the House this morning.

Peter Hongda Wu, known to all of us as Harry Wu, entered China last week on a valid United States passport and a valid visa issued by the Chinese themselves.

Harry submitted his papers at the border and was immediately placed under house arrest by Chinese authorizes and held for 3 days, after which a caravan of Communist-style cars arrived in the small border town near Kazakhstan and whisked Harry away.

Harry Wu has not been seen or heard from since. Mr. President, the cruelty the Chinese Communists can inflict, especially on humans they claim have committed crimes against the state. Unfortunately, because Harry has devoted his life to exposing human rights abuses in China, the Chinese have

taken purely punitive action against him.

Harry Wu has worked and cooperated with the Senate for many years. It was Harry who first informed me that the Chinese were forcing their own prisoners, many of them political prisoners, to produce products for sale to other countries. Harry was extraordinarily familiar with these practices since he spent 19 years in a Chinese prison.

More recently, Mr. President, at my invitation, Harry testified before the Foreign Relations Committee regarding the Chinese Government's practice of selling organs removed from the bodies of just-executed prisoners, including political prisoners. The Chinese make these organs available on the international market—for cold cash—for example, $10,000 for a liver and varying amounts for corneas and other human organs.

Harry's video footage filmed in China, proved that the Chinese even have gone so far as to harvest both kidneys from living prisoners. Understandably, the hearing received a great deal of international attention, and the Chinese are obviously punishing Harry Wu for informing the U.S. Congress about this and other matters.

Mr. President, the Chinese have already usurped 19 years of Harry Wu's life. They must not persecute him further. He is a faithful and honest American citizen devoted to ensuring the wellbeing of Chinese citizens. I urge Senators and the President to do everything within their power to press for Harry Wu's immediate release and safe return. As his friend, I appeal to all Senators for their support.

Mr. President, my resolution expresses condemnation of the arrest and detention of Harry Wu. It further calls upon China to comply immediately with its commitments under the United States-People's Republic of China Consular Convention by providing the United States Government with a full accounting for Harry's arrest and detention. I urge the Senate to adopt the resolution.

Mr. DOLE. Mr. President, I ask unanimous consent that the resolution be considered and agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

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

So the resolution (S. Res. 148) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows: 6se

S. RES. 148

Whereas Peter H. Wu, known as Harry Wu, attempted to enter the People's Republic of China on June 19, 1995, near the China-Kazakhstan border;

Whereas Harry Wu, a 58-year-old American citizen, was traveling on a valid United States passport and a valid visa issued by the Chinese authorities;

Whereas the Chinese authorities confined Harry Wu to house arrest for 3 days, after which time he has not been seen or heard from;

Whereas the Chinese Foreign Ministry notified the United States Embassy in Beijing of Mr. Wu's detention on Friday, June 23;

Whereas the United States Embassy in Beijing approached the Chinese Foreign Ministry on Monday, June 26, to issue an official demarche for the detention of an American citizen;

Whereas the terms of the United States-People's Republic of China Consular convention on February 19, 1982, require that United States Government officials shall be accorded access to an American citizen as soon as possible but not more than 48 hours after the United States has been notified of such detention;

Whereas on Wednesday, June 28, the highest ranking representative of the People's Republic of China in the United States refused to offer the United States Government any information on Harry Wu's whereabouts or the charges brought against him;

Whereas the Government of the People's Republic of China is in violation of the terms of its Consular Convention;

Whereas Harry Wu, who was born in China, has already spent 19 years in Chinese prisons;

Whereas Harry Wu has dedicated his life to the betterment of the human rights situation in the People's Republic of China;

Whereas Harry Wu first detailed to the United States Congress the practice of using prison labor to produce products for export from China to other countries;

Whereas Harry Wu testified before the Committee on Foreign Relations of the Senate on May 4, 1995, informing the Committee, the Senate, and the American people about the Chinese government practice of murdering Chinese prisoners, including political prisoners, for the purpose of harvesting their organs for sale on the international market;

Whereas on June 2, 1995, the President of the United States announced his determination that further extension of the waiver authority granted by section 402(c) of the Trade Act of 1974 (Public Law 93–618; 88 Stat. 1978), also known as ''Jackson-Vanik'', will substantially promote freedom of emigration from the People's Republic of China;

Whereas this waiver authority will allow the People's Republic of China to receive the lowest tariff rates possible, also known as Most-Favored-Nation trading status, for a period of 12 months beginning on July 3, 1995; and

Whereas the Chinese government and people benefit substantially from the continuation of such trading benefits: Now, therefore, be it

Resolved, That (a) the United States Senate expresses its condemnation of the arrest of Peter H. Wu and its deep concern for his well-being.

(b) It is the sense of the Senate that—

(1) the People's Republic of China must immediately comply with its commitments under the United States-People's Republic of China Consular Convention of February 19, 1982, by allowing consular access to Peter H. Wu;

(2) the People's Republic of China should provide immediately a full accounting of Peter Wu's whereabouts and the charges being brought against him; and

(3) the President of the United States should use every diplomatic means available to ensure Peter Wu's safe and expeditious return to the United States.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President of the United States with the request that the President further transmit such copy to the Embassy of the People's Republic of China in the United States.

FISHERIES ACT

Mr. DOLE. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of calendar 119, S. 267.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 267) to establish a system of licensing, reporting, and regulation for vessels of the United States fishing on the high seas, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 267

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 ''Fisheries Act of 1995''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—HIGH SEAS FISHERIES LICENSING

SEC. 101. SHORT TITLE.

This title may be cited as the ''High Seas Fisheries Licensing Act of 1995''.

SEC. 102. PURPOSE.

It is the purpose of this Act—

(1) to implement the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on November 24, 1993; and

(2) to establish a system of licensing, reporting, and regulation for vessels of the United States fishing on the high seas.

SEC. 103. DEFINITIONS.

As used in this Act—

(1) The term ''Agreement'' means the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on November 24, 1993.

(2) The term ''FAO'' means the Food and Agriculture Organization of the United Nations.

(3) The term ''high seas'' means the waters beyond the territorial sea or exclusive economic zone (or the equivalent) of any nation, to the extent that such territorial sea or exclusive economic zone (or the equivalent) is recognized by the United States.

(4) The term ''high seas fishing vessel'' means any vessel of the United States used or intended for use—

(A) on the high seas;

(B) for the purpose of the commercial exploitation of living marine resources; and

(C) as a harvesting vessel, as a mother ship, or as any other support vessel directly engaged in a fishing operation.

(5) The term ''international conservation and management measures'' means measures to conserve or manage one or more species of living marine resources that are adopted and applied in accordance with the relevant rules of international law, as reflected in the 1982 United Nations Convention on the Law of the Sea, and that are recognized by the United States. Such measures may be adopted by global, regional, or sub-regional fisheries organizations, subject to the rights and obligations of their members, or by treaties or other international agreements.

(6) The term ''length'' means —

(A) for any high seas fishing vessel built after July 18, 1982, 96 percent of the total length on a waterline at 85 percent of the least molded depth measured from the top of the keel, or the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that is [greater. In] *greater, except that in* ships designed with a rake of keel the waterline on which this length is measured shall be parallel to the designed waterline; and

(B) for any high seas fishing vessel built before July 18, 1982, registered length as entered on the vessel's documentation.

(7) The term ''person'' means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(8) The term ''Secretary'' means the Secretary of Commerce.

(9) The term ''vessel of the United States'' means—

(A) a vessel documented under chapter 121 of title 46, United States Code, or numbered in accordance with chapter 123 of title 46, United States Code;

(B) a vessel owned in whole or part by—

(i) the United States or a territory, commonwealth, or possession of the United States;

(ii) a State or political subdivision thereof;

(iii) a citizen or national of the United States; or

(iv) a corporation created under the laws of the United States or any State, the District of Columbia, or any territory, commonwealth, or possession of the United States; unless the vessel has been granted the nationality of a foreign nation in accordance with article 92 of the 1982 United Nations Convention on the Law of the Sea and a claim of nationality or registry for the vessel is made by the master or individual in charge at the time of the enforcement action by an officer or employee of the United States authorized to enforce applicable provisions of the United States law; and

(C) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was either sold to a person not a citizen of the United States or placed under foreign registry or a foreign flag, whether or not the vessel has been granted the nationality of a foreign nation.

(10) The terms ''vessel subject to the jurisdiction of the United States'' and ''vessel without nationality'' have the same meaning as in section [1903(c) of title 46, United States Code Appendix.] *3(c) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(c)).*

SEC. 104. LICENSING.

(a) IN GENERAL.—No high seas fishing vessel shall engage in harvesting operations on the high seas unless the vessel has on board a valid license issued under this section.

(b) ELIGIBILITY.—

(1) Any vessel of the United States is eligible to receive a license under this section, unless the vessel was previously authorized to be used for fishing on the high seas by a foreign nation, and

(A) the foreign nation suspended such authorization because the vessel undermined the effectiveness of international conservation and management measures, and the suspension has not expired; or

(B) the foreign nation, within the last three years preceding application for a license under this section, withdrew such authorization because the vessel undermined the effectiveness of international conservation and management measures.

(2) The restriction in paragraph (1) does not apply if ownership of the vessel has changed since the vessel undermined the effectiveness of international conservation and management measures, and the new owner has provided sufficient evidence to the Secretary demonstrating that the previous owner or operator has no further legal, beneficial or financial interest in, or control of, the vessel.

(3) The restriction in paragraph (1) does not apply if the Secretary makes a determination that issuing a license would not subvert the purposes of the Agreement.

(4) The Secretary may not issue a license to a vessel unless the Secretary is satisfied that the United States will be able to exercise effectively its responsibilities under the Agreement with respect to that vessel.

(c) APPLICATION.—

(1) The owner or operator of a high seas fishing vessel may apply for a license under this section by completing an application form prescribed by the Secretary.

(2) The application form shall contain—

(A) the vessel's name, previous names (if known), official numbers, and port of record;

(B) the vessel's previous flags (if any);

(C) the vessel's International Radio Call Sign (if any);

(D) the names and addresses of the vessel's owners and operators;

(E) where and when the vessel was built;

(F) the type of vessel;

(G) the vessel's length; and

(H) any other information the Secretary requires for the purposes of implementing the Agreement.

(d) CONDITIONS.—The Secretary shall establish such conditions and restrictions on each license issued under this section as are necessary and appropriate to carry out the obligations of the United States under the Agreement, including but not limited to the following:

(1) The vessel shall be marked in accordance with the FAO Standard Specifications for the Marking and Identification of Fishing Vessels, or with regulations issued under section 305 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855); and

(2) The license holder shall report such information as the Secretary by regulation requires, including area of fishing operations and catch statistics. The Secretary shall promulgate regulations concerning conditions under which information submitted under this paragraph may be released.

(e) FEES.—

(1) The Secretary shall by regulation establish the level of fees to be charged for licenses issued under this section. The amount of any fee charged for a license issued under this section shall not exceed the administrative costs incurred in issuing such licenses. The licensing fee may be in addition to any fee required under any regional licensing regime applicable to high seas fishing vessels.

(2) The fees authorized by paragraph (1) shall be collected and credited to the Operations, Research and Facilities account of the National Oceanic and Atmospheric Administration. Fees collected under this subsection shall be available for the necessary expenses of the National Oceanic and Atmospheric Administration in implementing this Act, and shall remain available until expended.

(f) DURATION.—A license issued under this section is valid for 5 years. A license issued under this section is void in the event the vessel is no longer eligible for United States documentation, such documentation is revoked or denied, or the vessel is deleted from such documentation.

SEC. 105. RESPONSIBILITIES OF THE SECRETARY.

(a) RECORD.—The Secretary shall maintain an automated file or record of high seas fishing vessels issued licenses under section 104, including all information submitted under section 104(c)(2).

(b) INFORMATION TO FAO.—The Secretary, in cooperation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall—

(1) make available to FAO information contained in the record maintained under subsection (a);

(2) promptly notify FAO of changes in such information;

(3) promptly notify FAO of additions to or deletions from the record, and the reason for any deletion;

(4) convey to FAO information relating to any license granted under section 104(b)(3), including the vessel's identity, owner or operator, and factors relevant to the Secretary's determination to issue the license;

(5) report promptly to FAO all relevant information regarding any activities of high seas fishing vessels that undermine the effectiveness of international conservation and management measures, including the identity of the vessels and any sanctions imposed; and

(6) provide the FAO a summary of evidence regarding any activities of foreign vessels that undermine the effectiveness of international conservation and management measures.

(c) INFORMATION TO FLAG NATIONS.—If the Secretary, in cooperation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, has reasonable grounds to believe that a foreign vessel has engaged in activities undermining the effectiveness of international conservation and management measures, the Secretary shall—

(1) provide to the flag nation information, including appropriate evidentiary material, relating to those activities; and

(2) when such foreign vessel is voluntarily in a United States port, promptly notify the flag nation and, if requested by the flag nation, make arrangements to undertake such lawful investigatory measures as may be considered necessary to establish whether the vessel has been used contrary to the provisions of the Agreement.

(d) REGULATIONS.—The Secretary, after consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, may promulgate such regulations, in accordance with section 553 of title 5, United States Code, as may be necessary to carry out the purposes of the Agreement and this title. The Secretary shall coordinate such regulations with any other entities regulating high seas fishing vessels, in order to minimize duplication of license application and reporting requirements. To the extent practicable, such regulations shall also be consistent with regulations implementing fishery management plans under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(e) NOTICE OF INTERNATIONAL CONSERVATION AND MANAGEMENT MEASURES.—The Secretary, in consultation with the Secretary of State, shall publish in the Federal Register, from time to time, a notice listing international conservation and management measures recognized by the United States.

SEC. 106. UNLAWFUL ACTIVITIES.

It is unlawful for any person subject to the jurisdiction of the United States—

(1) to use a high seas fishing vessel on the high seas in contravention of international conservation and management measures described in section 105(e);

(2) to use a high seas fishing vessel on the high seas, unless the vessel has on board a valid license issued under section 104;

(3) to use a high seas fishing vessel in violation of the conditions or restrictions of a license issued under section 104;

(4) to falsify any information required to be reported, communicated, or recorded pursuant to this title or any regulation issued under this title, or to fail to submit in a timely fashion any required information, or to fail to report to the Secretary immediately any change in circumstances that has the effect of rendering any such information false, incomplete, or misleading;

(5) to refuse to permit an authorized officer to board a high seas fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this title or any regulation issued under this title;

(6) to forcibly assault, resist, oppose, impede, intimidate, or interfere with an authorized officer in the conduct of any search or inspection described in paragraph (5);

(7) to resist a lawful arrest or detention for any act prohibited by this section;

(8) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this section;

(9) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any living marine resource taken or retained in violation of this title or any regulation or license issued under this title; or

(10) to violate any provision of this title or any regulation or license issued under this title.

SEC. 107. ENFORCEMENT PROVISIONS.

(a) DUTIES OF SECRETARIES.—This title shall be enforced by the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may by agreement utilize, on a reimbursable basis or otherwise, the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, or of any State agency, in the performance of such duties. Such Secretaries shall, and the head of any Federal or State agency that has entered into an agreement with either such Secretary under this section may (if the agreement so provides), authorize officers to enforce the provisions of this title or any regulation or license issued under this title.

(b) DISTRICT COURT JURISDICTION.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this title. In the case of Guam, and any Commonwealth, territory, or possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Guam, except that in the case of American Samoa, the appropriate court is the United States District Court for the District of Hawaii.

(c) POWERS OF ENFORCEMENT OFFICERS.—

(1) Any officer who is authorized under subsection (a) to enforce the provisions of this title may—

(A) with or without a warrant or other process—

(i) arrest any person, if the officer has reasonable cause to believe that such person has committed an act prohibited by paragraph (6), (7), (8), or (9) of section 106;

(ii) board, and search or inspect, any high seas fishing vessel;

(iii) seize any high seas fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of this title or any regulation or license issued under this title;

(iv) seize any living marine resource (wherever found) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 106;

(v) seize any other evidence related to any violation of any provision of this title or any regulation or license issued under this title;

(B) execute any warrant or other process issued by any court of competent jurisdiction; and

(C) exercise any other lawful authority.

(2) Subject to the direction of the Secretary, a person charged with law enforcement responsibilities by the Secretary who is performing a duty related to enforcement of a law regarding fisheries or other marine resources may make an arrest without a warrant for an offense against the United States committed in his presence, or for a felony cognizable under the laws of the United States, if he has reasonable grounds to believe that the person to be arrested has committed or is committing a felony.

(d) ISSUANCE OF CITATIONS.—If any authorized officer finds that a high seas fishing vessel is operating or has been operated in violation of any provision of this title, such officer may issue a citation to the owner or operator of such vessel in lieu of proceeding under subsection (c). If a permit has been issued pursuant to this title for such vessel, such officer shall note the issuance of any citation under this subsection, including the date thereof and the reason therefor, on the permit. The Secretary shall maintain a record of all citations issued pursuant to this subsection.

(e) LIABILITY FOR COSTS.—Any person assessed a civil penalty for, or convicted of, any violation of this Act shall be liable for the cost incurred in storage, care, and maintenance of any living marine resource or other property seized in connection with the violation.

SEC. 108. CIVIL PENALTIES AND LICENSE SANCTIONS.

(a) CIVIL PENALTIES.—

(1) Any person who is found by the Secretary, after notice and opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 106 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $100,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violation, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

(2) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty that is subject to imposition or that has been imposed under this section.

(b) LICENSE SANCTIONS.—

(1) In any case in which—

(A) a vessel of the United States has been used in the commission of an act prohibited under section 106;

(B) the owner or operator of a vessel or any other person who has been issued or has applied for a license under section 104 has acted in violation of section 106; or

(C) any amount in settlement of a civil forfeiture imposed on a high seas fishing vessel or other property, or any civil penalty or criminal fine imposed on a high seas fishing vessel or on an owner or operator of such a vessel or on any other person who has been issued or has applied for a license under any

fishery resource statute enforced by the Secretary, has not been paid and is overdue, the Secretary may—

(i) revoke any license issued to or applied for by such vessel or person under this title, with or without prejudice to the issuance of subsequent licenses;

(ii) suspend such license for a period of time considered by the Secretary to be appropriate;

(iii) deny such license; or

(iv) impose additional conditions and restrictions on such license.

(2) In imposing a sanction under this subsection, the Secretary shall take into account—

(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanction is imposed; and

(B) with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

(3) Transfer of ownership of a high seas fishing vessel, by sale or otherwise, shall not extinguish any license sanction that is in effect or is pending at the time of transfer of ownership. Before executing the transfer of ownership of a vessel, by sale or otherwise, the owner shall disclose in writing to the prospective transferee the existence of any license sanction that will be in effect or pending with respect to the vessel at the time of the transfer. The Secretary may waive or compromise a sanction in the case of a transfer pursuant to court order.

(4) In the case of any license that is suspended under this subsection for nonpayment of a civil penalty or criminal fine, the Secretary shall reinstate the license upon payment of the penalty or fine and interest thereon at the prevailing rate.

(5) No sanctions shall be imposed under this subsection unless there has been prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed, either in conjunction with a civil penalty proceeding under this section or otherwise.

(c) HEARING.—For the purposes of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this subsection, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) JUDICIAL REVIEW.—Any person against whom a civil penalty is assessed under subsection (a) or against whose vessel a license sanction is imposed under subsection (b) (other than a license suspension for nonpayment of penalty or fine) may obtain review thereof in the United States district court for the appropriate district by filing a complaint against the Secretary in such court within 30 days from the date of such penalty or sanction. The Secretary shall promptly file in such court a certified copy of the record upon which such penalty or sanction was imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(e) COLLECTION.—

(1) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the matter shall be referred to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(2) A high seas fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 106 shall be liable in rem for any civil penalty assessed for such violation under subsection (a) and may be proceeded against in any district court of the United States having jurisdiction thereof. Such penalty shall constitute a maritime lien on such vessel that may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

SEC. 109. CRIMINAL OFFENSES.

(a) OFFENSES.—A person is guilty of an offense if the person commits any act prohibited by paragraph (6), (7), (8), or (9) of section 106.

(b) PUNISHMENT.—Any offense described in subsection (a) is a class A misdemeanor punishable by a fine under title 18, United States Code, or imprisonment for not more than one year, or both; except that if in the commission of any offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any authorized officer, or places any such officer in fear of imminent bodily injury, the offense is a felony punishable by a fine under title 18, United States Code, or imprisonment for not more than 10 years, or both.

SEC. 110. FORFEITURES.

(a) IN GENERAL.—Any high seas fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any living marine resources (or the fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 106 (other than an act for which the issuance of a citation under section 107 is a sufficient sanction) shall be subject to forfeiture to the United States. All or part of such vessel may, and all such living marine resources (or the fair market value thereof) shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(b) JURISDICTION OF DISTRICT COURTS.—Any district court of the United States shall have jurisdiction, upon application of the Attorney General on behalf of the United States, to order any forfeiture authorized under subsection (a) and any action provided for under subsection (d).

(c) JUDGMENT.—If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this title or for which security has not previously been obtained. The provisions of the customs laws relating to—

(1) the seizure, forfeiture, and condemnation of property for violation of the customs law;

(2) the disposition of such property or the proceeds from the sale thereof; and

(3) the remission or mitigation of any such forfeiture;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title, unless such provisions are inconsistent with the purposes, policy, and provisions of this title.

(d) PROCEDURE.—

(1) Any officer authorized to serve any process in rem that is issued by a court under section 107(b) shall—

(A) stay the execution of such process; or

(B) discharge any living marine resources seized pursuant to such process;

upon receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person delivering such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(2) Any living marine resources seized pursuant to this title may be sold, subject to the approval of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(e) REBUTTABLE PRESUMPTION.—For purposes of this section, all living marine resources found on board a high seas fishing vessel and which are seized in connection with an act prohibited by section 106 are presumed to have been taken or retained in violation of this title, but the presumption can be rebutted by an appropriate showing of evidence to the contrary.

SEC. 111. EFFECTIVE DATE.

This title shall take effect 120 days after the date of enactment of this Act.

TITLE II—IMPLEMENTATION OF CONVENTION ON FUTURE MULTILATERAL COOPERATION IN THE NORTHWEST ATLANTIC FISHERIES

SEC. 201. SHORT TITLE.

This title may be cited as the ''Northwest Atlantic Fisheries Convention Act of 1995''.

SEC. 202. REPRESENTATION OF UNITED STATES UNDER CONVENTION.

(a) COMMISSIONERS.—

(1) APPOINTMENTS, GENERALLY.—The Secretary shall appoint not more than 3 individuals to serve as the representatives of the United States on the General Council and the Fisheries Commission, who shall each—

(A) be known as a ''United States Commissioner to the Northwest Atlantic Fisheries Organization''; and

(B) serve at the pleasure of the Secretary.

(2) REQUIREMENTS FOR APPOINTMENTS.—

(A) The Secretary shall ensure that of the individuals serving as Commissioners—

(i) at least 1 is appointed from among representatives of the commercial fishing industry;

(ii) 1 (but no more than 1) is an official of the Government; and

(iii) 1, other than the individual appointed under clause (ii), is a voting member of the New England Fishery Management Council.

(B) The Secretary may not appoint as a Commissioner an individual unless the individual is knowledgeable and experienced concerning the fishery resources to which the Convention applies.

(3) TERMS.—

(A) The term of an individual appointed as a Commissioner—

(i) shall be specified by the Secretary at the time of appointment; and

(ii) may not exceed 4 years.

(B) An individual who is not a Government official may not serve more than 2 consecutive terms as a Commissioner.

(b) ALTERNATE COMMISSIONERS.—

(1) APPOINTMENT.—The Secretary may, for any anticipated absence of a duly appointed Commissioner at a meeting of the General Council or the Fisheries Commission, designate an individual to serve as an Alternate Commissioner.

(2) FUNCTIONS.—An Alternate Commissioner may exercise all powers and perform all duties of the Commissioner for whom the Alternate Commissioner is designated, at any meeting of the General Council or the Fisheries Commission for which the Alternate Commissioner is designated.

(c) REPRESENTATIVES.—

(1) APPOINTMENT.—The Secretary shall appoint not more than 3 individuals to serve as the representatives of the United States on the Scientific Council, who shall each be known as a ''United States Representative to the Northwest Atlantic Fisheries Organization Scientific Council''.

(2) ELIGIBILITY FOR APPOINTMENT.—

(A) The Secretary may not appoint an individual as a Representative unless the individual is knowledgeable and experienced concerning the scientific issues dealt with by the Scientific Council.

(B) The Secretary shall appoint as a Representative at least 1 individual who is an official of the Government.

(3) TERM.—An individual appointed as a Representative—

(A) shall serve for a term of not to exceed 4 years, as specified by the Secretary at the time of appointment;

(B) may be reappointed; and

(C) shall serve at the pleasure of the Secretary.

(d) ALTERNATE REPRESENTATIVES.—

(1) APPOINTMENT.—The Secretary may, for any anticipated absence of a duly appointed Representative at a meeting of the Scientific Council, designate an individual to serve as an Alternate Representative.

(2) FUNCTIONS.—An Alternate Representative may exercise all powers and perform all duties of the Representative for whom the Alternate Representative is designated, at any meeting of the Scientific Council for which the Alternate Representative is designated.

(e) EXPERTS AND ADVISERS.—The Commissioners, Alternate Commissioners, Representatives, and Alternate Representatives may be accompanied at meetings of the Organization by experts and advisers.

(f) COORDINATION AND CONSULTATION.—

(1) IN GENERAL.—In carrying out their functions under the Convention, Commissioners, Alternate Commissioners, Representatives, and Alternate Representatives shall—

(A) coordinate with the appropriate Regional Fishery Management Councils established by section 302 of the Magnuson Act (16 U.S.C. 1852); and

(B) consult with the committee established under section 208.

(2) RELATIONSHIP TO OTHER LAW.—The Federal Advisory Committee Act (5 U.S.C. [App. §1 et seq.)] *App.*) shall not apply to coordination and consultations under this subsection.

SEC. 203. REQUESTS FOR SCIENTIFIC ADVICE.

(a) RESTRICTION.—The Representatives may not make a request or specification described in subsection (b)(1) or (2), respectively, unless the Representatives have first—

(1) consulted with the appropriate Regional Fishery Management Councils; and

(2) received the consent of the Commissioners for that action.

(b) REQUESTS AND TERMS OF REFERENCE DESCRIBED.—The requests and specifications referred to in subsection (a) are, respectively—

(1) any request, under Article VII(1) of the Convention, that the Scientific Council consider and report on a question pertaining to the scientific basis for the management and conservation of fishery resources in waters under the jurisdiction of the United States within the Convention Area; and

(2) any specification, under Article VIII(2) of the Convention, of the terms of reference for the consideration of a question referred to the Scientific Council pursuant to Article VII(1) of the Convention.

SEC. 204. AUTHORITIES OF SECRETARY OF STATE WITH RESPECT TO CONVENTION.

The Secretary of State may, on behalf of the Government of the United States—

(1) receive and transmit reports, requests, recommendations, proposals, and other communications of and to the Organization and its subsidiary organs;

(2) object, or withdraw an objection, to the proposal of the Fisheries Commission;

(3) give or withdraw notice of intent not to be bound by a measure of the Fisheries Commission;

(4) object or withdraw an objection to an amendment to the Convention; and

(5) act upon, or refer to any other appropriate authority, any other communication referred to in paragraph (1).

SEC. 205. INTERAGENCY COOPERATION.

(a) AUTHORITIES OF SECRETARY.—In carrying out the provisions of the Convention and this title, the Secretary may arrange for cooperation with other agencies of the United States, the States, the New England and the Mid-Atlantic Fishery Management Councils, and private institutions and organizations.

(b) OTHER AGENCIES.—The head of any Federal agency may—

(1) cooperate in the conduct of scientific and other programs, and furnish facilities and personnel, for the purposes of assisting the Organization in carrying out its duties under the Convention; and

(2) accept reimbursement from the Organization for providing such services, facilities, and personnel.

SEC. 206. RULEMAKING.

The Secretary shall promulgate regulations as may be necessary to carry out the purposes and objectives of the Convention and this title. Any such regulation may be made applicable, as necessary, to all persons and all vessels subject to the jurisdiction of the United States, wherever located.

SEC. 207. PROHIBITED ACTS AND PENALTIES.

(a) PROHIBITION.—It is unlawful for any person or vessel that is subject to the jurisdiction of the United States—

(1) to violate any regulation issued under this title or any measure that is legally binding on the United States under the Convention;

(2) to refuse to permit any authorized enforcement officer to board a fishing vessel that is subject to the person's control for purposes of conducting any search or inspection in connection with the enforcement of this title, any regulation issued under this title, or any measure that is legally binding on the United States under the Convention;

(3) forcibly to assault, resist, oppose, impede, intimidate, or interfere with any authorized enforcement officer in the conduct of any search or inspection described in paragraph (2);

(4) to resist a lawful arrest for any act prohibited by this section;

(5) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this section; or

(6) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that the other person has committed an act prohibited by this section.

(b) CIVIL PENALTY.—Any person who commits any act that is unlawful under subsection (a) shall be liable to the United States for a civil penalty, or may be subject to a permit sanction, under section 308 of the Magnuson Act (16 U.S.C. 1858).

(c) CRIMINAL PENALTY.—Any person who commits an act that is unlawful under paragraph (2), (3), (4), or (6) of subsection (a) shall be guilty of an offense punishable under section 309(b) of the Magnuson Act (16 U.S.C. 1859(b)).

(d) CIVIL FORFEITURE.—

(1) IN GENERAL.—Any vessel (including its gear, furniture, appurtenances, stores, and cargo) used in the commission of an act that is unlawful under subsection (a), and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act that is unlawful under subsection (a), shall be subject to seizure and forfeiture as provided in section 310 of the Magnuson Act (16 U.S.C. 1860).

(2) DISPOSAL OF FISH.—Any fish seized pursuant to this title may be disposed of pursuant to the order of a court of competent jurisdiction or, if perishable, in a manner prescribed by regulations issued by the Secretary.

(e) ENFORCEMENT.—The Secretary and the Secretary of the department in which the Coast Guard is operating shall enforce the provisions of this title and shall have the authority specified in sections 311(a), (b)(1), and (c) of the Magnuson Act (16 U.S.C. 1861(a), (b)(1), and (c)) for that purpose.

(f) JURISDICTION OF COURTS.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under this section and may, at any time—

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem, or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take such other actions as are in the interests of justice.

SEC. 208. CONSULTATIVE COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of State and the Secretary, shall jointly establish a consultative committee to advise the Secretaries on issues related to the Convention.

(b) MEMBERSHIP.—

(1) The membership of the Committee shall include representatives from the New England and Mid-Atlantic Fishery Management Councils, the States represented on those Councils, the Atlantic States Marine Fisheries Commission, the fishing industry, the seafood processing industry, and others knowledgeable and experienced in the conservation and management of fisheries in the Northwest Atlantic Ocean.

(2) TERMS AND REAPPOINTMENT.—Each member of the consultative committee shall serve for a term of two years and shall be eligible for reappointment.

(c) DUTIES OF THE COMMITTEE.—Members of the consultative committee may attend—

(1) all public meetings of the General Council or the Fisheries Commission;

(2) any other meetings to which they are invited by the General Council or the Fisheries Commission; and

(3) all nonexecutive meetings of the United States Commissioners.

(d) RELATIONSHIP TO OTHER LAW.—The Federal Advisory Committee Act (5 U.S.C. [App. §1 et seq.)] *App.*) shall not apply to the consultative committee established under this section.

SEC. 209. ADMINISTRATIVE MATTERS.

(a) PROHIBITION ON COMPENSATION.—A person shall not receive any compensation from the Government by reason of any service of the person as—

(1) a Commissioner, Alternate Commissioner, Representative, or Alternate Representative;

(2) an expert or adviser authorized under section 202(e); or

(3) a member of the consultative committee established by section 208.

(b) TRAVEL AND EXPENSES.—The Secretary of State shall, subject to the availability of appropriations, pay all necessary travel and other expenses of persons described in subsection (a)(1) and of not more than six experts and advisers authorized under section 202(e) with respect to their actual performance of their official duties pursuant to this title, in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

(c) STATUS AS FEDERAL EMPLOYEES.—A person shall not be considered to be a Federal employee by reason of any service of the person in a capacity described in subsection (a), except for purposes of injury compensation and tort claims liability under chapter 81 of title 5, United States Code, and chapter 17 of title 28, United States Code, respectively.

SEC. 210. DEFINITIONS.

In this title the following definitions apply:

(1) AUTHORIZED ENFORCEMENT OFFICER.—The term ''authorized enforcement officer'' means a person authorized to enforce this title, any regulation issued under this title, or any measure that is legally binding on the United States under the Convention.

(2) COMMISSIONER.—The term ''Commissioner'' means a United States Commissioner to the Northwest Atlantic Fisheries Organization appointed under section 202(a).

(3) CONVENTION.—The term ''Convention'' means the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, done at Ottawa on October 24, 1978.

(4) FISHERIES COMMISSION.—The term ''Fisheries Commission'' means the Fisheries Commission provided for by Articles II, XI, XII, XIII, and XIV of the Convention.

(5) GENERAL COUNCIL.—The term ''General Council'' means the General Council provided for by Articles II, III, IV, and V of the Convention.

(6) MAGNUSON ACT.—The term ''Magnuson Act'' means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(7) ORGANIZATION.—The term ''Organization'' means the Northwest Atlantic Fisheries Organization provided for by Article II of the Convention.

(8) PERSON.—The term ''person'' means any individual (whether or not a citizen or national of the United States), and any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State).

(9) REPRESENTATIVE.—The term ''Representative'' means a United States Representative to the Northwest Atlantic Fisheries Scientific Council appointed under section 202(c).

(10) SCIENTIFIC COUNCIL.—The term ''Scientific Council'' means the Scientific Council provided for by Articles II, VI, VII, VIII, IX, and X of the Convention.

(11) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce.

SEC. 211. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title, including use for payment as the United States contribution to the Organization as provided in Article XVI of the Convention, $500,000 for each of the fiscal years 1995, 1996, [1997] *1997*, and 1998.

TITLE III—ATLANTIC TUNAS CONVENTION ACT

SEC. 301. SHORT TITLE.

This title may be cited as the ''Atlantic Tunas Convention Authorization Act of 1995''.

SEC. 302. RESEARCH AND MONITORING ACTIVITIES.

(a) REPORT TO CONGRESS.—The Secretary of Commerce shall, within 90 days after the date of enactment of this Act, submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives—

(1) identifying current governmental and nongovernmental research and monitoring activities on Atlantic bluefin tuna and other highly migratory species;

(2) describing the personnel and budgetary resources allocated to such activities; and

(3) explaining how each activity contributes to the conservation and management of Atlantic bluefin tuna and other highly migratory species.

(b) RESEARCH AND MONITORING PROGRAM.—Section 3 of the Act of September 4, 1980 (16 U.S.C. 971i) is amended—

(1) by amending the section heading to read as follows:

''SEC. 3. RESEARCH ON ATLANTIC HIGHLY MIGRATORY SPECIES.'';

(2) by striking the last sentence;

(3) by inserting ''(a) BIENNIAL REPORT ON BLUEFIN TUNA.—'' before ''The Secretary of Commerce shall''; and

(4) by adding at the end the following:

''(b) HIGHLY MIGRATORY SPECIES RESEARCH AND MONITORING.—

''(1) Within 6 months after the date of enactment of the Atlantic Tunas Convention Authorization Act of 1995, the Secretary of Commerce, in cooperation with the advisory committee established under section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) and in consultation with the United States Commissioners on the International Commission for the Conservation of Atlantic Tunas (referred to elsewhere in this section as the 'Commission') and the Secretary of State, shall develop and implement a comprehensive research and monitoring program to support the conservation and management of Atlantic bluefin tuna and other highly migratory species that shall—

''(A) identify and define the range of stocks of highly migratory species in the Atlantic Ocean, including Atlantic bluefin tuna; and

''(B) provide for appropriate participation by nations which are members of the Commission.

''(2) The program shall provide for, but not be limited to—

''(A) statistically designed cooperative tagging studies;

''(B) genetic and biochemical stock analyses;

''(C) population censuses carried out through aerial surveys of fishing grounds and known migration areas;

''(D) adequate observer coverage and port sampling of commercial and recreational fishing activity;

''(E) collection of comparable real-time data on commercial and recreational catches and landings through the use of permits, logbooks, landing reports for charter operations and fishing tournaments, and programs to provide reliable reporting of the catch by private anglers;

''(F) studies of the life history parameters of Atlantic bluefin tuna and other highly migratory species;

''(G) integration of data from all sources and the preparation of data bases to support management decisions; and

''(H) other research as necessary.

''(3) In developing a program under this section, the Secretary shall provide for comparable monitoring of all United States fishermen to which the Atlantic Tunas Convention Act applies with respect to effort and species composition of catch and discards. The Secretary through the Secretary of State shall encourage other member nations to adopt a similar program.''.

SEC. 303. ADVISORY COMMITTEE PROCEDURES.

Section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) is amended—

(1) by inserting ''(a)'' before ''There''; and

(2) by adding at the end the following:

''(b)(1) A majority of the members of the advisory committee shall constitute a quorum, but one or more such members designated by the advisory committee may hold meetings to provide for public participation and to discuss measures relating to the United States implementation of Commission recommendations.

''(2) The advisory committee shall elect a Chairman for a 2-year term from among its members.

''(3) The advisory committee shall meet at appropriate times and places at least twice a year, at the call of the Chairman or upon the request of the majority of its voting members, the United States Commissioners, the Secretary, or the Secretary of State. Meetings of the advisory committee shall be open to the public, and prior notice of meetings shall be made public in a timely fashion.

''(4)(A) The Secretary shall provide to the advisory committee in a timely manner such administrative and technical support services as are necessary for the effective functioning of the committee.

''(B) The Secretary and the Secretary of State shall furnish the advisory committee with relevant information concerning fisheries and international fishery agreements.

''(5) The advisory committee shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this Act, the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and the Convention. The advisory committee shall publish and make available to the public a statement of its organization, practices, and procedures.

''(6) The advisory committee shall, to the maximum extent practicable, consist of an equitable balance among the various groups concerned with the fisheries covered by the Convention and shall not be subject to the Federal Advisory Committee Act (5 U.S.C. [App. §1 et seq.).''.] *App.).*''.

SEC. 304. REGULATIONS.

Section 6(c)(3) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d(c)(3)) is amended by adding ''or fishery mortality level'' after ''quota of fish'' in the last sentence.

SEC. 305. FINES AND PERMIT SANCTIONS.

Section 7(e) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971(e)) is amended to read as follows:

''(e) The civil penalty and permit sanctions of section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858) are hereby made applicable to violations of this section as if they were violations of section 307 of that Act.''.

SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended to read as follows:

''§ 10. Authorization of appropriations

''There are authorized to be appropriated to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in article X of the Convention, the following sums:

''(1) For fiscal year 1995, $2,750,000, of which $50,000 are authorized in the aggregate for the advisory committee established under section 4 and the species working groups established under section 4A, and $1,500,000 are authorized for research activities under this Act.

''(2) For fiscal year 1996, $4,000,000, of which $62,000 are authorized in the aggregate for such advisory committee and such working groups, and $2,500,000 are authorized for such research activities.

''(3) For fiscal year 1997, $4,000,000 of which $75,000 are authorized in the aggregate for such advisory committee and such working groups, and $2,500,000 are authorized for such research activities.''.

''(4) For fiscal year 1998, $4,000,000 of which $75,000 are authorized in the aggregate for such advisory committee and such working groups, and $2,500,000 are authorized for such research activities.''.

SEC. 307. REPORT AND CERTIFICATION.

The Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.) is amended by adding at the end thereof the following:

''§ 11. Annual report

''Not later than April 1, 1996, and annually thereafter, the Secretary shall prepare and transmit to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report, that—

''(1) details for the previous 10-year period the catches and exports to the United States of highly migratory species (including tunas, swordfish, marlin and sharks) from nations fishing on Atlantic stocks of such species that are subject to management by the Commission;

''(2) identifies those fishing nations whose harvests are inconsistent with conservation and management recommendations of the Commission;

''(3) describes reporting requirements established by the Secretary to ensure that imported fish products are in compliance with all international management measures, including minimum size requirements, established by the Commission and other international fishery organizations to which the United States is a party; and

''(4) describes actions taken by the Secretary under section 12.

''§ 12. Certification

''(a) If the Secretary determines that vessels of any nation are harvesting fish which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the convention area in a manner or under circumstances which would tend to diminish the effectiveness of the conservation recommendations of the Commission, the Secretary shall certify such fact to the President.

''(b) Such certification shall be deemed to be a certification for the purposes of section 8 of the Fishermen's Protective Act (22 U.S.C. 1978).

''(c) Upon certification under subsection (a), the Secretary shall promulgate regulations under section 6(c)(4) with respect to a nation so certified.''.

SEC. 308. MANAGEMENT OF YELLOWFIN TUNA.

(a) Not later than 90 days after the date of the enactment of this Act, the Secretary of Commerce in accordance with this section shall publish a preliminary determination of the level of the United States recreational and commercial catch of yellowfin tuna on an annual basis since 1980. The Secretary shall publish a preliminary determination in the Federal Register for comment for a period not to exceed 60 days. The Secretary shall publish a final determination not later than 140 days from the date of the enactment of this section.

(b) Not later than June 1, 1996, the Secretary of Commerce shall implement the recommendations of International Commission for the Conservation of Atlantic Tunas regarding yellowfin tuna.

TITLE IV—FISHERMEN'S PROTECTIVE ACT

SEC. 401. FINDINGS.

The Congress finds that—

(1) customary international law and the United Nations Convention on the Law of the Sea guarantee the right of passage, including innocent passage, to vessels through the waters commonly referred to as the ''Inside Passage'' off the Pacific Coast of Canada;

(2) Canada recently required all commercial fishing vessels of the United States to pay 1,500 Canadian dollars to obtain a ''license which authorizes transit'' through the Inside Passage;

(3) this action was inconsistent with international law, including the United Nations Convention on the Law of the Sea, and, in particular, Article 26 of that Convention, which specifically prohibits such fees, and threatened the safety of United States commercial fishermen who sought to avoid the fee by traveling in less protected waters;

(4) the Fishermen's Protective Act of 1967 provides for the reimbursement of vessel owners who are forced to pay a license fee to secure the release of a vessel which has been seized, but does not permit reimbursement of a fee paid by the owner in advance in order to prevent a seizure;

(5) Canada required that the license fee be paid in person in 2 ports on the Pacific Coast of Canada, or in advance by mail;

(6) significant expense and delay was incurred by commercial fishing vessels of the United States that had to travel from the point of seizure back to one of those ports in order to pay the license fee required by Canada, and the costs of that travel and delay cannot be reimbursed under the Fishermen's Protective Act;

(7) the Fishermen's Protective Act of 1967 should be amended to permit vessel owners to be reimbursed for fees required by a foreign government to be paid in advance in order to navigate in the waters of that foreign country if the United States considers that fee to be inconsistent with international law;

(8) the Secretary of State should seek to recover from Canada any amounts paid by the United States to reimburse vessel owners who paid the transit license fee;

(9) the United States should review its current policy with respect to anchorage by commercial fishing vessels of Canada in waters of the United States off Alaska, including waters in and near the Dixon Entrance, and should accord such vessels the same treatment that commercial fishing vessels of the United States are accorded for anchorage in the waters of Canada off British Columbia;

(10) the President should ensure that, consistent with international law, the United States Coast Guard has available adequate resources in the Pacific Northwest and Alaska to provide for the safety of United States citizens, the enforcement of United States law, and to protect the rights of the United States and keep the peace among vessels operating in disputed waters;

(11) the President should continue to review all agreements between the United States and Canada to identify other actions that may be taken to convince Canada that any reinstatement of the transit license fee would be against Canada's long-term interests, and should immediately implement any actions which the President deems appropriate if Canada reinstates the fee;

(12) the President should continue to immediately convey to Canada in the strongest terms that the United States will not now, nor at any time in the future, tolerate any action by Canada which would impede or otherwise restrict the right of passage of vessels of the United States in a manner inconsistent with international law; and

(13) the United States should redouble its efforts to seek expeditious agreement with Canada on appropriate fishery conservation and management measures that can be implemented through the Pacific Salmon Treaty to address issues of mutual concern.

SEC. 402. AMENDMENT TO THE FISHERMEN'S PROTECTIVE ACT OF 1967.

(a) The Fishermen's Protective Act of 1967 (22 U.S.C. 1971 et seq.) is amended by adding at the end the following new section:

''SEC. 11. (a) In any case on or after June 15, 1994, in which a vessel of the United States exercising its right of passage is charged a fee by the government of a foreign country to engage in transit passage between points in the United States (including a point in the exclusive economic zone or in an area over which jurisdiction is in dispute), and such fee is regarded by the United States as being inconsistent with international law, the Secretary of State shall reimburse the vessel owner for the amount of any such fee paid under protest.

''(b) In seeking such reimbursement, the vessel owner shall provide, together with such other information as the Secretary of State may require—

''(1) a copy of the receipt for payment;

''(2) an affidavit attesting that the owner or the owner's agent paid the fee under protest; and

''(3) a copy of the vessel's certificate of documentation.

''(c) Requests for reimbursement shall be made to the Secretary of State within 120 days after the date of payment of the fee, or within 90 days after the date of enactment of this section, whichever is later.

''(d) [such] *Such* funds as may be necessary to meet the requirements of this section may be made available from the unobligated balances of previously appropriated funds remaining in the Fishermen's Guaranty Fund established under section 7 and the Fishermen's Protective Fund established under section 9. To the extent that requests for reimbursement under this section exceed such funds, there are authorized to be appropriated such sums as may be needed for reimbursements authorized under subsection (a).

''(e) The Secretary of State shall take such action as the Secretary deems appropriate to make and collect claims against the foreign country imposing such fee for any amounts reimbursed under this section.

''(f) For purposes of this section, the term 'owner' includes any charterer of a vessel of the United States.

''(g) This section shall remain in effect until October 1, 1996.''.

(b) The Fishermen's Protective Act of 1967 (22 U.S.C. 1971 et seq.) is further amended by adding at the end the following:

''SEC. 12. (a) If the Secretary of State finds that the government of any nation imposes conditions on the operation or transit of United States fishing vessels which the United States regards as being inconsistent with international law or an international agreement, the Secretary of State shall certify that fact to the President.

''(b) Upon receipt of a certification under subsection (a), the President shall direct the heads of Federal agencies to impose similar conditions on the operation or transit of fishing vessels registered under the laws of the nation which has imposed conditions on United States fishing vessels.

''(c) For the purposes of this section, the term 'fishing vessel' has the meaning given

that term in section 2101(11a) of title 46, United States Code.

''(d) It is the sense of the Congress that any action taken by any Federal agency under subsection (b) should be commensurate with any conditions certified by the Secretary of State under subsection (a).''.

SEC. 403. REAUTHORIZATION.

(a) Section 7(c) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(c)) is amended by striking the third sentence.

(b) Section 7(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)) is amended by striking ''October 1, 1993'' and inserting ''October 1, 2000''.

SEC. 404. TECHNICAL CORRECTIONS.

(a)(1) Section 15(a) of Public Law 103–238 is amended by striking ''April 1, 1994,'' and inserting ''May 1, [1994,''.] *1994.*''.

(2) The amendment made by paragraph (1) shall be effective on and after April 30, 1994.

(b) Section 803(13)(C) of Public Law 102–567 (16 U.S.C. 5002(13)(C)) is amended to read as follows:

''(C) any vessel supporting a vessel described in subparagraph (A) or (B).''.

TITLE V—FISHERIES ENFORCEMENT IN CENTRAL SEA OF OKHOTSK

SEC. 501. SHORT TITLE.

This title may be cited as the ''Sea of Okhotsk Fisheries Enforcement Act of 1995''.

SEC. 502. FISHING PROHIBITION.

(a) ADDITION OF CENTRAL SEA OF OKHOTSK.—Section 302 of the Central Bering Sea Fisheries Enforcement Act of 1992 (16 U.S.C. 1823 note) is amended by inserting ''and the Central Sea of Okhotsk'' after ''Central Bering Sea''.

(b) DEFINITION.—Section 306 of such Act is amended—

(1) by redesignating paragraphs (2), (3), (4), (5), and (6) as paragraphs (3), (4), (5), (6), and (7), respectively; and

(2) by inserting after paragraph (1) the following:

''(2) CENTRAL SEA OF OKHOTSK.—The term 'Central Sea of Okhotsk' means the central Sea of Okhotsk area which is more than two hundred nautical miles seaward of the baseline from which the breadth of the territorial sea of the Russian Federation is measured.''.

TITLE VI—DRIFTNET MORATORIUM

SEC. 601. SHORT TITLE.

This title may be cited as the ''High Seas Driftnet Fishing Moratorium Protection Act''.

SEC. 602. FINDINGS.

The Congress finds that—

(1) Congress has enacted and the President has signed into law numerous Acts to control or prohibit large-scale driftnet fishing both within the jurisdiction of the United States and beyond the exclusive economic zone of any nation, including the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (title IV, Public Law 100–220), the Driftnet Act Amendments of 1990 (Public Law 101–627), and the High Seas Driftnet Fisheries Enforcement Act (title I, Public Law 102–582);

(2) the United States is a party to the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, also known as the Wellington Convention;

(3) the General Assembly of the United Nations has adopted three resolutions and three decisions which established and reaffirm a global moratorium on large-scale driftnet fishing on the high seas, beginning with Resolution 44/225 in 1989 and most recently in Decision 48/445 in 1993;

(4) the General Assembly of the United Nations adopted these resolutions and decisions at the request of the United States and other concerned nations;

(5) the best scientific information demonstrates the wastefulness and potentially destructive impacts of large-scale driftnet fishing on living marine resources and seabirds; and

(6) Resolution 46/215 of the United Nations General Assembly calls on all nations, both individually and collectively, to prevent large-scale driftnet fishing on the high seas.

SEC. 603. PROHIBITION.

The United States, or any agency or official acting on behalf of the United States, may not enter into any international agreement with respect to the conservation and management of living marine resources or the use of the high seas by fishing vessels that would prevent full implementation of the global moratorium on large-scale driftnet fishing on the high seas, as such moratorium is expressed in Resolution 46/215 of the United Nations General Assembly.

SEC. 604. NEGOTIATIONS.

The Secretary of State, on behalf of the United States, shall seek to enhance the implementation and effectiveness of the United Nations General Assembly resolutions and decisions regarding the moratorium on large-scale driftnet fishing on the high seas through appropriate international agreements and organizations.

SEC. 605. CERTIFICATION.

The Secretary of State shall determine in writing prior to the signing or provisional application by the United States of any international agreement with respect to the conservation and management of living marine resources or the use of the high seas by fishing vessels that the prohibition contained in section 603 will not be violated if such agreement is signed or provisionally applied.

SEC. 606. ENFORCEMENT.

The President shall utilize appropriate assets of the Department of Defense, the United States Coast Guard, and other Federal agencies to detect, monitor, and prevent violations of the United Nations moratorium on large-scale driftnet fishing on the high seas for all fisheries under the jurisdiction of the United States and, in the case of fisheries not under the jurisdiction of the United States, to the fullest extent permitted under international law.

TITLE VII—GOVERNING INTERNATIONAL FISHERY AGREEMENT

SEC. 701. AGREEMENT WITH ESTONIA.

Notwithstanding section 203 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1823), the governing international fishery agreement between the Government of the United States of America and the government of the Republic of Estonia as contained in the message to Congress from the President of the United States dated January 19, 1995, is approved as a governing international fishery agreement for the purposes of such Act and shall enter into force and effect with respect to the United States on the date of enactment of this Act.

AMENDMENT NO. 1488

(Purpose: To correct certain minor and technical errors in the bill)

Mr. DOLE. I ask unanimous consent the reported committee amendment be withdrawn and I send a substitute to the desk on behalf of Senators STEVENS, KERRY, SNOWE, and BREAUX.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. STEVENS, for himself, Mr. KERRY, Ms. SNOWE, and Mr. BREAUX, proposes an amendment numbered 1488.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

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

Mr. STEVENS. Mr. President, today I urge the Senate to support the passage of S. 267, the Fisheries Act of 1995—what the Subcommittee on Oceans and Fisheries calls ''the international fish package.''

I introduced S. 267 on January 24, 1995. It was approved by the Commerce Committee in executive session on March 23, 1995 and reported to the full Senate on May 26, 1995.

Senators KERRY, GORTON, BREAUX, PACKWOOD, MURKOWSKI, and MURRAY join me as cosponsors to the bill.

What I am presenting today with Senator KERRY is a bipartisan substitute to the reported bill, which includes additions and minor changes I will briefly address.

We've added an important new section—title VII—to the bill that will implement the agreement reached between the United States and Canada on February 3, 1995 to conserve and manage Yukon River salmon stocks.

This agreement and the necessary implementing legislation will help assure commercial and subsistence fishermen living along the Yukon River in both Alaska and Canada that our shared salmon resources are carefully managed and restored in the years ahead.

I introduced the Yukon legislation (S. 662) on April 3, 1995. The committee received testimony on it at our Magnuson Act reauthorization field hearing in Seattle, WA, on March 18, 1995.

The agreement requires the United States to pay $400,000 annually into a Yukon River restoration and enhancement fund for mutually beneficial salmon restoration and enhancement activities along the Yukon River.

The agreement also creates a joint United States/Canada Yukon River panel to make conservation and management recommendations and to help determine how to spend the restoration and enhancement funds.

My provision establishes the U.S. section of the Yukon River panel and authorizes spending for: The U.S. payment, the necessary costs of the panel and an advisory committee, and other costs associated with the conservation and management of Yukon River salmon.

Title III of the bill—which includes amendments to, and the reauthorization of, the Atlantic Tunas Convention Act—has been revised to require a listing procedures by the United States of nations whose vessels are operating in a way that diminishes the effectiveness of conservation efforts in the Atlantic tunas convention area.

We've also added a new provision to require a review of bluefin tuna regulations.

Minor changes have been made in title IV relating to the source of funds to be used to reimburse United States fishermen who paid Canada's transit fee in 1994.

A new provision has been added to title IV to reimburse the legal and travel costs—not to exceed a total of $25,000—of owners of scallop vessels seized by Canada in 1994, who were fishing for sedentary species outside of Canada's exclusive economic zone.

We've deleted a Governing International Fisheries Agreement [GIFA] with Estonia, which already went into effect since the time we introduced S. 267.

We've added a new section—section 801—which amends the South Pacific Tuna Act of 1988 to authorize vessels documented under the laws of the United States to fish for tuna in all waters of the treaty area, including the U.S. exclusive economic zone of that area.

This new section also lifts certain restrictions for fishing for tuna in the treaty area so long as purse seines are not used to encircle any dolphin or other marine mammal.

Finally, we've added a new section—section 802—at Senator SNOWE's request and with Senator KERRY's assistance, to prohibit a foreign allocation in any fishery within the U.S. exclusive economic zone unless a fishery management plan is in place for the fishery.

The new section 802 prohibits the Secretary of Commerce from approving fishing under a permit application by a foreign vessel for Atlantic herring or mackerel unless the appropriate regional fishery management council has approved the fishing—and unless the Secretary of Commerce has included in the permit any restrictions recommended by the council.

I want to thank Senator KERRY and his staff, Penny Dalton, Lila Helms and Steve Metruck for their work on this package. I also want to thank the staff who assisted me with this: Trevor McCabe, Tom Melius and Rebecca Metzner.

We urge the Senate to pass S. 267. We've worked in recent weeks with House members and staff on the House Resources Committee, and believe the package we are presenting today will be acceptable in the House, so that quick action may be possible in getting this passed into law.

Below is a brief summary of the bill:

SUMMARY

Title I (The High Seas Fishing Compliance Act of 1995) provides for the domestic implementation of the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, which was adopted by the U.N. Food and Agriculture Organization in 1993. It would establish a system of permitting, reporting, and regulation for U.S. vessels fishing on the high seas.

Title II (The Northwest Atlantic Fisheries Convention Act) would implement the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries. The Treaty calls for establishment of the Northwest Atlantic Fisheries Organization (NAFO) to assess and conserve high seas fishery resources off the coasts of Canada and New England. Among other provisions, this title would provide for: 1) U.S. representation in NAFO; 2) coordination between NAFO and appropriate Regional Fishery Management Councils; and 3) authorization for the Secretaries of Commerce and State to carry out U.S. responsibilities under the Convention.

Title III (Atlantic Tunas Convention Act) extends the authorization of appropriations for the Atlantic Tunas Convention Act through fiscal year 1998; provides for the development of a research and monitoring program for bluefin tuna and other wide-ranging Atlantic fish stocks; establishes operating procedures for the International Commission for the Conservation of Atlantic Tunas (ICCAT) Advisory Committee; calls for an annual report to be made and addresses actions to be taken with nations that fail to comply with ICCAT recommendations.

Title IV (Fishermen's Protective Act) reauthorizes and amends the Fishermen's Protective Act of 1967 to allow the Secretary of State to reimburse U.S. fishermen forced to pay transit passage fees by a foreign country regarded by the U.S. to be inconsistent with international law. The amendment responds to the $1,500 (Canadian $) transit fee charged to U.S. fishermen last year for passage off British Columbia.

Title V (Sea of Okhotsk) would prohibit U.S. fishermen from fishing in the Central Sea of Okhotsk (known as the ''Peanut Hole'') except where such fishing is conducted in accordance with a fishery agreement to which both the U.S. and Russia are parties.

Title VI (Relating to U.N. Driftnet Ban) would prohibit the U.S. from entering into any international agreement with respect to fisheries, marine resources, the use of the high seas, or trade in fish or fish products that would prevent full implementation of the United Nations global moratorium on large-scale driftnet fishing on the high seas.

Title VII (Yukon River Salmon Act) would provide domestic implementing legislation for the agreement reached between the United States and Canada on February 3, 1995 to conserve and manage Yukon River salmon stocks. It provides for U.S. representation on the Yukon River Panel; establishes voting procedures for the U.S. section of the panel; and authorizes appropriations for the $400,000 annual contribution required by the United States under the agreement for Yukon River salmon restoration and enhancement, as well as other costs associated with salmon conservation on the Yukon River.

Title VIII (Miscellaneous) includes two sections. Section 801 amends the South Pacific Tuna Act of 1988 to authorize vessels documented under the laws of the United States to fish for tuna in all waters of the Treaty Area, including the U.S. Exclusive Economic Zone of that area. It also lifts certain restrictions for fishing for tuna in the Treaty area so long as purse seines are not used to encircle any dolphin or other marine mammal.

Section 802 prohibits a foreign allocation in any fishery within the U.S. exclusive economic zone unless a fishery management plan is in place for the fishery. Section 802 also prohibits the Secretary of Commerce from approving fishing under permit application by a foreign vessel for Atlantic herring or mackerel unless the appropriate regional fishery management council has approved the fishing; and unless the Secretary of Commerce has included in the permit any restrictions recommended by the Council.

ADOPTION OF S. 267

Mr. PRESSLER. Mr. President, S. 267 the Fisheries Act of 1995, is a bill I am pleased to bring to the floor for consideration today. It is comprised of a number of measures that would strengthen international fishery conservation and management.

I would like to recognize the efforts of Senator STEVENS, our Oceans and Fisheries Subcommittee chairman, who along with Senators KERRY, GORTON, MURRAY, and MURKOWSKI introduced the bill. The bill also was cosponsored by Senator BREAUX and Senator PACKWOOD.

Many of the titles in S. 267, were bills introduced in the 103d Congress but not enacted. The Committee on Commerce, Science, and Transportation held a hearing on these matters on July 21, 1994, indicating a strong bipartisan support for these fishery conservation measures.

The Committee on Commerce, Science, and Transportation reported the bill by unanimous vote on March 23, 1995. While only technical amendments were adopted, it was noted that Senator SNOWE was considering an amendment to restrict directed foreign fishing within the EEZ for Atlantic herring and Atlantic mackerel. We have worked with Senator SNOWE to incorporate her concerns into the committee substitute before us and we appreciate her efforts in reaching this compromise.

We also have incorporated provisions addressing conservation of salmon stocks of the Yukon River and regulations and enforcement actions for migratory species managed under the Atlantic Tunas Convention and the South Pacific Tuna Act.

I also want to note that the committee has worked with Senator PACKWOOD, chairman of the Finance Committee and an active member of the Commerce Committee, to address a provision of the bill that deals with amendments to the Atlantic Tunas Convention Act. We appreciate the cooperation that he and his staff have given us on this provision.

I strongly believe that through the proper conservation and management of our Nation's living marine resources, we will enhance economic opportunities for future generations. The bill before us contains a number of provisions important to the conservation of fishery resources in our oceans. It is a noncontroversial bill with bipartisan support.

Mr. President, I strongly support S. 267 and ask my colleagues to join me in it's adoption.

Ms. SNOWE. Mr. President, I am a cosponsor of the substitute to S. 267 offered by Senator STEVENS, and I rise to express support for the amendment.

Before proceeding to discuss the substitute, I want to offer my sincere thanks to the chairman of the Commerce Committee, Senator PRESSLER, and the chairman of the Oceans and

Fisheries Subcommittee, Senator STEVENS, for their assistance to me throughout the process of considering S. 267. Early on, I expressed an interest in offering an amendment to the bill, and the two chairmen and their staffs always showed a willingness to help me as a freshman member of the committee. S. 267 is the first fisheries bill considered by the Commerce Committee in the 104th Congress, and the leadership and skillfulness that the Senators demonstrated in this effort deserves to be commended.

Mr. President, the substitute includes an amendment that I sponsored which is designed to protect two of the few remaining healthy fish stocks in U.S. waters—Atlantic herring and Atlantic mackerel—from foreign fishing pressures. I consider this amendment and the issues that it addresses to be very important for the health of our domestic fishing industry as well as our domestic fish stocks.

As media stories over the last year have reported, the New England groundfish fishery is now experiencing the most serious crisis in its long history. Groundfish stocks in the region have dwindled to record lows, threatening the future viability of this essential resource. Stringent conservation regulations have been implemented in response to the stock decline in an attempt to prevent a collapse of the fishery. In combination, these two factors have drastically reduced fishing opportunities, threatening a centuries-old industry and the livelihoods of thousands of people in coastal communities across the region who depend on it.

And the regulations approved to date are not the end of it. The New England Fishery Management Council is now developing a public hearing document for new fishing effort reduction measures that are even more draconian than the existing regulations.

To survive in the face of such adversity, many fishermen who want to remain on the water will have to catch species besides groundfish. But unfortunately, given present rates of fishing effort, few species offer much opportunity for new harvesting capacity. Two that do are Atlantic herring and Atlantic mackerel. The National Marine Fisheries Service has determined that these stocks are healthy, and that they can withstand higher rates of harvest without endangering the resource.

Utilization of these species by Northeast fishermen has been limited to date because they generate less value in the market than groundfish. Maine has a viable sardine industry that uses a modest portion of the herring resource, and herring are harvested for bait to supply other fisheries like lobster and bluefin tuna. With regard to mackerel, several processors in the Northeast have established markets serving Canada and the Caribbean.

But significant potential for expansion of these domestic industries exists. The mackerel industry hopes to increase market share in the Caribbean and gain a foothold in West Africa, the Middle East, and Eastern Europe. The Maine sardine industry has been trying to expand its markets in Mexico and the Caribbean. As groundfish landings decline, new players are actively pursuing new opportunities in the sustainable development of herring and mackerel. Resource Trading Company of Portland, Maine, has negotiated a deal to sell 25,000 tons of Atlantic herring to China—a market of enormous potential for New England fishermen.

New England fishing interests are not the only ones pursuing our herring and mackerel, however. Foreign countries like Russia and the Netherlands have shown a keen interest in obtaining fishing rights for these species in U.S. waters. In 1993, the Russians and their domestic partner came close in persuading the Administrator of the National Marine Fisheries Service to approve an application to harvest 10,000 tons of Atlantic mackerel— despite the fact that the Mid-Atlantic Fishery Management Council had specified that no foreign fishing rights for mackerel be granted. Since that time, the Dutch, acting through the European Union, have aggressively pursued foreign fishing rights for mackerel, and the Russians have continued to push for a portion of the stock.

Mr. President, it would be unconscionable for the U.S. Government to allow foreign countries to begin harvesting two of the only healthy stocks left in U.S waters while New England fishermen lose their jobs as a result of the groundfish crisis. Since the process of developing strict fishing regulations for groundfish began four years ago, Federal fisheries managers and policymakers have encouraged groundfishermen to pursue alternatives or ''underutilized'' species like herring and mackerel. They have cited this option as an important way to help some fishermen stay in business during the recovery period for goundfish. To give away our fish to foreign fishermen at this critical time, after all of the rhetoric about developing underutilized species, would be a slap in the face to our fishermen. We should instead help fishermen and processors develop these resources in a sustainable manner, and the best way that we can do that is to provide assurances that sufficient quantities of fish will be available to meet the needs of our industry. We need to give entrepreneurs and fishermen the time to develop new products and markets so that they can compete all over the world with the same countries who seek the last of our healthy fish stocks.

Out of my great concern for the future of the fishing industry in Maine and New England, and out of my strong desire to see American fishermen sustainable utilize Atlantic herring and mackerel, I offered an amendment during committee consideration of S. 267 which would have imposed a 4-year moratorium on the granting of foreign harvesting rights for these two species. This moratorium would have given our industry adequate time to create new products, markets, and associated infrastructure in herring and mackerel. It would have preserved valuable jobs in the New England fishing industry, and it would have done so without strengthening the position of our foreign competitors. The Resource Trading Company deal that I mentioned earlier, which involves only U.S. fishermen, shows clearly the great potential that exists.

In committee, however, Senator GORTON expressed reservations about my amendment. A company based in Washington State that has operated in Russian waters and that is pursuing new markets in Russia was concerned that such a strong statement from the United States on fisheries could negatively affect some of its ongoing business. I agreed to work with Senator GORTON, as well as Senators KERRY, STEVENS, and PRESSLER, to work out a compromise acceptable to all parties.

Fortunately, we were able to reach an agreement on a new amendment that I sponsored and that Senator Kerry agreed to cosponsor. The amendment is contained in the Stevens Substitute under consideration today. It has two provisions.

First, the amendment prohibits the awarding of any foreign harvesting rights for any fishery that is not subject to a fishery management plan under the Magnuson Act. At a bare minimum, no foreign harvesting should be allowed unless a strict regime for managing the harvest is in place. Atlantic herring does not have a council-approved fishery management plan at the present time, so this provision will protect the herring resource from foreign fishing pressure until the New England Fishery Management Council approves a plan.

Second, the amendment adds a new layer of scrutiny to any applications submitted by foreign countries for the harvest of Atlantic herring and mackerel in U.S. waters. Under the current procedures in the Magnuson Act, the regional fishery management council of jurisdiction is required to specify whether foreign harvesting of a particular species should be allowed. The Secretary of Commerce is encouraged to follow the Council's guidance on foreign fishing, but he is not bound by it. In effect, the Secretary can disagree with the Council, and approve a foreign fishing application despite the Council's reservations.

My amendment prohibits the Secretary from approving a foreign fishing application for herring and mackerel unless the council of jurisdiction recommends approval of it. In the absence of explicit Council agreement, the Secretary will no longer be able to grant foreign fishing rights. A foreign applicant will therefore have to convince not only the Commerce and State departments, but the regional council that was established to conserve the

marine fisheries resources of the region, and whose membership is drawn in part from the regional fishing industry. While I would have preferred a moratorium, this new provision will make it more difficult for foreign countries to gain access to our important herring and mackerel resources.

Mr. President, I also wanted to mention a couple of additional amendments contained in the substitute that I cosponsored. Both amendments relate to the management and conservation of Atlantic bluefin tuna and other highly migratory species in the Atlantic.

Last year, pursuant to a request from the Maine and Massachusetts congressional delegations, a scientific peer review panel convened under the auspices of the National Research Council issued an important report that criticized NOAA's scientific work on Atlantic bluefin tuna. The report contained a number of significant findings, but perhaps most significant was the panel's finding that NOAA scientists had erroneously estimated Western Atlantic bluefin population trends since 1988. Rather than a continuing decline during that period, the NRC panel concluded that the stock had remained stable.

Because the International Commission for the Conservation of Atlantic Tunas, to which the United States belongs, relies heavily on NOAA's bluefin science, the NRC peer review report had a profound impact on Atlantic bluefin management. Whereas ICCAT and NOAA had been advocating a 40 percent cut in the Western Atlantic bluefin quota before the report was issued, ICCAT actually approved a slight increase in the existing quota after the report's findings were published. Tuna fishermen in New England, where most of the commercial fishery for the species in the United States exists, had long criticized the quality of NOAA's bluefin science. The NRC report reinforced those criticisms.

This episode points out the need for improved fisheries science in general, and improved research on highly migratory species like Atlantic bluefin tuna, in particular. One way that we can improve research on bluefin and other highly migratory species is to ensure that the scientists who conduct stock assessments and monitoring programs are wholly familiar with the conditions of the primary fisheries for the species. In the case of Atlantic bluefin tuna, most of the scientific activity is conducted at NOAA's Southeast Fisheries Science Center in Miami, even though the overwhelming majority of the commercial fishing activity for the species takes place in the Northeast, and much of the data used by scientists is collected from this fishery.

Senator KERRY sponsored an amendment, which I cosponsored, that requires NOAA to ensure that the personnel and resources of each regional fisheries research center participate substantially in the stock assessments and monitoring of highly migratory species that occur in the region. Hopefully, this provision will bring scientists closer to the fishery, stimulate fresh thinking about fisheries science, and lead to improvements in NOAA's scientific program. Senator KERRY and I have also asked for administrative action on this matter, and we will continue our efforts in that regard after S. 267 is enacted.

I had also cosponsored another amendment offered by Senator BREAUX pertaining to the enforcement of ICCAT conservation measures. Western Atlantic fishermen, particularly American fishermen, have abided by ICCAT's rules since the first stringent quotas were implemented in the early 1980's. Unfortunately, some fishermen from other countries don't appreciate the need for conservation or international agreements the way that our fishermen do, and they harvest highly migratory species in the Atlantic in a reckless and unsustainable manner.

To give ICCAT conservation recommendations greater force, Senator BREAUX drafted an amendment which would have required the Secretary of Commerce to certify that ICCAT has adopted an effective multilateral process providing for restrictive trade measures against countries that fail to address reckless and damaging fishing practices by their citizens. If ICCAT failed to adopt such a process, the Breaux/Snowe amendment would have required the administration to initiate bilateral consultations with problem nations. And in the event that consultations proved unsuccessful and the country in question failed to address unsustainable fishing practices by its nationals, the amendment would have required the Secretary of the Treasury to impose a ban on the imports of certain fish and fish products from that country.

Unfortunately, due to jurisdictional problems in the House that threatened to derail this entire bill, it was decided that the sanctions language in the original Breaux-Snowe amendment would not be included in the substitute. We did, however, include language similar to the other provisions of the amendment which require the Secretary to identify problem nations, and which authorize the President to initiate consultations on conservation-related issues with the governments of these problem nations. I would have preferred the original language, but this was the best that we could do without risking the entire bill.

Let me state, Mr. President, that I do not think the issue of foreign compliance with ICCAT recommendations ends here. I intend to continue monitoring this issue, and if no more progress is made, I think that the Commerce Committee should be prepared to revisit it. We owe it to American fishermen who play by the rules, and to our highly migratory fisheries resources, to ensure that foreign countries are doing their part to conserve these important natural resources.

Mr. President, the amendments that I have described will significantly improve S. 267, and improve U.S. efforts to manage its marine fisheries. I urge my colleagues to support the substitute, and to support S. 267 as amended.

Mr. KERRY. Mr. President, I am pleased to express my pleasure as the Senate prepares to pass the Fisheries Act of 1995. This legislation addresses an issue of great importance to the people of Massachusetts, the Nation, and, indeed, the world—the promotion of sustainable fisheries on a worldwide basis.

One of the world's primary sources of dietary protein, marine fish stocks were once thought to be an inexhaustible resource. However, after peaking in 1989 at a record 100 million metric tons, world fish landings now have begun to decline. The current state of the world's fisheries has both environmental and political implications. Last year, the United Nations Food and Agriculture Organization [FAO] estimated that 13 of 17 major ocean fisheries may be in trouble. Competition among nations for dwindling resources has become all too familiar in many locations around the world.

The bill we are passing today will strengthen international fisheries management. Among the provisions reinforcing U.S. commitments to conserve and manage global fisheries, are the following: First, implementation of the FAO Agreement to Promote Compliance with International Convention and Management Measures by Fishing Vessels on the High Seas that would establish a system regulating U.S. vessels fishing on the high seas; second, implementation of the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries that would provide for U.S. representation in the Northwest Atlantic Fisheries Organization [NAFO] and coordination between NAFO and appropriate Regional Fishery Management Councils; third, improved research and international cooperation with respect to Atlantic bluefin tuna and other valuable highly migratory species; fourth, reimbursement of U.S. fishermen for illegal transit fees charged by the Canadian Government and for legal fees and costs incurred by the owners of vessels that were seized by the Canadian Government in a jurisdictional dispute that were necessary and related to securing the prompt release of the vessel; fifth, a ban on U.S. fishing activities in the central Sea of Okhotsk except where such fishing is conducted in accordance with a fishery agreement to which both the United States and Russia are parties; sixth, a prohibition on U.S. participation in international agreements on fisheries, marine resources, the use of the high seas, or trade in fish or fish products which undermine the United Nations moratorium on large-scale driftnet fishing on

the high seas; seventh, implementation of an interim agreement between the United States and Canada for the conservation of salmon stocks originating from the Yukon River in Canada; eighth, permission for U.S. documented vessels to fish for tuna in waters of the South Pacific Tuna Act of 1988 Area; and ninth, prohibition of a foreign allocation in any fishery within the United States exclusive economic zone unless a fishery management plan is in place for the fishery and the appropriate regional fishing council recommends the allocation.

This bill will make a substantial contribution to U.S. leadership in the conservation and management of international fisheries. I want to acknowledge the leadership on this issue of the chairman of the Oceans and Fisheries Subcommittee, my friend the senior Senator from Alaska. It has been a pleasure working with him. I also want to thank the committee's distinguished ranking member, Senator HOLLINGS, for his support on this bill. I also would like to recognize the staffs of the Commerce Committee for their diligence and their truly bipartisan efforts to bring this bill to the floor, specifically Penny Dalton and Lila Helms from the Democratic Staff and Tom Melius and Trevor Maccabe on the Republican side.

Mr. DOLE. I ask unanimous consent the substitute amendment be agreed to, the bill be deemed read a third time; further that the Commerce Committee be immediately discharged from further consideration of H.R. 716 and the Senate proceed to its immediate consideration, that all after the enacting clause be stricken and the text of S. 267, as amended, be inserted in lieu thereof, further that H.R. 716 be considered read a third time, passed as amended, the motion to reconsider be laid upon the table, and any statements related to the bill appear at appropriate place in the RECORD.

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

The bill (H.R. 716), as amended, was considered read the third time and passed.

Mr. DOLE. Mr. President, I now ask unanimous consent S. 267 be placed back on the calendar.

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

ANAKTUVUK PASS LAND EXCHANGE AND WILDERNESS REDESIGNATION ACT

Mr. DOLE. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of calendar 67, H.R. 400.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 400) to provide for the exchange of lands within Gates of the Arctic National Park and Preserve.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Anaktuvuk Pass Land Exchange and Wilderness Redesignation Act of 1995''.

TITLE I—ANAKTUVUK PASS LAND EXCHANGE AND WILDERNESS REDESIGNATION

SEC. 101. FINDINGS.

The Congress makes the following findings:

(1) The Alaska National Interest Lands Conservation Act (94 Stat. 2371), enacted on December 2, 1980, established Gates of the Arctic National Park and Preserve and Gates of the Arctic Wilderness. The village of Anaktuvuk Pass, located in the highlands of the central Brooks Range, is virtually surrounded by these national park and wilderness lands and is the only Native village located within the boundary of a National Park System unit in Alaska.

(2) Unlike most other Alaskan Native communities, the village of Anaktuvuk Pass is not located on a major river, lake, or coastline that can be used as a means of access. The residents of Anaktuvuk Pass have relied increasingly on snow machines in winter and all-terrain vehicles in summer as their primary means of access to pursue caribou and other subsistence resources.

(3) In a 1983 land exchange agreement, linear easements were reserved by the Inupiat Eskimo people for use of all-terrain vehicles across certain national park lands, mostly along stream and river banks. These linear easements proved unsatisfactory, because they provided inadequate access to subsistence resources while causing excessive environmental impact from concentrated use.

(4) The National Park Service and the Nunamiut Corporation initiated discussions in 1985 to address concerns over the use of all-terrain vehicles on park and wilderness land. These discussions resulted in an agreement, originally executed in 1992 and thereafter amended in 1993 and 1994, among the National Park Service, Nunamiut Corporation, the City of Anaktuvuk Pass, and Arctic Slope Regional Corporation. Full effectuation of this agreement, as amended, by its terms requires ratification by the Congress.

SEC. 102. RATIFICATION OF AGREEMENT.

(a) RATIFICATION.—

(1) IN GENERAL.—The terms, conditions, procedures, covenants, reservations and other provisions set forth in the document entitled ''Donation, Exchange of Lands and Interests in Lands and Wilderness Redesignation Agreement Among Arctic Slope Regional Corporation, Nunamiut Corporation, City of Anaktuvuk Pass and the United States of America'' (hereinafter referred to in this Act as ''the Agreement''), executed by the parties on December 17, 1992, as amended, are hereby incorporated in this Act, are ratified and confirmed, and set forth the obligations and commitments of the United States, Arctic Slope Regional Corporation, Nunamiut Corporation and the City of Anaktuvuk Pass, as a matter of Federal law.

(2) LAND ACQUISITION.—Lands acquired by the United States pursuant to the Agreement shall be administered by the Secretary of the Interior (hereinafter referred to as the ''Secretary'') as part of Gates of the Arctic National Park and Preserve, subject to the laws and regulations applicable thereto.

(b) MAPS.—The maps set forth as Exhibits C1, C2, and D through I to the Agreement depict the lands subject to the conveyances, retention of surface access rights, access easements and all-terrain vehicle easements. These lands are depicted in greater detail on a map entitled ''Land Exchange Actions, Proposed Anaktuvuk Pass Land Exchange and Wilderness Redesignation, Gates of the Arctic National Park and Preserve'', Map No. 185/80,039, dated April 1994, and on file at the Alaska Regional Office of the National Park Service and the offices of Gates of the Arctic National Park and Preserve in Fairbanks, Alaska. Written legal descriptions of these lands shall be prepared and made available in the above offices. In case of any discrepancies, Map No. 185/80,039 shall be controlling.

SEC. 103. NATIONAL PARK SYSTEM WILDERNESS.

(a) GATES OF THE ARCTIC WILDERNESS.—

(1) REDESIGNATION.—Section 701(2) of the Alaska National Interest Lands Conservation Act (94 Stat. 2371, 2417) establishing the Gates of the Arctic Wilderness is hereby amended with the addition of approximately 56,825 acres as wilderness and the rescission of approximately 73,993 acres as wilderness, thus revising the Gates of the Arctic Wilderness to approximately 7,034,832 acres.

(2) MAP.—The lands redesignated by paragraph (1) are depicted on a map entitled ''Wilderness Actions, Proposed Anaktuvuk Pass Land Exchange and Wilderness Redesignation, Gates of the Arctic National Park and Preserve'', Map No. 185/80,040, dated April 1994, and on file at the Alaska Regional Office of the National Park Service and the office of Gates of the Arctic National Park and Preserve in Fairbanks, Alaska.

(b) NOATAK NATIONAL PRESERVE.—Section 201(8)(a) of the Alaska National Interest Land Conservation Act (94 Stat. 2380) is amended by—

(1) striking ''approximately six million four hundred and sixty thousand acres'' and inserting in lieu thereof ''approximately 6,477,168 acres''; and

(2) inserting ''and the map entitled 'Noatak National Preserve and Noatak Wilderness Addition' dated September 1994'' after ''July 1980''.

(c) NOATAK WILDERNESS.—Section 701(7) of the Alaska National Interest Lands Conservation Act (94 Stat. 2417) is amended by striking ''approximately five million eight hundred thousand acres'' and inserting in lieu thereof ''approximately 5,817,168 acres''.

SEC. 104. CONFORMANCE WITH OTHER LAW.

(a) ALASKA NATIVE CLAIMS SETTLEMENT ACT.—All of the lands, or interests therein, conveyed to and received by Arctic Slope Regional Corporation or Nunamiut Corporation pursuant to the Agreement shall be deemed conveyed and received pursuant to exchanges under section 22(f) of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, 1621(f)). All of the lands or interests in lands conveyed pursuant to the Agreement shall be conveyed subject to valid existing rights.

(b) ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT.—Except to the extent specifically set forth in this Act or the Agreement, nothing in this Act or in the Agreement shall be construed to enlarge or diminish the rights, privileges, or obligations of any person, including specifically the preference for subsistence uses and access to subsistence resources provided under the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

TITLE II—ALASKA PENINSULA SUBSURFACE CONSOLIDATION

SEC. 201. DEFINITIONS.

As used in this Act:

(1) AGENCY.—The term agency—

(A) means—

(i) any instrumentality of the United States; and

(ii) any Government corporation (as defined in section 9101(1) of title 31, United States Code); and

(B) includes any element of an agency.

(2) ALASKA NATIVE CORPORATION.—The term ''Alaska Native Corporation'' has the same meaning as is provided for ''Native Corporation'' in section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)).

(3) KONIAG.—The term ''Koniag'' means Koniag, Incorporated, which is a Regional Corporation.

(4) KONIAG ACCOUNT.—The term ''Koniag Account'' means the account established under section 4.

(5) PROPERTY.—The term ''property'' has the same meaning as is provided in section 12(b)(7)(vii) of Public Law 94–204 (43 U.S.C. 1611 note).

(6) REGIONAL CORPORATION.—The term ''Regional Corporation'' has the same meaning as is provided in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(7) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of the Interior.

(8) SELECTION RIGHTS.—The term ''selection rights'' means those rights granted to Koniag, pursuant to subsections (a) and (b) of section 12, and section 14(h)(8), of the Alaska Native Claims Settlement Act (43 U.S.C. 1611 and 1613(h)(8)), to receive title to the oil and gas rights and other interests in the subsurface estate of the approximately 275,000 acres of public lands in the State of Alaska identified as ''Koniag Selections'' on the map entitled ''Koniag Interest Lands, Alaska Peninsula'', dated May 1989.

SEC. 202. ACQUISITION OF KONIAG SELECTION RIGHTS.

(a) The Secretary shall determine, pursuant to subsection (b) hereof, the value of Selection Rights which Koniag possesses within the boundaries of Aniakchak National Monument and Preserve, Alaska Peninsula National Wildlife Refuge, and Becharof National Wildlife Refuge.

(b) VALUE.—

(1) IN GENERAL.—The value of the selection rights shall be equal to the fair market value of—

(A) the oil and gas interests in the lands or interests in lands that are the subject of the selection rights; and

(B) in the case of the lands or interests in lands for which Koniag is to receive the entire subsurface estate, the subsurface estate of the lands or interests in lands that are the subject of the selection rights.

(2) APPRAISAL.—

(A) SELECTION OF APPRAISER.—

(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary and Koniag shall meet to select a qualified appraiser to conduct an appraisal of the selection rights. Subject to clause (ii), the appraiser shall be selected by the mutual agreement of the Secretary and Koniag.

(ii) FAILURE TO AGREE.—If the Secretary and Koniag fail to agree on an appraiser by the date that is 60 days after the date of the initial meeting referred to in clause (i), the Secretary and Koniag shall, by the date that is not later than 90 days after the date of the initial meeting, each designate an appraiser who is qualified to perform the appraisal. The 2 appraisers so identified shall select a third qualified appraiser who shall perform the appraisal.

(B) STANDARDS AND METHODOLOGY.—The appraisal shall—

(i) be conducted in conformity with the standards of the Appraisal Foundation (as defined in section 1121(9) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(9)); and

(ii) utilize risk adjusted discounted cash flow methodology.

(C) SUBMISSION OF APPRAISAL REPORT.—Not later than 180 days after the selection of an appraiser pursuant to subparagraph (A), the appraiser shall submit to the Secretary and to Koniag a written appraisal report specifying the value of the selection rights and the methodology used to arrive at the value.

(3) DETERMINATION OF VALUE.—

(A) DETERMINATION BY THE SECRETARY.—Not later than 60 days after the date of the receipt of the appraisal report under paragraph (2)(C), the Secretary shall determine the value of the selection rights and shall notify Koniag of the determination.

(B) ALTERNATIVE DETERMINATION OF VALUE.—

(i) IN GENERAL.—Subject to clause (ii), if Koniag does not agree with the value determined by the Secretary under subparagraph (A), the procedures specified in section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)) shall be used to establish the value.

(ii) AVERAGE VALUE LIMITATION.—The average value per acre of the selection rights shall not be more than $300.

SEC. 203. KONIAG ACCOUNT.

(a) IN GENERAL.—

(1) The Secretary shall enter into negotiations for an agreement or agreements to exchange Federal lands or interests therein which are in the State of Alaska for the Koniag Selection Rights referred to in section 202.

(2) If the value of the Federal lands to be exchanged is less than the value of the Koniag Selection Rights established in section 202, then the Secretary may exchange the Federal lands for an equivalent portion of the Koniag Selection Rights. The remaining selection rights shall remain available for additional exchanges.

(3) For purposes of this section, the term ''Federal lands'' means lands or interests therein located in Alaska, administered by the Secretary and the title to which is in the United States but excluding all lands and interests therein which are located within a conservation system unit as defined in the Alaska National Interest Lands Conservation Act section 102(4).

(b) ACCOUNT.—

(1) IN GENERAL.—With respect to any Koniag Selection Rights for which an exchange has not been completed by October 1, 2004 (hereafter in this section referred to as ''remaining selection rights''), the Secretary of the Treasury, in consultation with the Secretary, shall, notwithstanding any other provision of law, establish in the Treasury of the United States, an account to be known as the Koniag Account. Upon the relinquishment of the remaining selection rights to the United States, the Secretary shall credit the Koniag Account in the amount of the appraised value of the remaining selection rights.

(2) INITIAL BALANCE.—The initial balance of the Koniag Account shall be equal to the value of the selection rights as determined pursuant to section 3(b).

(3) USE OF ACCOUNT.—

(A) IN GENERAL.—Amounts in the Koniag Account shall—

(i) be made available by the Secretary of the Treasury to Koniag for bidding on and purchasing property sold at public sale, subject to the conditions described in this paragraph; and

(ii) remain available until expended.

(B) ASSIGNMENT.—

(i) IN GENERAL.—Subject to clause (ii) and notwithstanding any other provision of law, the right to request the Secretary of the Treasury to withdraw funds from the Koniag Account shall be assignable in whole or in part by Koniag.

(ii) NOTICE OF ASSIGNMENT.—No assignment shall be recognized by the Secretary of the Treasury until Koniag files written notice of the assignment with the Secretary of the Treasury and the Secretary.

(C) BIDDING AND PURCHASING.—

(i) IN GENERAL.—Koniag may use the Koniag Account to—

(I) bid, in the same manner as any other bidder, for any property at any public sale by an agency; and

(II) purchase the property in accordance with applicable laws, including the regulations of the agency offering the property for sale.

(ii) REQUIREMENTS FOR AGENCIES.—In conducting a transaction described in clause (i), an agency shall accept, in the same manner as cash, an amount tendered from the Koniag Account.

(iii) ADJUSTMENT OF BALANCE.—The Secretary of the Treasury shall adjust the balance of the Koniag Account to reflect each transaction under clause (i).

(4) SPECIAL PROCEDURES.—The Secretary of the Treasury, in consultation with the Secretary, shall establish procedures to permit the Koniag Account to—

(A) receive deposits;

(B) make deposits into escrow when an escrow is required for the sale of any property; and

(C) reinstate to the Koniag Account any unused escrow deposits if a sale is not consummated.

(c) TREATMENT OF AMOUNTS FROM ACCOUNT.—The Secretary of the Treasury shall—

(1) deem as a cash payment any amount tendered from the Koniag Account and received by an agency as a proceed from a public sale of property; and

(2) make any transfer necessary to permit the agency to use the proceed in the event an agency is authorized by law to use the proceed for a specific purpose.

(d) REQUIREMENT FOR THE ADMINISTRATION OF SALES.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary of the Treasury and the heads of agencies shall administer sales described in subsection (a)(3)(C) in the same manner as is provided for any other Alaska Native Corporation that—

(A) is authorized by law as of the date of enactment of this Act; and

(B) has an account similar to the Koniag Account for bidding on and purchasing property sold for public sale.

(2) PROHIBITION.—Amounts in an account established for the benefit of a specific Alaska Native Corporation may not be used to satisfy the property purchase obligations of any other Alaskan Native Corporation.

(e) REVENUES.—The Koniag Account shall be deemed to be an interest in the subsurface for purposes of section 7(i) of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

SEC. 204. CERTAIN CONVEYANCES.

(a) INTERESTS IN LAND.—For the purpose of section 21(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1620(c)), the following shall be deemed to be an interest in land:

(1) The establishment of the Koniag Account and the right of Koniag to request the Secretary of the Treasury to withdraw funds from the Koniag Account.

(2) The receipt by a Settlement Trust (as defined in section 3(t) of such Act (43 U.S.C. 1602(t)) of a conveyance by Koniag of any right in the Koniag Account.

(b) AUTHORITY TO APPOINT TRUSTEES.—In establishing a Settlement Trust under section 39 of such Act (43 U.S.C. 1629e), Koniag may delegate the authority granted to Koniag under subsection (b)(2) of such section to any entity that Koniag may select without affecting the status of the Settlement Trust under this section.

AMENDMENT NO. 1489

(Purpose: To amend title II of the committee amendment)

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Senator MURKOWSKI and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. MURKOWSKI, proposes an amendment numbered 1489.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 12 of the reported measure, beginning on line 13, delete all of Title II and insert in lieu thereof the following:

TITLE II—ALASKA PENINSULA SUBSURFACE CONSOLIDATION

SEC. 201. DEFINITIONS.

As used in this Act:

(1) AGENCY.—The term agency—

(A) means—

(i) any instrumentality of the United States; and

(ii) any Government corporation (as defined in section 9101(1) of title 31 United States Code); and

(B) includes any element of an agency.

(2) ALASKA NATIVE CORPORATION.—The term ''Alaska Native Corporation'' has the same meaning as is provided for ''Native Corporation'' in section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)).

(3) FEDERAL LANDS OR INTEREST THEREIN—The term ''Federal lands or interests therein'' means any lands or properties owned by the United States (i) which are administered by the Secretary, or (ii) which are subject to a lease to third parties, or (iii) which have been made available to the Secretary for exchange under this section through the concurrence of the director of the agency administering such lands or properties; provided, however, excluded from such lands shall be those lands which are within an existing conservation system unit as defined in section 102(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(4)), and those lands the mineral interest for which are currently under mineral lease.

(4) KONIAG.—The term ''Koniag'' means Koniag, Incorporated, which is a Regional Corporation.

(5) REGIONAL CORPORATION.—The term ''Regional Corporation'' has the same meaning as is provided in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(6) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of the Interior.

(7) SELECTION RIGHTS.—The term ''selection rights'' means those rights granted to Koniag, pursuant to subsections (a) and (b) of section 12, and section 14(h)(8), of the Alaska Native Claims Settlement Act (43 U.S.C. 1611 and 1613(h)(8)), to receive title to the oil and gas rights and other interests in the subsurface estate of the approximately 275,000 acres of public lands in the State of Alaska identified as ''Koniag Selections'' on the map entitled ''Koniag Interest Lands, Alaska Peninsula,'' dated May 1989.

SEC. 202. VALUATION OF KONIAG SELECTION RIGHTS.

(a) Pursuant to the provisions of subsection (b) hereof, the Secretary shall value the selection rights which Koniag possesses within the boundaries of Aniakchak National Monument and Preserve, Alaska Peninsula National Wildlife Refuge, and Becharof National Wildlife Refuge.

(b) VALUE.—

(1) IN GENERAL.—The value of the selection rights shall be equal to the fair market value of—

(A) the oil and gas interests in the lands or interests in lands that are the subject of the selection rights; and

(B) in the case of the lands or interests in lands for which Koniag is to receive the entire subsurface estate, the subsurface estate of the lands or interests in lands that are the subject of the selection rights.

(2) APPRAISAL.—

(A) SELECTION OF APPRAISER.—

(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary and Koniag shall meet to select a qualified appraiser to conduct an appraisal of the selection rights. Subject to clause (ii), the appraiser shall be selected by the mutual agreement of the Secretary and Koniag.

(ii) FAILURE TO AGREE.—If the Secretary and Koniag fail to agree on an appraiser by the date that is 60 days after the date of the initial meeting referred to in clause (i), the Secretary and Koniag shall, by the date that is not later than 90 days after the date of the initial meeting, each designate an appraiser who is qualified to perform the appraisal. The 2 appraisers so identified shall select a third qualified appraiser who shall perform the appraisal.

(B) STANDARDS AND METHODOLOGY.—The appraisal shall be conducted in conformity with the standards of the Appraisal Foundation (as defined in section 1121(9) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(9)).

(C) SUBMISSION OF APPRAISAL REPORT.—Not later than 180 days after the selection of an appraiser pursuant to subparagraph (A), the appraiser shall submit to the Secretary and to Koniag a written appraisal report specifying the value of the selection rights and the methodology used to arrive at the value.

(3) DETERMINATION OF VALUE.—

(A) DETERMINATION BY THE SECRETARY.—Not later than 60 days after the date of the receipt of the appraisal report under paragraph (2)(C), the Secretary shall determine the value of the selection rights and shall notify Koniag of the determination.

(B) ALTERNATIVE DETERMINATION OF VALUE.—

(i) IN GENERAL.—Subject to clause (ii), if Koniag does not agree with the value determined by the Secretary under subparagraph (A), the procedures specified in section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)) shall be used to establish the value.

(ii) AVERAGE VALUE LIMITATION.—The average value per acre of the selection rights shall not be less than the value utilizing the risk adjusted discount cash flow methodology, but in no event may exceed $300.

SEC. 203. KONIAG EXCHANGE.

(a) IN GENERAL.—

(1) The Secretary shall enter into negotiations for an agreement or agreements to exchange Federal lands or interests therein which are in the State of Alaska for the selection rights.

(2) if the value of the federal property to be exchanged is less than the value of the selection rights established in Section 202, and if such federal property to be exchanged is not generating receipts to the federal government in excess of one million dollars per year, than the Secretary may exchange the federal property for that portion of the selection rights having a value equal to that of the federal property. The remaining selection rights shall remain available for additional exchanges.

(3) For the purposes of any exchange to be consummated under this Title II, if less than all of the selection rights are being exchanged, then the value of the selection rights being exchanged shall be equal to the number of acres of selection rights being exchanged multiplied by a fraction, the numerator of which is the value of all the selection rights as determined pursuant to Section 202 hereof and the denominator of which is the total number of acres of selection rights.

(2) ADDITIONAL EXCHANGES.—If, after ten years from the date of enactment of this Act, the Secretary has been unable to conclude such exchanges as may be required to acquire all of the selection rights, he shall conclude exchanges for the remaining selection rights for such federal property as may be identified by Koniag, which property is available for transfer to the administrative jurisdiction of the Secretary under any provision of law and which property, at the time of the proposed transfer to Koniag is not generating receipts to the federal government in excess of one million dollars per year. The Secretary shall keep Koniag advised in a timely manner as to which properties may be available for such transfer. Upon receipt of such identification by Koniag, the Secretary shall request in a timely manner the transfer of such identified property to the administrative jurisdiction of the Department of the Interior. Such property shall not be subject to the geographic limitations of section 206(b) of the Federal Land Policy and Management Act and may be retained by the Secretary solely for the purposes of transferring it to Koniag to complete the exchange. Should the value of the property so identified by Koniag be in excess of the value of the remaining selection rights, then Koniag shall have the option of (i) declining to proceed with the exchange and identifying other property or (ii) paying the difference in value between the property rights.

(c) REVENUES.—Any property received by Koniag in an exchange entered into pursuant to subsection (a) or (b) of this section shall be deemed to be an interest in the subsurface for purposes of section 7(i) of the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*); provided, however, should Koniag make a payment to equalize the value in any such exchange, then Koniag will be deemed to hold an undivided interest in the property equal in value to such payment which interest shall not be subject to the provisions of section 9(j).

SEC. 206. CERTAIN CONVEYANCES.

(a) INTERESTS IN LAND.—For the purposes of section 21(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1620(e)), the receipt of consideration, including, but not limited to, lands, cash or other property, by a Native Corporation for the relinquishment to the United States of land selection rights granted to any Native Corporation under such Act shall be deemed to be an interest in land.

(b) AUTHORITY TO APPOINT AND REMOVE TRUSTEE.—In establishing a Settlement Trust under section 39 of such Act (43 U.S.C. 1629c), Koniag may delegate, in whole or part, the authority granted to Koniag under subsection (b)(2) of such section to any entity that Koniag may select without affecting the status of the trust as a Settlement Trust under such section.

TITLE III—STERLING FOREST

SECTION 301. SHORT TITLE.

This title may be cited as the ''Sterling Forest Protection Act of 1995''.

SEC. 302. FINDINGS.

The Congress finds that—

(1) the Palisades Interstate Park Commission was established pursuant to a joint resolution of the 75th Congress approved in 1937 (Public Resolution No. 65; ch. 706; 50 Stat. 719), and chapter 170 of the Laws of 1937 of the State of New York and chapter 148 of the Laws of 1937 of the State of New Jersey;

(2) the Palisades Interstate Park Commission is responsible for the management of 23 parks and historic sites in New York and New Jersey, comprising over 82,000 acres;

(3) over 8,000,000 visitors annually seek outdoor recreational opportunities within the Palisades Park System;

(4) Sterling forest is a biologically diverse open space on the New Jersey border comprising approximately 17,500 acres, and is a highly significant watershed area for the State of New Jersey, providing the source for clean drinking water for 25 percent of the State;

(5) Sterling Forest is an important outdoor recreational asset in the northeastern United States, within the most densely populated metropolitan region in the Nation;

(6) Sterling forest supports a mixture of hardwood forests, wetlands, lakes, glaciated valleys, is strategically located on a wildlife migratory route, and provides important habitat for 27 rare or endangered species;

(7) the protection of Sterling Forest would greatly enhance the Appalachian National Scenic Trail, a portion of which passes through Sterling Forest, and would provide for enhanced recreational opportunities through the protection of lands which are an integral element of the trail and which would protect important trail viewsheds;

(8) stewardship and management costs for units of the Palisades Park System are paid for by the States of New York and New Jersey; thus, the protection of Sterling Forest through the Palisades Interstate Park Commission will involve a minimum of Federal funds;

(9) given the nationally significant watershed, outdoor recreational, and wildlife qualities of Sterling Forest, the demand for open space in the northeastern United States, and the lack of open space in the densely populated tri-state region, there is a clear Federal interest in acquiring the Sterling forest for permanent protection of the watershed, outdoor recreational resources, flora and fauna, and open space; and

(10) such an acquisition would represent a cost effective investment, as compared with the costs that would be incurred to protect drinking water for the region should the Sterling Forest be developed.

SEC. 303. PURPOSES.

The purposes of this Title are—

(1) to establish the Sterling Forest Reserve in the State of New York to protect the significant watershed, wildlife, and recreational resources within the New York-New Jersey highlands region;

(2) to authorize Federal funding, through the Department of the Interior, for a portion of the acquisition costs for the Sterling Forest Reserve;

(3) to direct the Palisades Interstate Park Commission to convey to the Secretary of the Interior certain interests in lands acquired within the Reserve; and

(4) to provide for the management of the Sterling Forest Reserve by the Palisades Interstate Park Commission.

SEC. 304 DEFINITIONS.

In this Title.

(1) COMMISSION.—The term ''Commission'' means the Palisades Interstate Park Commission established pursuant to Public Resolution No. 65 approved August 19, 1937 (ch. 707; 50 Stat. 719).

(2) RESERVE.The term ''Reserve'' means the Sterling Forest Reserve.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 305. ESTABLISHMENT OF THE STERLING FOREST RESERVE.

(A) ESTABLISHMENT.—Upon the certification by the Commission to the Secretary that the Commission has acquired sufficient lands or interests therein to constitute a manageable unit, there is established the Sterling Forest Reserve in the State of New York.

(b) MAP.—

(1) COMPOSITION.—The Reserve shall consist of lands and interests therein acquired by the Commission with the approximately 17,500 acres of lands as generally depicted on the map entitled ''Boundary Map, Sterling Forest Reserve'', numbered SFR–60,001 and dated July 1, 1994.

(2) AVAILABILITY FOR PUBLIC INSPECTION.—The map described in paragraph (1) shall be on file and available for public inspection in the offices of the Commission and the appropriate offices of the National Park Service.

(c) TRANSFER OF FUNDS.—Subject to subjection (d), the Secretary shall transfer to the Commission such funds as are appropriated for the acquisition of lands and interests therein within the Reserve.

(d) CONDITIONS OF FUNDING.—

(1) AGREEMENT BY THE COMMISSION.—Prior to the receipt of any Federal funds authorized by this Act, the Commission shall agree to the following:

(A) CONVEYANCE OF LANDS IN EVENT OF FAILURE TO MANAGE.—If the Commission fails to manage the lands acquired within the Reserve in a manner that is consistent with this title the Commission shall convey fee title to such lands to the United States, and the agreement stated in this subparagraph shall be recorded at the time of purchase of all lands acquired within the Reserve.

(B) CONSENT OF OWNERS.—No lands or interest in land may be acquired with any Federal funds authorized or transferred pursuant to this title except with the consent of the owner of the land or interest in land.

(C) INABILITY TO ACQUIRE LANDS.—If the Commission is unable to acquire all of the lands within the Reserve, to the extent Federal funds are utilized pursuant to this title the Commission shall acquire all or a portion of the lands identified as ''National Park Service Wilderness Easement Lands'' and ''National Park Service Conservation Easement Lands'' on the map described in section 305(b) before proceeding with the acquisition of any other lands within the Reserve.

(D) CONVEYANCE OF EASEMENT.—Within 30 days after acquiring any of the lands identified as ''National Park Service Wilderness Easement Lands'' 29 and ''National Park Service Conservation Easement Lands'' on the map described in section 305(b), the Commission shall convey to the United States—

(i) conservation easements on the lands described as ''National Park Service Wilderness Easement Lands'' on the map described in section 305(b), which easements shall provide that the lands shall be managed to protect their wilderness character; and

(ii) conservation easements on the lands described as ''National Park Service Conservation Easement Lands'' on the max described in section 305(b), which easements shall restrict and limit development and use of the property to that development and use that is—

(I) compatible with the protection of the Appalachian National Scenic Trail; and

(II) consistent with the general management plan prepared pursuant to section 305(b).

(2) MATCHING FUNDS.—Funds may be transferred to the Commission only to the extent that they are matched from funds contributed by non-Federal sources.

SEC. 306. MANAGEMENT OF THE RESERVE.

(a) IN GENERAL.—The Commission shall manage the lands acquired within the Reserve in a manner that is consistent with the Commission's authorities and with the purposes of this title.

(b) GENERAL MANAGEMENT PLAN.—Within 3 years after the date of enactment of this title, the Commission shall prepare a general management plan for the Reserve and submit the plan to the Secretary for approval.

SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this title, to remain available until expended.

(b) LAND ACQUISITION.—Of amounts appropriated pursuant to subsection (a), the Secretary may transfer to the Commission not more than $17,500,000 for the acquisition of lands and interests in land within the Reserve.

Mr. DOLE. Mr. President, I ask unanimous consent the amendment be considered agreed to, the substitute as amended be agreed to, the bill as amended be considered read a third time and passed, the motion to reconsider be laid upon the table, and 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. 400), as amended, was considered read the third time and passed.

ORDERS FOR MONDAY, JULY 10, 1995

Mr. DOLE. Mr. President, I ask unanimous consent when the Senate reconvenes on Monday, July 10, that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, time for the two leaders be reserved for their use later in the day; there then be a period for the transaction of morning business not to extend beyond the hour of 1 p.m, with Senators permitted to speak for up to 5 minutes each; further, at the hour of 1 p.m, the Senate resume consideration of S. 343, the regulatory reform bill.

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

PROGRAM

Mr. DOLE. Mr. President, for the information of all Senators, at 1 p.m., Senator ABRAHAM will be recognized to offer an amendment to be followed by an amendment to be offered by Senators NUNN and COVERDELL. Votes on these two amendments will occur at 5:15 under a previous order.

Senators should also be on notice that further votes can be expected under the pending regulatory reform bill.

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

THE RESCISSIONS PACKAGE

Mr. DOLE. Mr. President, with respect to the rescissions package, I regret we were unable to pass that, were unable to complete action on the rescissions package because it was something that had broad support on both sides of the aisle, support by the President.

The President very much wanted to have it done before this Fourth of July recess. As I indicated earlier, the Senator from Minnesota, Senator WELLSTONE, and the Senator from Illinois, Senator CAROL MOSELEY-BRAUN, were within their rights to block action on the bill.

But I must say, as I listened to their statements in which they wished they

could have offered their amendments, they had about 3 hours to offer amendments and used all that time and just had a discussion of the amendments and what was wrong with the bill.

And I am not certain when the rescissions package will be back for a vote. Unless there is an agreement on that side of the aisle I will not bring it back up on the Senate floor. As soon as the President can persuade my Democratic colleagues that this bill is necessary, it is important, and it ought to be passed, and I do not see any reason to take any further time of other Senators because we have a lot of important legislation.

But keep in mind, again this bill which was blocked contains money for the Oklahoma City disaster, it contains money for California earthquakes, it contains money for 39, I think 39, States which suffered disasters, including the States of Illinois, and maybe Minnesota. I am not certain.

So, while the Senators have every right to make their point about certain programs they do not agree with, this rescissions package had been the subject of long discussions, long debate, and even after it passed the Senate and the House, was vetoed by the President; more debate, more discussion by the White House and Democrats and Republicans on each side of the aisle.

So I hope when we come back we will have an agreement that we can take it up immediately, and have an up-or-down vote on the bill itself without amendments.

I would say again there was certainly every opportunity by either the Senator from Illinois or the Senator from Minnesota to offer all the amendments they wanted to offer today. They refused to offer amendments. So I proposed I would offer their amendments. I asked consent to offer their amendments. And they objected.

So I do not want the record to reflect that somehow they were somehow disadvantaged and did not have an opportunity to offer their amendment. That was not the case. They had plenty of time and could have offered the amendments. We could have been finished with that bill by now, and a lot of people around the country would have felt a lot better about it.

So I do not know how they explain it. But that will be their problem.

WELFARE DEBATE

Mr. DOLE. Mr. President, there has been a great deal of speculation in recent days over the prospects for passage of a welfare reform bill. Before departing for the recess, I wanted the opportunity to set the record straight.

Notwithstanding the efforts of some to drive us apart, Republicans are committed to truly ending welfare as we know it. We are not unmindful of the struggles faced by many in this country who need a hand up some time in their lives, or of children who through no fault of their own need the helping hand of the Government. But, Mr. President, we are also not convinced that the Federal Government holds all the answers to the very real problems these people face. In fact, the real story is that notwithstanding the billions of dollars that have been spent over the last decade, the welfare rolls have continued to grow and the number of children at risk has increased. We have all decried these problems and have responded by adding to the list of the things that the States must do. Well, the time has come to listen to the States for a change and give them a chance to devise some solutions that fit their needs.

The issues that divide us are not insurmountable nor are they easily resolved. But the extraordinary thing is that the debate is not over whether we want block grants—it is how best to design them. Our differences are over how to distribute the funds and how much flexibility to give the States in the design of these programs.

The funding issue is a real one and of critical importance to all States. There are States that will experience real population growth that are concerned they will be disadvantaged in this new block grant environment. There are also States that in the past have committed considerable State resources to the program that feel their past contributions should be acknowledged.

No formula fight is ever easy, as every Senator knows. The House and Senate bills create loan funds—but this may not be the perfect answer. We will seek other options to balance the needs of all.

The second group of issues is equally thorny. None of us is unconcerned about the dramatic increase in the numbers of teen pregnancies and the number of children born out-of-wedlock. These are serious issues—not easily addressed. Many of us believe the Governors of our States can and will deal with these problems, as many of them have tried to do. They want us out of the way—that is what they are asking us—not dictating solutions. Others believe that the issue can best be addressed here.

I remain hopeful we can strike some middle ground and am working to that end.

For at the end of the day, we cannot fail. We must not break faith with the American people who sent us a clear message last fall—end welfare as we know it once and for all, require real work, and make it a temporary helping hand, not a lifestyle.

ADJOURNMENT UNTIL MONDAY, JULY 10, 1995

Mr. DOLE. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate now stand in adjournment under the provisions of Senate Concurrent Resolution 20.

There being no objection, the Senate, at 3:58 p.m., adjourned until Monday, July 10, 1995, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate June 29, 1995:

DEPARTMENT OF THE INTERIOR

JOHN RAYMOND GARAMENDI, OF CALIFORNIA, TO BE DEPUTY SECRETARY OF THE INTERIOR, VICE FRANK A. BRACKEN, RESIGNED.

THE JUDICIARY

R. GUY COLE, JR., OF OHIO, TO BE U.S. CIRCUIT JUDGE FOR THE SIXTH CIRCUIT, VICE NATHANIEL R. JONES, RETIRED.

NOMINATIONS

Executive nominations received by the Senate June 30, 1995:

IN THE DEPARTMENT OF DEFENSE

THE FOLLOWING-NAMED OFFICER UNDER THE PROVISIONS OF TITLE 10. UNITED STATES CODE, SECTION 152, FOR REAPPOINTMENT AS CHAIRMAN OF THE JOINT CHIEFS OF STAFF AND REAPPOINTMENT TO THE GRADE OF GENERAL WHILE SERVING IN THAT POSITION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE.

CHAIRMAN OF THE JOINT CHIEFS OF STAFF

To be general

GEN. JOHN M. SHALIKASHVILI, 000–00–0000, U.S. ARMY.

DEPARTMENT OF STATE

WILLIAM HARRISON COURTNEY, OF WEST VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GEORGIA.

THE JUDICIARY

BARRY TED MOSKOWITZ, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA VICE A NEW POSITION CREATED BY PUBLIC LAW 101–650, APPROVED DECEMBER 1, 1990.

STEPHEN M. ORLOFSKY, OF NEW JERSEY, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY VICE DICKINSON R. DEBEVOISE, RETIRED.

WILLIAM K. SESSIONS III, OF VERMONT, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF VERMONT VICE FRED I. PARKER, ELEVATED.

ORTRIE D. SMITH, OF MISSOURI, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF MISSOURI VICE HOWARD F. SACHS, RETIRED.

DONALD C. POGUE, OF CONNECTICUT, TO BE JUDGE OF THE U.S. COURT OF INTERNATIONAL TRADE VICE JAMES L. WATSON, RETIRED.

DEPARTMENT OF THE TREASURY

HOWARD MONROE SCHLOSS, OF LOUISIANA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY VICE JOAN LOGUE-KINDER.