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Senate

The Senate met at 12:01 p.m., and was called to order by the Honorable PAT ROBERTS, a Senator from the State of Kansas.

PRAYER

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

Almighty God, Sovereign of this Nation and Lord of our lives, our purpose is to glorify You by serving our Nation. We want to express energetic earnestness about our work today. Help us to know what You want and then want what we know; to say what we mean, and mean what we say. Give us resoluteness and intentionality. Free us to listen to You so intently that we can speak with intrepidness. Keep us in the battle for truth rather than ego skirmishes over secondary issues. Make us party to Your plans so we can give leadership to our parties, and then help our parties to work together to accomplish Your purposes. Make us one in the earnestness of patriotism.

Before us is a new week filled with more to do than we can accomplish on our own strength. Grant the Senators intellectual, emotional, and volitional strength to envision a week in which what is truly important gets done. Help them expeditiously to move through the supplemental appropriations legislation and amendments listening to each other and making guided decisions. Lift our anchors out of the mud of any combative competition, lift our sails, and remind us that it is Your set of our sails and not the gales that determine where we shall go. In the name of our Lord and Savior. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 5, 1997.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PAT ROBERTS, a Senator from the State of Kansas, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. ROBERTS thereupon assumed the chair as Acting President pro tempore.

Mr. MURKOWSKI addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I thank the Chair and wish the occupant a good day.

COMPLIMENTING THE CHAPLAIN

Mr. MURKOWSKI. Mr. President, I compliment the Chaplain for the inspirational message, which I think challenges us all to focus in on the priorities.

SCHEDULE

Mr. MURKOWSKI. Mr. President, on behalf of the leader, for the information of all Senators, today the Senate will begin consideration of Senate bill 672, the supplemental appropriations bill. Amendments are expected to be offered to this bill today. However, there will be no votes during today's session. The majority leader will notify all Members as early as possible with respect to rollcall votes on these amendments which will occur during Tuesday's session of the Senate.

It is the intention of the majority leader that the Senate complete action on this important bill this week. The Senate could also be asked to turn to any other Legislative or Executive Calendar items that can be cleared for action.

As always, the majority leader will notify Senators as soon as any agreements are reached on scheduling votes on the supplemental appropriations bill or on other matters.

I thank my colleagues for their attention.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 1 p.m, with Senators permitted to speak therein for not to exceed 5 minutes each.

(The remarks of Mr. MURKOWSKI pertaining to the introduction of S. 691 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. WELLSTONE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota is recognized.

THE BUDGET AGREEMENT

Mr. WELLSTONE. Mr. President, I rise to speak about the budget agreement. Let me start out with a little bit of context. I will just read a figure from the fine work of the Center on Budget Priorities. In the last Congress, the 104th Congress, more than 93 percent of the budget reductions in entitlement programs came from programs for low-income people.

Mr. President, in the last Congress, we cut about $50 billion in assistance for legal immigrants and also in the major food and nutrition program in this country, the Food Stamp Program. Please remember, Mr. President, that the vast majority of the beneficiaries of the Food Stamp Program are children in working-poor families, on the average, with an income of below $6,500 a year. Those benefits were cut by 20 percent over the next 5 years—a 20-percent cut.

Mr. President, I give that by way of background because now we have a

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

budget agreement, and I suppose it can be argued that an agreement is good because you have people coming together. But the question is: At what cost?

Mr. President, I don't see much of a standard of fairness in this agreement. I suppose, in many ways, my challenge is more to Democrats than to Republicans when I speak here on the floor. I think that when we go through this budget and we look at the cuts in discretionary programs, we will find, again, that, inevitably, the disproportional number of these cuts will be in programs that are most important to the most vulnerable citizens in this country. Many of them are poor children in America. I do know, Mr. President, that the discretionary part of this budget in relation to GDP is the lowest percentage it has been in 40 years.

Mr. President, if I juxtapose what will be further reductions in assistance for some of the most vulnerable citizens in our country on top of what we did in the last Congress, with $85 billion over the first 5 years and another $165 billion over the next 5 years, $250 billion in tax cuts, and then looking from about 2008 to 2017, about an additional $400 billion as you look at the impact of cuts in capital gains tax and estate tax, many of those benefits will flow to the top 1, 2, 3 percent of the population.

I want to just ask my colleagues, and I would like to ask the President: Where is the standard of fairness? Where is the standard of fairness? Where is our soul as a party that has a reputation for being willing to fight for ordinary people, being willing to fight for working people and working families, being willing to fight for opportunities for children.

Mr. President, I think we have to be very careful about what I would call, for use of a better description, symbolic politics. What do I mean by that? I mean, Mr. President, that if you look at this budget and you think back to just a few weeks ago, with the conference at the White House on the development of the brain and the importance of early childhood development and what we must do to make sure that every woman expecting a child has an adequate diet, make sure there is nutrition for children, to make sure that there is health care for children, and to make sure that there is intellectual development and good child care, remembering that one out of every four children in our country are growing up poor in America and one out of every two children of color are growing up poor in America. Mr. President, I don't see in this budget anything that advances the cause of these children. I see only a retreat. Where is the investment? Where is the investment in our children?

Mr. President, we have been focusing on the budget deficit. How about the investment deficit? How about the spiritual deficit? I thought that now that the medical evidence is irrefutable and irreducible and so compelling that if we don't get it right for all of God's children in our country in their early years, they may never come to school ready to learn, and they certainly will not be ready for life. I thought we were going to make investments to make sure they had opportunities.

This budget still doesn't fully fund the Head Start Program. I could explain that when there was a Republican President, President Reagan or President Bush. I have a hard time explaining that with a Democrat President.

On the supplemental, in the Senate and House, we are still in a battle to make sure that we get the WIC funding that we need. We are still not there. Mr. President, I read a foundation report. David Packard, who used to be Undersecretary of Defense with President Reagan, points out that whether it is child care at home, or whether it is center-based child care, or whether you need to do to have more child care at a place of business, however you look at it—and we are not talking about just poor children or low-income families, we are talking about the vast majority of families in our country who are concerned about how to make a decent living and also how to give their children the care they know their children deserve. I think of our own children. Sheila and I have children in their twenties and early thirties. They have children, and I think of their incomes and the cost of child care and how important this is for families. Where is the investment? Where is the investment?

Mr. President, I just suggest that there is something wrong. There is something terribly wrong. There is a quiet crisis in a Nation—our Nation—when we don't do better for our children. We have conferences and say we are for children and we love to have our photos taken next to children, and we don't make the investment. We now know the neuroscience evidence is compelling that children must have good nutrition and health care, and there certainly must be affordable, good child care, however delivered, at the local community level, and we know it is going to require some funding and investment. That is not in this budget agreement. Have we now locked ourselves in, over the next 5, 6 years, to saying we will not make this investment?

Mr. President, I say to my own colleagues—Democrats—in the past month or so, we have beamed back to our homes pictures of dilapidated school buildings. We were going to focus on doing something about too many rotting schools in our Nation. We, as Democrats, were going to take a stand on this, and we should. Mr. President, it is not exactly the right message for children when they go into schools, whether it be in Anacostia, 2 miles from here, or in any of our States in some of our inner city neighborhoods and the buildings are dilapidated, the toilets don't work, the heating doesn't work. We are saying to these children: We don't care about you. We don't give a damn about you.

Mr. President, that is a Federal responsibility. That is infrastructure. And Democrats, we beam these pictures back of these buildings and we are the party of commitment. Well, Mr. President, in this budget agreement, the $5 billion plan for school renovation was knocked out. Now, actually, it would cost much more than that. It was knocked out. It was abandoned. So, to my colleagues, let's not say that we are concerned about rotting school buildings for too many children in America and then sign on to a budget agreement that doesn't invest one cent—one cent—in making sure that these are safe buildings for our children. Let's not do that. That is just symbolic politics. That is symbolic politics at its worst.

Mr. President, we don't even take a baby step toward investment in children and opportunities for children. We don't even make a dent at all. At the same time, we are going to have $250 billion of tax cuts, a large percentage of which benefits those at the very top of the income ladder, at the same time we have done precious little by way of reductions in Pentagon budget, and at the same time this other whole area that apparently we really don't want to go after in any significant degree, called corporate welfare, the loopholes and deductions for a variety of interests in the country, remains almost untouched. What kind of standard of fairness is that?

Mr. President, we have a quiet crisis in a nation that believes we can go forward as a national community with two Americas. We can't do that. There is another America. Unfortunately, that other America includes many children who will never have a chance to reach their full potential if we as a Senate and a House of Representatives do not make some investment in their future. This budget is a budget without a soul when it comes to the concerns and circumstances of these children.

So, Mr. President, when it comes to investment in children and education, I do not believe I am articulating a position that is one that people in the country don't support. I believe people believe that this is the goodness of our country. This is the American dream to make sure that every child has these opportunities. We have set the bar in this budget agreement right here. I want the bar to be set up here. If my colleague, Paul Simon, from Illinois was here today he would say that we can do better. Mr. President, we can do better.

So I am going to come to the floor of the Senate with some amendments. These amendments are going to call for us to do better. These amendments are going to essentially say to the people in the country, ''Don't judge us by the words we speak. Judge us by the budgets that we write.'' These amendments

are going to say to colleagues, ''Please don't separate the legislative lives you live from the words you speak.'' And, if you say you are for the children, and you say early childhood development is so important, and you say you are for a quality of opportunity for every child, regardless of color of skin, regardless of rich, or poor, regardless of urban, or rural, then clearly we are going to have to do better. If you say that we should not have these rotting schools in our country—and what all of the local school districts say to us in their plea to us is important and please invest some money in infrastructure, then you have to invest. That has to be in the budget. And, if you say that you understand that these early years are so important, you know it as a father or as a mother, you know it as a grandfather, or a grandmother—we have always known intuitively how important these early years are—and they are important for all children. And children don't do well in school, if they don't have an adequate diet. And children don't do well in school, if they are in pain or discomfort because they haven't been able to receive medical care. And children don't do well in school, if they have not had really good child care that nurtures their development, whether they are at home, or one or both parents are working. And, if you say all of that—and almost all of you do—it is time to invest. Time is not neutral for these children. We keep talking about the children.

So, Mr. President, I am going to introduce a number of amendments to take the bar up here. I might lose, or I might win. But I am going to really fight hard. I would just say to the President ''Mr. President,''—I am talking now to the President at the White House, President Clinton—''we can do better.''

I don't see the standard of fairness. I don't see an agreement with major tax cuts, and so much revenue lost over the next 10 years and 20 years to the tune of hundreds of billions of dollars benefiting many people who do not even need the assistance, and at the same time a budget agreement that represents a retreat and abandon of too many children in America.

We have had enough conferences. Enough books have been written. Enough pleas have been made. There has been enough blitz. It is time now that we match our words with the deeds. And the deed is to make this investment.

Mr. President, this will be my major priority over the next month to come in the U.S. Senate.

I yield the floor.

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

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

Mr. THOMAS. Mr. President, I ask unanimous consent that I have permission to speak for approximately 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for that purpose.

Mr. THOMAS. Thank you, Mr. President.

FREEDOM FROM GOVERNMENT COMPETITION ACT

Mr. THOMAS. Mr. President, I come to the floor this morning to talk about one of my top priorities for the 105th Congress. That is the Freedom From Government Competition Act.

I am struck by the fact that we are considering now the supplemental appropriations bill and debate on it will last, I am sure, all week. Then next week we will consider the budget which will take at least another week of debate. During these deliberations, we will talk about funding the essentials of Government which, of course, is one of Congress' most important tasks. But, unfortunately, it seems to me that we spend an awful lot of time on the budget and on appropriations and funding the Government in the form it is currently in, and less time than we should talking about the changes that we ought to make in the Government.

So, while I am on the floor today, I want to mention a couple of bills I have sponsored to change the role of the Federal Government. One is the biennial budget. I think we really ought to consider going to a biennial budget in this Congress as we do in many States so that we can deal with the budget once every 2 years. Agencies would do a better job with 2 years of funding because they would have some stability in their funding levels. Certainly we can look at least 2 years ahead in terms of budget, so that Congress has a whole year to talk about some of the reforms that ought to take place; that ought to change in Government.

I am persuaded that without some overt changes, without fundamental changes brought about by the Congress, that Government just continues to go on, just continues to grow, just continues to expand. It is the nature of government.

Quite frankly, according to one of the studies by GAO regarding one agency that I just read this weekend, there is no real accountability in terms of spending. So that accountability in terms of what you do with the money and the results that you have in the Government agencies are largely the responsibilities of the Congress.

Congress does not have time to do that. We spend too much of our time with the budget, too much of our time with appropriations. One of the other things that we ought to do, in my opinion, is to ensure that the Government is not competing with the private sector in areas that are basically commercial in nature that could better be done and could more cheaply be done through outsourcing.

My legislation, the Freedom From Government Competition Act, has the potential to open up a $30 billion market for our Nation's businesses, mostly small businesses, to have an opportunity, by contract, to fulfill the commercial needs of the Federal Government. It would level the playing field for thousands of our Nation's businesses that span the economic spectrum of this whole country, from mundane things to very high tech things, from janitorial services, hospitality and recreation services, to engineering services, laboratories and testing services—those functions that are commercial in nature that are now done by the Government that could better and likely more inexpensively be done in the private sector.

The bill is quite simple, as a matter of fact. It simply says that OMB would take a look at all the activities and functions of Government, would identify those that are commercial in nature, and then create a fair and competitive process to outsource those activities to the private sector. Of course, not only does the bill answer the call of the American people to limit the size of Government and encourage the private sector—but it has a great deal of value in terms of the Federal budget. The taxpayers could save many billions of dollars. The interesting part of this concept is that it has been around for a very long time. For over 40 years we have been dealing with this issue. It has been the Federal Government's policy to contract out for over 40 years. Unfortunately, it has not worked. The evidence is that it has not worked. In fact, I recently ran across an excerpt of a 1954 Congressional Quarterly Almanac that details how the current policy came into existence.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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

[From the Congressional Quarterly Almanac, 1954]

BUSINESS COMPETITION FROM GOVERNMENT

HR 9835—Reported by House Government Operations Committee (H. Rept. 241) July 21, 1954.

Passed by the House, amended, July 24 by voice vote.

Reported by Senate Government Operations Committee, with amendment, Aug. 10 (S. Rept. 2382).

Legislation (HR 9835) aimed at putting an end to government operations which were in competition with private enterprise cleared the House, and it was subsequently reported by the Senate Government Operations Committee. No further action was taken on the measure during the 1954 session.

BACKGROUND

The Intergovernmental Relations Subcommittee of the House Government Operations Committee held hearings in June, 1953, on federal activities in commercial and industrial fields. The hearings, which concentrated on areas where the government

might be in competition with private business began June 9 and were concluded June 16.

A list compiled by the Subcommittee noted 86 commercial and industrial activities in the federal government. Among them were: 31 manufacturing items (including coffee roasting, dentures, sleeping bags, aluminum and atomic energy); seven fields of transportation; 26 service activities (including commissaries, power plants, insurance and fish hatcheries); six construction; seven maintenance; and nine miscellaneous activities (research and development to fur sealing);

Testimony

June 9. First witness was Rep. Clarence J. Brown (R. Ohio) who said military commissaries presented a ''real threat to free enterprise'' because of their competition with private business. Rowland Jones, Jr., representing the American Retail Foundation, said post exchanges were like big department stores except their prices were 25 per cent lower.

In a discussion of whether the Boston Navy Yard's ropewalk, where Navy rope was made, should be retained, the Cordagee Institute, a trade organization, said the mill was unduly competitive with private industry, costly to taxpayers, and private enterprise was capable of filling government needs at reasonable prices.

Rep. Thomas P. O'Neill, Jr., (D. Mass.) said he believed the ropewalk operation should continue. David Himmelfarb, representing employees at the ropewalk, supported retention of the operation.

June 10, Craig R. Sheaffer, Assistant Secretary of Commerce, said his Department would work with the Subcommittee to minimize instances of unfair government competition.

June 11. Witnesses who testified on instances where they said the government was offering unfair completion to private businesses were Robert H. North, International Association of Ice Cream Manufacturers; Hap Holliday, California Retail Grocers; and C.E. Herington, Metal Treating Institute.

Liquor sold on Army posts

June 16. The group was told by Benjamin Josephs, representing the National Retail Liquor Package Stores, Inc., that illegal liquor sales on military posts were cutting in on private businesses, causing big tax losses, misusing government personnel and disrupting distribution of alcoholic beverages.

Clem D. Johnston, a vice president of the Chamber of Commerce of the U.S., called for a complete review and curtailment of the ''Defense Department's vast empire of commercial and industrial enterprise.'' He said that Department was competing with private enterprise ''in nearly very segment of our economy.''

Thomas B. Crowley of San Francisco, representing West Coast tugboat and marine salvage operators, urged that the Navy be removed from the salvage business. He said private business could do it more efficiently and cheaply.

Wilson takes action

Secretary of Defense Charles E. Wilson Dec. 15, 1953 ordered the military services to discontinue iron and steel processing and other business activities which could be performed satisfactorily by private firms.

Rep. Cecil M. Harden (R. Ind.), chairman of the Intergovernmental Relations Subcommittee, said Dec. 23 the National Coffee Association had recommended that the government close its coffee roasting plants and utilize the services of commercial roasters exclusively. Mrs. Harden said that this step would ''save millions of dollars to the government annually.''

Defense Department policy

Quoting the directive from Secretary of Defense Wilson which stated that it was the policy of the Department of Defense ''not to engage in the operation of industrial or commercial type facilities unless it can be demonstrated that it is necessary for the government itself to perform the required work.'' Mrs. Harden announced that the first step in putting the directive into effect might be the closing of most of the 61 military plants processing scrap iron.

HOUSE

Committee, Government Operations.

Reports. On Feb. 9, 1954, it filed a report (H. Rept. 1197) in which its Subcommittee on Intergovernmental Relations recommended ''vigorous'' action to curb governmental operations in commerce and industry.

Eleven Democratic members of the Committee refused to sign the report, objecting in ''additional views'' to ''generalization'' and ''hazy conclusions'' which could make the report ''a political document.''

The Committee June 16 approved three intermediate reports from the Subcommittee on Intergovernmental Relations regarding its study of the federal government in business competition with private enterprise. The reports dealt with government-owned sawmills, plants for processing ferrous scrap, and the like.

Government steel plant

In the report on iron and steel the Subcommittee said the armed services and Atomic Energy Commission should reevaluate the need for retaining government-owned plants for processing iron and steel scrap, and that no major equipment should be purchased or installed until this was done.

LEGISLATION

Hearings. July 14–19 on three related bills, H.R. 8832, H.R. 9834, and H.R. 9835, dealing with the matter of government business competition with private enterprise.

Testimony, July 14. Witnesses included Reps. Harden, Frank C. Osmers, Jr. (R. N.J.), and Thomas B. Curtis (R. Mo.).

July 15. Witnesses were representatives and officials of taxpayers' associations, small-business groups, retail federations and industry organizations.

July 19. Spokesmen for the Departments of Defense and Commerce and the Budget Bureau testified that federal agencies were placing government contracts and production into competitive free enterprise where possible, particularly activities previously performed by the federal government.

Bill reported

The Committee July 21 reported a bill (H.R. 9835—H. Rept. 2441) designed to get the government out of commercial activities that were in competition with private enterprise.

As reported, the bill carried the following provisions:

Declare it the policy of Congress that the Federal government should not engage ''in business-type operations competitive with private enterprise'' except when there was a proven necessity for it.

Request the President to make a survey, through the Commerce Department, of government commercial activities with a view to ending those not essential. The President, however, would not be permitted to terminate any activities expressly authorized by Congress.

Provide that the President make an annual report to Congress on these operations.

FLOOR ACTION

The House passed HR 9835 by voice vote July 24 without floor amendments. Rep. William L. Springer (R Ill.) said the nation was ''becoming more aware of the inefficiency and high costs—all things considered—of government operation of business-type facilities and services.''

SENATE

Committee. Subcommittee on Legislative Program, Government Operations.

Hearing. Aug. 9 on HR 9835.

Testimony. Otis H. Ellis, general counsel of National Oil Jobbers Council, objected to Armed Services post exchanges running gasoline service stations. He said the bill lacked ''teeth'' but ''is at least a start in the right direction.''

Other testimony favoring the legislation was received from American Retail Federation, National Associated Businessmen, Inc., and the Investors League of America.

Opposition statements came from three AFL groups: International Association of Machinists, the Metal Trades Council and the American Federation of Government Employees.

Bill reported

The Committee Aug. 10 reported HR 9835 (S. Rept. 2382) with an amendment in the nature of a substitute.

Senate Committee recommendations were to:

State clearly the legislative policy that the federal government ''desires to encourage private competitive enterprise to the maximum extent compatible with national security'' and that the government shall not engage in business-type operations in competition with private enterprise except where necessary.

Authorize the President to end any commercial competitive federal activity not specifically provided for by law, provided the termination would not impair an essential federal operation, adversely affect the national security, or result in or contribute to monopolization of trade or commerce.

Provide for Commerce Department examination of complaints of federal competition with private enterprise, and action toward eliminating such activities.

Provide for a Presidential survey of federal commercial operations, and submission of an annual report to Congress on the subject.

GROUP STANDS

National Associated Businessmen, Inc., a group seeking to ''get government out of business,'' waged a nationwide campaign for passage of HR 3832, a bill introduced by Rep. Frank C. Osmers, Jr. (R. N.J.) to achieve this objective.

The Chamber of Commerce of the United States announced July 30 it had sent a letter to Sen. Joseph R. McCarthy (R Wis.), chairman of the Senate Government Operations Committee, urging passage of legislation being considered by his group which, the Chamber said, would curb government competition with private business. The letter declared that S. 3794 or a similar House bill (HR 9835) would ''help identify government products and services which business and industry can provide fully as well.''

Mr. THOMAS. In 1954, the House of Representatives passed a bill numbered H.R. 9835, legislation to require the executive branch to increase its reliance on the private sector—1954. Among the concerns addressed by the bill were manufacturing, construction and service activities of the Federal Government. Final action on the bill was dropped only upon assurance from the Executive Branch that it would implement the policy administratively. Bureau of the Budget Bulletin 55–4 was issued in 1955, prohibiting agencies from

carrying on any commercial activities which could be provided by the private sector. Unfortunately, today we face exactly the same problems Congress faced in 1954. The Federal Government continues not only to compete with the private sector by providing its own goods and services but it also competes with the private sector to provide those goods and services for some other unit of Government or to other private sector entities. Of course, that unfair competition kills private-sector jobs, stifles the economy, erodes the tax base, and hurts small business.

One of the top issues the last several times the small business community has held their White House conference—in 1980, 1986, and 1994—was provision for an opportunity to fairly compete. To do that, of course, you have to have a process which takes into account all of the costs for the Federal Government and the private sector and consider other issues like past performance in order to have a fair comparison. It also means over time an agency, if it were going to do a lot of contracting, would change its structure. Instead of being designed to perform these functions and contract out, you would pare the agency down to where its real expertise would be in oversight and supervision of functions that were to be done.

The bill that we have introduced, which I would like to encourage my fellow Senators to consider, codifies the policy that the Government should rely on the private sector for its commercial needs. There are exceptions, of course—inherently governmental functions and exemptions for national security concerns. In addition, the Federal Government, if it can provide a better value to the taxpayer, should do it. But if the private sector can provide a better value to American taxpayers, it should have a chance to do it.

It also provides for OMB to examine these issues and establishes an office of commercial activities within OMB to implement the bill.

Mr. President, I hope that we do consider some of these kinds of changes. The climate is right for action. Congressman DUNCAN, with whom the Senator from Kansas and I both served in the House, has introduced a companion bill. The Senate is already on record in support of this bill. Last year, the Senate voted 59 to 39 in favor of an amendment to the Treasury, Postal appropriations bill that would have prevented unfair Government competition. Unfortunately, it was dropped from the omnibus appropriations bill. It should be a high priority. We ought to be doing some of these things that create fundamental change in the Federal Government. We are going to seek to balance the budget. We will see in the future the benefit of setting those kinds of priorities. If we could save $30 billion annually through this concept, that is a sizable amount of savings which could be transferred to something else or help balance the budget.

In summary, let me say again I think it is a shame we simply go on year after year talking about the same agenda over time, the same kind of Government operation, without taking a look at some of the ways it could be changed. The private sector operates differently, it has to evolve over time. If it does not change, it bows out; it goes out of business.

So there is a compelling reason to make the changes. The Government by its nature—and there is nothing wrong with the people; it is the nature of the beast—does not change unless there are changes forced upon it, and, frankly, programs are developed and they have an advocacy in the country and they just do not change. I think that is our responsibility. It is our responsibility to evaluate the effectiveness, to evaluate not only what is done or how many dollars are spent but results. We are in the process now of implementing a result-oriented law that was passed a couple of years ago, and by this spring each agency is to have a fundamental, systemic plan that measures results. My bill is consistent with that effort.

Mr. President, I urge my fellow Members of the Senate to consider some fundamental changes in the Federal Government which would allow for many of our small businesses to meet its commercial needs and provide a better value to American taxpayers than they are currently getting.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

THE CUSTOMS ENFORCEMENT AND MARKET ACCESS ACT

Mr. BYRD. Mr. President, I am pleased to be an original cosponsor of S. 646, the Customs Enforcement and Market Access Act, introduced by the senior Senator from Kentucky, Mr. FORD. This measure would provide the American textile and apparel industry with clear oversight and enforcement of U.S. trade law, and the means to mobilize the industry's capability to compete in the increasingly competitive global market.

For years, the U.S. textile and apparel sectors have been struggling to overcome the burdens of trade agreements that appear to mercilessly alter the textile and apparel quotas and tariffs systems, without offering the synergies necessary to compete under the new rules. Unfortunately, these burdens are magnified by unfair competition caused by overseas producers who seek to exceed and bypass these same negotiated agreements.

In West Virginia, 2,900 textile and apparel jobs continue to survive, although the State has lost 3,000 of such jobs since 1990. Textile and apparel jobs are predominantly located in the State's more rural counties and are critical to the local economies. Additionally, these workers may not have the assets to relocate or the skills to easily transfer to another manufacturing sector.

I believe that even the strongest supporters of laissez-faire economic ideologies must recognize the wisdom of negotiating trade agreements that avoid vast costs to, and unfair burdens on, particular segments of our economy. I am not advocating some outmoded retreat to protectionism. The United States must advocate open market and, at the same time, promote an equitable and fair trade system in which the American people have faith, in which American industries have a chance to compete, and which will curtail the shipping of American jobs overseas.

In this regard, I believe that the Customs Enforcement and Market Access Act will provide the necessary impetus to remove the current obtrusive trade barriers from the textile and apparel industry, and invigorate the industry's ability to effectively compete in the global market. The bill's market-access provisions provide requirements for vigorous enforcement of trade agreements and for aggressive action against unfair trade practices by establishing a Special 301 authority. I have long been an ardent supporter of Section 301 and Super 301, and I believe that it is essential that the United States Trade Representative have the tools to quickly make unfair trade practice determinations and then diligently monitor and enforce corrective measures.

This measure also allows reasonable federal investment to help the textile and apparel industry modernize and more effectively compete against overseas competitors. I am aware that there are many who doubt that the U.S. textile and apparel industries can re-establish themselves to be competitive global forces and, thus, will oppose this modest investment. I, however, do not doubt the abilities and spirit of these workers, just as I never doubted the ability of this nation's steel workers, who, against enormous odds, have today reclaimed their position as world class producers, following many years of struggle and uncertainty. I ask my colleagues to carefully weigh such a small investment and its possible returns against the billions we expend annually on various corporate welfare schemes for multimillion dollar industries.

Crafting trade policies that balance domestic and international economic objectives is not easy. I hope that my colleagues will join me in supporting the Customs Enforcement and Market Access Act, which I believe accurately assesses the challenges of the global market and adequately provides the

tools necessary to improve the competitive position of the U.S. textile and apparel industry.

In behalf of the textile and apparel workers in West Virginia, and the nation, I am proud to be a cosponsor of the Customs Enforcement and Market Access Act. I thank Senator FORD for his leadership in introducing the bill.

FAMILY PEACE DAY

Ms. MOSELEY-BRAUN. Mr. President, I ask my colleagues to join me in recognizing the first-annual Family Peace Day in Chicago, IL.

The goal of Family Peace Day is to focus attention on domestic abuse issues, how to combat domestic violence and build healthy families, to address legal issues and to inform Illinois citizens of the resources available to combat domestic violence.

Family Peace Day is a joint project of the Women's Bar Association of Illinois and the Black Women Lawyers' Association of Greater Chicago, Inc. Chicago Mayor Richard M. Daley, Justice Mary Ann G. McMorrow of the Illinois Supreme Court, Chief Judge Donald O'Connell of the Circuit Court of Cook County, and Cook County Board President John H. Stroger, Jr., are serving as honorary cochairs. Additional supporters include Attorney General James Ryan, Chicago Metropolitan Battered Women's Domestic Violence Network, Chicago Public Schools, Chief Judge Donald O'Connell's Domestic Violence Coordinating Council, Cook County State's Attorney Richard Devine, the Department of Children and Family Services, Illinois Family Violence Coordinating Council, and many legal, judicial, health care, social service and nonprofit organizations, including the American Medical Association, the Archdiocese of Chicago, the Chicago Police Department, the Council for the Jewish Elderly, the John Marshall Law School, the Mujeres Latinas En Accion, and the Peace Museum. I commend these individuals and organizations for working together to help victims of domestic abuse and to teach individuals how to combat domestic violence and build healthy families.

The Family Peace Day activities will begin with a press conference kickoff rally and award presentation to Chicago public school student winners of poetry, prose, and poster contests depicting their vision of a healthy family. There will be an Expo consisting of booths providing the public free legal and medical advice and counseling or referrals from social service providers, health care providers, and attorneys practicing family law. At noon there will be a luncheon awards ceremony at the Palmer House Hilton, sponsored by the Circuit Court of Cook County, to honor those who have made significant contributions to the administration of justice in the areas of domestic violence and abuse.

There can be no more important goal than healthy, safe, and strong families. I am proud that Chicago is taking the lead in holding the first Family Peace Day and I look forward to communities around the country joining in with their own Family Peace Day activities.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the order, morning business is closed.

SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT OF 1997

The PRESIDING OFFICER. The Senate will now proceed to consideration of S. 672, which the clerk will report.

The bill clerk read as follows:

A bill (S. 672) making supplemental appropriations and rescissions for the fiscal year ending September 30, 1997, and for other purposes.

The Senate proceeded to consider the bill.

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

PRIVILEGE OF THE FLOOR

Mr. STEVENS. Mr. President, I ask unanimous consent that the privilege of the floor be granted to the appropriations staff as listed on the request that I send to the desk.

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

The list is as follows:

Majority clerks: Becky Davies, Jim Morhard, Mary Beth Nethercutt, Alex Flint, Robin Cleveland, Bruce Evans, Craig Higgins, Christine Ciccone, Sid Ashworth, Wally Burnett, Tammy Perrin, and Jon Kamarck.

Also, Lisa Sutherland, Dona Pate, Susan Hogan, Jay Kimmitt, Carrie Apostolou, Martha Poindexter, Kevin Linsky, and Paddy Linc.

Mr. STEVENS. Mr. President, this bill covers several subcommittees. It is just easier to do it that way.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, it is my privilege to present to the Senate S. 672, which provides emergency supplemental appropriations for numerous natural disasters and defense overseas contingencies. This is my first opportunity to come before the Senate as chairman of the Appropriations Committee, and I am very proud that this first bill from our committee focuses on assisting our fellow citizens in need. I am humbled to be here with my good friend from West Virginia, the distinguished former majority leader, minority leader, chairman of our Appropriations Committee, and now the ranking member of the Appropriations Committee. I can think of no one I have studied under longer than Senator BYRD. It is a privilege to be here to present this bill with him today.

Our committee reported this bill on Wednesday, and the report has been available since last Thursday for Members. Many of our colleagues will comment later on the terrible events which precipitated this disaster relief bill. They represent the States involved, and I will leave it to them to comment on the specific situations in their own States.

Our committee worked to target spending in this bill to the agencies and accounts that are responding to these crises now. The $5.5 billion provided for emergency relief exceeds the President's request by $2.5 billion. Some of these funds will not be spent this fiscal year. We sought to use the best estimates we could, but in many cases it will be weeks or months until a final assessment of damages can be made in these disaster areas.

As has been widely reported, there are some controversial measures in this bill. I do thank all my colleagues on the Appropriations Committee for their cooperation during the markup last week. One clear conclusion we reached was that not all the funds in this bill will be directed to the most recent disasters. We have witnessed a steady increase in the Presidential disaster recommendations, which have radically increased disaster relief costs. In addition, the President has waived the matching requirement on many of the programs involved, adding to the Federal costs for these disasters. We cannot and will not try to solve this problem on this bill, but it is something I believe must be addressed by Congress. There ought to be a clear understanding and a clear yardstick for disasters, regardless of the area involved.

All new spending in this bill is offset by corresponding rescissions or budget authority or canceling spending authority. This is sort of complicated. For budget scoring purposes, the disaster-related spending will be treated as an emergency. Those outlays will not count against this year's budget limits.

Part of this difference relates to how CBO scores appropriations bills. The Congressional Budget Office has a unique approach. When we appropriated funds for military personnel in September, the Congressional Budget Office scored those outlays—the money would actually be spent under the authorizations that were previously given by Congress—they were scored at 98 percent. Yet, when we rescind those same funds in this bill, the Congressional Budget Office process credits the committee with only 25 percent of the outlays as savings to offset the money spent. It is the same dollar, but we only get a portion of the credit. The moneys have already been spent; that is the problem. The bias of the CBO process makes offsetting outlays a daunting task this late in the fiscal year.

Our committee did not recommend general cuts against agencies to offset these disaster funds, and I urged Members not to propose reductions against the operating accounts of agencies. The disaster relief funds proposed in the bill are not targeted or earmarked for any region of the country. Again, I ask our colleagues to follow the suggestions the Appropriations Committee

made and hold to this practice during the consideration of this bill. The needs of all persons and communities impacted by these crises are real and pressing. Mr. President, some of these disasters occurred last year, some this year. I do not believe we should—and I will oppose attempts to—tie the funds of agencies responsible for providing relief to the impacted regions. There is still much unknown about these disasters, as I said before. I do not believe we should second-guess, nor should we micromanage from Congress, relief efforts at this stage. Once more precise recovery plans are developed, we will have an opportunity in the fiscal year 1998 bills, which will be presented later this year, to address some additional specific needs.

The bill also includes $1.8 billion for defense contingency operations. Earlier this year, I went with a delegation of Senators to Bosnia and to Southwest Asia to review United States military operations there. We returned disturbed by the lack of concern about the costs of the operations by our regional commanders. My staff and I have been working since January with the comptroller at the Department of Defense and the Joint Chiefs of Staff to establish procedures and controls to help control and monitor spending for overseas deployments. This committee report before the Senate reduced the funds requested for overseas operations by $100 million. Already, to his great credit, Secretary Cohen has reduced unneeded units in both Bosnia and southwest Asia, and I believe more savings will be achieved during this fiscal year.

In the case of unforeseen emergencies, our bill includes an additional $100 million in reprogramming authority for the Department of Defense. In the past, the administration has increased spending on these overseas operations without any consultation with Congress.

The commanders in the field discussed with the Senators I was with and myself, in January, in Bosnia, in Kuwait, in Saudi Arabia, and in connection with the Bosnia operation in both Hungary and Italy, commitments of 20 to 30 years for procurement for these overseas deployments. They did so without the slightest concern or hesitation about the costs involved. I believe that is a process that should stop. Spending on contingencies does not mean giving military commanders a blank check to commit us to expenditures far into the years to come for deployments which have never been approved by Congress.

In fiscal year 1998, we will take specific steps to ensure fiscal concerns are addressed on all peacekeeping operations. The Department of Defense now refers to missions such as Bosnia and Southwest Asia as, ''operations other than war.'' Unfortunately, some spending practices of the Department, and particularly the regional commanders, assume wartime needs and are driven by wartime needs.

I want to assure the Senate and the Department that our committee will tirelessly work to ensure that any of our forces deployed in the field have everything they need to fight and win and maintain their safety in any conflict. Their deployment, however, cannot be without the participation of Congress. Ultimately we are called upon to pay the bill for such deployments.

We have had some disagreements with regard to this bill. I do not think there has been any question, however, that all concerned wanted to report this bill to the Senate as quickly as possible to meet the needs that I have spoken about. I hope the bill marks the commencement of a long and fruitful partnership among all members of the Appropriations Committee serving during this Congress. I do believe that this bill can be completed by tomorrow evening, or Wednesday at the latest. It will, of course, be our practice to await the passage of the bill in the House before we take final action on this bill. And I do hope all Senators will help us work toward the goal of being prepared to send the bill to conference as soon as the House has sent us their appropriations bill for these disasters.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, as every Senator is aware, over the past winter and now into spring, the Nation has been besieged by numerous natural disasters that have wreaked havoc on hundreds of communities across the country and have affected the lives of hundreds of thousands of our citizens. The damages from these disasters in terms of financial losses run into the billions of dollars. Many people have lost many, if not all, of their worldly possessions, things that they worked for for a lifetime. Not only their homes and personal possessions have been destroyed, but in many cases, entire communities have been wiped out, leaving many citizens with no means of livelihood.

It is only fitting that the President and the Senate should move as quickly as is humanly possible to address the financial costs of these disasters and thereby, hopefully, help to lift the spirits of those who have lost so much.

The bill now before the Senate contains more than $5.5 billion for the various disaster assistance programs throughout the Federal Government to provide relief for the communities and the citizens of those communities who have suffered devastation from these historic natural disasters. The largest single amount, $3.5 billion, will go to the Federal Emergency Management Agency, FEMA, which has a major responsibility in providing disaster relief. In addition, the bill provides $650 million for emergency highway repairs resulting from floods in the western, midwestern, northern plains and mid-Atlantic regions of the Nation between December of 1996 and April of this year. This amount is $359 million more than requested by the administration, but is fully supported by the President since the committee's recommendation covers the most recent estimates of highway damages.

For the emergency conservation program, an appropriation of $77 million is included, together with $161 million for watershed and flood prevention operations. For the Economic Development Administration, the bill contains an appropriation of $54.7 million for emergency grants.

The bill also contains over $500 million for flood control and operations and maintenance accounts of the Corps of Engineers, and $187 million for emergency repairs of national parks, principally at Yosemite National Park. There is an appropriation of $91 million for construction activities of the Fish and Wildlife Service for damages to their resources due to flooding and storms around the country. For the U.S. Forest Service, $68 million is provided for repairs, reconstruction, and restoration of their roads, facilities, fish and wildlife habitats, etc.

Finally, as recommended by the President, the bill contains $100 million for community development block grants, or CDBGs, to assist communities throughout the Nation with their emergency expenses in dealing with the tragic circumstances facing them as a result of these natural disasters.

In all, Mr. President, some 33 States, including my own State of West Virginia, will qualify for these disaster assistance funds.

The bill also contains appropriations totaling over $1.8 billion for continuing operations by the Department of Defense in Bosnia and Southwest Asia, as well as other non-emergency discretionary appropriations, including $58 million for WIC, $31 million for the District of Columbia, and $100 million for payments to the United Nations.

It is important to note that all of the fiscal year 1997 discretionary amounts provided in the bill have been offset by budget authority cuts. The full amounts of emergency appropriations, $5.5 billion, the nearly $1.8 billion in DoD appropriations, and the $273 million in regular, non-DoD supplementals have all been fully offset.

While I do not subscribe to the notion that emergency appropriations for disaster assistance should have to be offset, I congratulate the chairman and the various subcommittee chairmen and ranking members who searched for and found offsets sufficient to fully cover the entire budget authority recommended in this bill.

I understand the administration is also supportive of these offsets, the principal one being a rescission of $3.6 billion from HUD's Section 8 housing program. These funds apparently cannot be obligated this fiscal year and, consequently, can be rescinded without causing undue harm to this program.

The bill also contains a mandatory appropriation of $753 million for veterans' compensation and pensions. This amount is needed to pay for an increased caseload in this area, as well as the cost-of-living adjustment enacted last year for compensation benefits.

Senators should also be aware that the committee recommends an increase in the 1997 highway obligation limit of $933 million. This is some $615 million more than requested by the administration, but it is necessary to ensure that no State receives less Federal-aid highway apportionments than it got in 1996. Finally, the bill advances appropriations of $198 million for title I education funding for fiscal year 1998.

So, in carrying out its responsibilities in providing these desperately needed funds to hundreds of thousands of citizens in a fiscally responsible way, the committee has done well and I congratulate the chairman, Senator STEVENS, as well as the subcommittee chairmen and ranking members, who have primary responsibility over various portions of the bill.

Unfortunately, Mr. President, the bill reported by the committee contains several non-emergency, controversial provisions which, if not removed prior to the bill's being presented to the President, will cause him to veto the bill. There is no question about it, the President will veto S. 672, the pending measure, unless at least some of these objectionable provisions are removed. I have here a letter addressed to me from the Director of the Office of Management and Budget, Franklin D. Raines, which addresses the administration's concerns in a number of areas. Principal among those concerns is the so-called ''automatic CR'' language contained in title VII of the pending measure. That provision was debated during the committee markup, after which my motion to strike the provision failed on a party-line vote of 13 yeas to 15 nays. I shall have more to say about this title and the reasons why I believe it should be stricken from the bill as the debate unfolds on S. 672.

A number of the other provisions in this bill to which the administration objects were discussed during the committee markup, with several Senators indicating their intentions to offer floor amendments on those provisions. Among those provisions are: one, a provision prohibiting the Department of Commerce from developing a plan for the 2000 decennial census that would use sampling; two, a provision that would waive certain portions of the Endangered Species Act; three, a provision relating to the promulgation of rules on RS2477; and, finally, a provision establishing a block grant to states to assist legal immigrants losing their SSI and Medicaid eligibilities.

Additionally, I understand that there are several other possible controversial floor amendments which may be proposed by various Senators on a variety of issues.

Mr. President, I close by asking, why is it that the majority has chosen this bill, of all bills, to attach certain objectionable amendments which the majority knows are controversial and which will cause a Presidential veto? I am not an advocate of even the constitutional Presidential veto, and, of course, I am adamantly opposed to the line-item veto. But in the case of the constitutional Presidential veto, I am not an advocate of it but I certainly would expect and would hope that the President would veto this bill if the automatic CR provision remains in it when it reaches his desk. What justifiable reason can there be to hold this disaster assistance bill hostage to such riders that have nothing to do with the basic purposes of the bill?

Meanwhile, the hundreds of thousands of victims in 33 States who are suffering from the ravages of the disasters which this bill addresses will possibly have to wait. It suits the political agenda of the majority to have this delay and the confrontation with the President, perhaps, and unless these matters are resolved here, or in conference with the House, we may have to go through the veto process before we will be able to get these funds enacted and out to the people who so desperately need this assistance.

So, I entreat my colleagues to rethink their positions on such controversial, unrelated matters which have no business being included on this bill. It is not too late to resolve these issues in ways that will remove the likelihood that the President will veto this disaster assistance bill.

I, again, congratulate the chairman of the committee, Mr. STEVENS, my long-time friend, the Senator from Alaska, and I congratulate all of the subcommittee chairmen and ranking members. I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, as you know, over the past several weeks, towns and farms in Minnesota, North Dakota and South Dakota have been battered by the floodwaters of the Red River. It is impossible to describe the devastation that the flooded Red River is causing in Minnesota and North Dakota, because the enormity of the damage, so far, is far beyond what anyone has ever put into words.

The lives of those who live in the flooded areas have been shattered. Entire communities—homes, schools, churches, hospitals, libraries—have literally been washed away. Thousands of residents have no home to go to, so they crowd into shelters, unsure yet of what the river will leave behind when it finally releases its hold. Many cannot sleep because there is so much uncertainty. They cannot bathe because there is no running water. They cannot make plans because there are so many unanswered questions.

Mr. President, I have been working with the Governor of Minnesota and my fellow Senators in the flood area to assess how to address the needs of these deserving people. Part of our effort has been to get the funds and assistance to rebuild through the supplemental appropriations bill that will, hopefully, pass today or tomorrow or Wednesday at the latest. Part of it has been to listen to the concerns of our constituents and to make sure that they do get speedy assistance from the agencies that are administering the State and Federal relief efforts.

While I have been involved in many efforts to ease the suffering of my constituents, I am here today to offer as an amendment to the supplemental appropriations bill, along with my colleague from South Dakota, Senator JOHNSON, the Depository Institution Disaster Relief Act. This amendment will complement the other relief efforts by making it easier for farmers, homeowners, small businesses and local governments to rebuild from the devastation that has been brought by the floods.

AMENDMENT NO. 54

(Purpose: To facilitate recovery from the recent flooding across North Dakota, South Dakota, and Minnesota by providing greater flexibility for depository institutions and their regulators, and for other purposes)

Mr. GRAMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. GRAMS], for himself and Mr. JOHNSON, proposes an amendment numbered 54.

Mr. GRAMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following new title:

TITLE ____—DEPOSITORY INSTITUTION DISASTER RELIEF

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Depository Institution Disaster Relief Act of 1997''.

SEC. ___02. TRUTH IN LENDING ACT; EXPEDITED FUNDS AVAILABILITY ACT.

(a) TRUTH IN LENDING ACT.—During the 180-day period beginning on the date of enactment of this Act, the Board may make exceptions to the Truth in Lending Act (15 U.S.C. 1601 et seq.) for transactions within an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), has determined that a major disaster exists, or within an area determined to be eligible for disaster relief under other Federal law by reason of damage related to the 1997 flooding of the Red River of the North and its tributaries, if the Board determines that the exception can reasonably be expected to alleviate hardships to the public resulting from such disaster that outweigh possible adverse effects.

(b) EXPEDITED FUNDS AVAILABILITY ACT.—During the 180-day period beginning on the date of enactment of this Act, the Board may make exceptions to the Expedited

Funds Availability Act (12 U.S.C. 4001 et seq.) for depository institution offices located within any area referred to in subsection (a) if the Board determines that the exception can reasonably be expected to alleviate hardships to the public resulting from such disaster that outweigh possible adverse effects.

(c) TIME LIMIT ON EXCEPTIONS.—Any exception made under this section shall expire not later than the earlier of—

(1) 1 year after the date of enactment of this Act; or

(2) 1 year after the date of any determination referred to in subsection (a).

(d) PUBLICATION REQUIRED.—Not later than 60 days after the date of a determination under subsection (a), the Board shall publish in the Federal Register a statement that—

(1) describes the exception made under this section; and

(2) explains how the exception can reasonably be expected to produce benefits to the public that outweigh possible adverse effects.

SEC. ___03. DEPOSIT OF INSURANCE PROCEEDS.

The appropriate Federal banking agency may, by order, permit an insured depository institution, during the 18-month period beginning on the date of enactment of this Act, to subtract from the institution's total assets, in calculating compliance with the leverage limit prescribed under section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o), an amount not exceeding the qualifying amount attributable to insurance proceeds, if the agency determines that—

(1) the institution—

(A) had its principal place of business within an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined that a major disaster exists, or within an area determined to be eligible for disaster relief under other Federal law by reason of damage related to the 1997 flooding of the Red River of the North and its tributaries, on the day before the date of any such determination;

(B) derives more than 60 percent of its total deposits from persons who normally reside within, or whose principal place of business is normally within, areas of intense devastation caused by the major disaster;

(C) was adequately capitalized (as defined in section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o)) before the major disaster; and

(D) has an acceptable plan for managing the increase in its total assets and total deposits; and

(2) the subtraction is consistent with the purpose of section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o).

SEC. ___04. BANKING AGENCY PUBLICATION REQUIREMENTS.

(a) IN GENERAL.—During the 180-day period beginning on the date of enactment of this Act, a qualifying regulatory agency may take any of the following actions with respect to depository institutions or other regulated entities whose principal place of business is within, or with respect to transactions or activities within, an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined that a major disaster exists, or within an area determined to be eligible for disaster relief under other Federal law by reason of damage related to the 1997 flooding of the Red River of the North and its tributaries, if the agency determines that the action would facilitate recovery from the major disaster:

(1) PROCEDURE.—Exercise the agency's authority under provisions of law other than this section without complying with—

(A) any requirement of section 553 of title 5, United States Code; or

(B) any provision of law that requires notice or opportunity for hearing or sets maximum or minimum time limits with respect to agency action.

(2) PUBLICATION REQUIREMENTS.—Make exceptions, with respect to institutions or other entities for which the agency is the primary Federal regulator, to—

(A) any publication requirement with respect to establishing branches or other deposit-taking facilities; or

(B) any similar publication requirement.

(b) PUBLICATION REQUIRED.—Not later than 90 days after the date of an action under this section, a qualifying regulatory agency shall publish in the Federal Register a statement that—

(1) describes the action taken under this section; and

(2) explains the need for the action.

(c) QUALIFYING REGULATORY AGENCY DEFINED.—For purposes of this section, the term ''qualifying regulatory agency'' means—

(1) the Board;

(2) the Office of the Comptroller of the Currency;

(3) the Office of Thrift Supervision;

(4) the Federal Deposit Insurance Corporation;

(5) the Federal Financial Institutions Examination Council;

(6) the National Credit Union Administration; and

(7) with respect to chapter 53 of title 31, United States Code, the Secretary of the Treasury.

SEC. ___05. SENSE OF THE CONGRESS.

It is the sense of the Congress that each Federal financial institutions regulatory agency should, by regulation or order, make exceptions to the appraisal standards prescribed by title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.) for transactions involving institutions for which the agency is the primary Federal regulator with respect to real property located within a disaster area pursuant to section 1123 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3352), if the agency determines that the exceptions can reasonably be expected to alleviate hardships to the public resulting from such disaster that outweigh possible adverse effects.

SEC. ___06. OTHER AUTHORITY NOT AFFECTED.

Nothing in this title limits the authority of any department or agency under any other provision of law.

SEC. ___07. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term ''appropriate Federal banking agency'' has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(2) BOARD.—The term ''Board'' means the Board of Governors of the Federal Reserve System.

(3) FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCY.—The term ''Federal financial institutions regulatory agency'' has the same meaning as in section 1121 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350).

(4) INSURED DEPOSITORY INSTITUTION.—The term ''insured depository institution'' has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(5) LEVERAGE LIMIT.—The term ''leverage limit'' has the same meaning as in section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o).

(6) QUALIFYING AMOUNT ATTRIBUTABLE TO INSURANCE PROCEEDS.—The term ''qualifying amount attributable to insurance proceeds'' means the amount (if any) by which the institution's total assets exceed the institution's average total assets during the calendar quarter ending before the date of any determination referred to in section ___03(1)(A), because of the deposit of insurance payments or governmental assistance made with respect to damage caused by, or other costs resulting from, the major disaster.

Mr. GRAMS. Mr. President, the Depository Institution Disaster Relief Act will help speed up the pace of recovery for flooded farms and towns. Our amendment will permit homeowners, farmers, and small businesses to have faster access to a larger pool of credit from the banks and credit unions that serve their communities by ensuring that there will be no regulatory roadblocks to local lending. It will permit Federal banking and credit union regulators to make temporary exceptions to current laws that act to reduce access to banks and credit unions in disaster areas. It will also permit Federal regulators to provide temporary relief from regulations so that it will be easier for flood victims to get loans.

The temporary regulatory relief offered by this bill is strictly limited to those counties in Minnesota, North Dakota, and South Dakota that have been declared Federal disaster areas. Because of its targeted scope and limited duration, it will permit flood victims to rebuild their homes, farms, and businesses without compromising the integrity of our banking system.

When I served in the House of Representatives, I authored similar legislation in 1993 during the Mississippi River flooding. My legislation received bipartisan support and was signed into law by President Clinton as part of the supplemental appropriations bill for disaster relief. Since this legislation worked well to help flooded communities rebuild in 1993, I am here to urge my colleagues to again support this amendment to the supplemental appropriations bill.

Mr. President, I ask unanimous consent that a summary of this amendment's provisions be printed in the RECORD.

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

DEPOSITORY INSTITUTION DISASTER RELIEF ACT OF 1997

Purpose

Over the past several weeks, towns and farms in Minnesota, North Dakota and South Dakota have been demolished by the flood waters of the Red River of the North, its tributaries, and other rivers. Because of the extreme level of flood damage, President Clinton has declared these areas to be eligible for federal disaster relief pursuant to Section 401 of the Disaster Relief and Emergency Assistance Act.

The Depository Institution Disaster Relief Act (''DIDRA'') will significantly speed up the pace of recovery for the flooded farms and towns. DIDRA will permit homeowners, farmers, small-businesses and local governments in the flood disaster areas to have

faster access to a larger pool of credits from the banks, thrifts and credit unions that serve their communities. DIDRA will do this by permitting federal financial institution regulators to make temporary exceptions to current laws that (1) hamper the ability of banks, thrifts and credit unions to reopen their doors to depositors, (2) slow down the lending process and (3) reduce the availability of credit.

Summary of Provisions

Section 1—Title of statute

The bill is called the ''Depository Institution Disaster Relief Act of 1997'' (DIDRA). This bill contains provisions that are substantially identical to temporary emergency relief legislation that was signed into law in 1992 and 1993.

Section 2(a)—Exceptions to Truth In Lending Act

The Federal Reserve Board may make exceptions to the Truth In Lending Act (TILA) for loans given by a bank, thrift or credit union that is in the disaster area. The exceptions must be made within 180 days of enactment of DIDRA, and may only last a maximum of one year. For example, this permits the Federal Reserve Board to permit consumers to receive the proceeds from their loans 3 days faster by permitting them to sign preprinted forms that waive their 3 day right of rescission period pursuant to Section 125 of TILA (15 U.S.C. 1635).

Section 2(b)—Exceptions to Expedited Funds Availability Act

The Federal Reserve Board may make exceptions to the Expedited Funds Availability Act (EFAA) to any bank, thrift or credit union in the disaster area, so that they may restart their check processing operations sooner. The exceptions must be made within 180 days of enactment of DIDRA, and may only last for a maximum of one year. For example, this permits the Federal Reserve Board to let a bank, thrift or credit union restart serving its customers even though the disruption from the flooding makes it need more than one business day to process cash deposits and government checks as required by Section 603 of EFAA (12 U.S.C. 4002).

Section 3—Exception to the Federal Deposit Insurance Act to Permit the Deposit of Insurance Proceeds in Bank Accounts

Farms, businesses and local governments in the flood disaster areas will be receiving large amounts of insurance proceeds. This money will invariably be deposited in banks, thrifts and credit unions for a short duration until the money is used for rebuilding. Unfortunately, the depositing of large amounts of insurance proceeds may cause banks and thrifts to be deemed undercapitalized pursuant to Section 38 of the Federal Deposit Insurance (FDIA) (12 U.S.C. 1831o). This could cause credit to dry up in the disaster areas, as Section 38 would automatically require a depository institution to file a capital restoration plan with the FDIC, even if the insurance proceeds were invested in assets creating little additional risk to the depository institution. Section 38 of the FDIA would compel a depository institution to obtain formal approval from the FDIC in order not to be restricted in its lending policies. Section 3 of DIDRA permits the OCC, the Federal Reserve Board, the FDIC and the OTS to subtract insurance proceeds from the depository institution's assets when they calculate whether the depository institution meets the FDIA's minimum leverage standards (i.e., equity capitalization requirements). Any exception that the regulators make to Section 38 of FDIA will expire after 18 months.

Section 4—Authority of Regulators to Act Quickly to Facilitate Recovery in Disaster Areas

Within 180 days after the enactment of DIDRA, a qualifying regulatory agency is given the flexibility to take any actions permitted under its existing statutory authority to facilitate recovery in the disaster area without being delayed or impeded by (1) having to provide a general notice of proposed rule-making in the Federal Register, (2) having to hold a hearing, (3) being restricted by time limits with respect to agency action or (4) having to meet certain publication requirements. However, within 90 days of taking an action, the qualifying regulatory agency must publish in the Federal Register a statement that (1) describes what it did and (2) explains the need for the action.

Section 5—Sense of Congress re: Exceptions to Appraisal Requirements

The Depository Institutions Disaster Relief Act of 1992 (PL 102–485, Oct. 23, 1992) amended the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) to give regulators the authority to waive certain appraisal standards in disaster areas. The waiver of certain appraisal standards for real estate loans in disaster areas will (1) permit homes to be rebuilt faster by expediting the lending process and (2) lower the cost of receiving loans to rebuild such homes. Section 1123 of FIRREA (12 U.S.C. 3353) currently permits the OCC, OTS, FDIC, Federal Reserve Board and NCUA to waive such appraisal standards for 3 years in disaster areas.

Section 5 of DIDRA states that it is the sense of the Congress that these federal regulators should exercise their authority under Section 1123 of FIRREA to temporarily waive such standards.

Section 6—Limitation of DIDRA

DIDRA shall not limit the authority of any federal agency under any other provision of law.

Section 7—Definitions

This section defines certain terms used in DIDRA: (1) appropriate federal banking agency, (2) Board, (3) Federal financial institutions regulatory agency, (4) insured depository institution, (5) leverage limit, and (6) qualifying amount attributable to insurance proceeds.

Mr. GRAMS. Mr. President, the Depository Institution Disaster Relief Act is a carefully crafted amendment. It has been reviewed and approved by the Treasury Department, the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency.

I ask unanimous consent that letters of support from the Treasury Department, the Federal Reserve, and the FDIC be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY,
Washington, DC, May 5, 1997.

HON. TIM JOHNSON,
U.S. Senate,
Washington, DC.

DEAR SENATOR JOHNSON: Thank you for requesting the Treasury's views on S. 652, the Depository Institution Disaster Relief Act of 1997, which seeks to speed the recovery of areas flooded by the Red River of the North in Minnesota, North Dakota, and South Dakota.

In 1992 and 1993, Congress passed similar legislation in response to natural disasters. Like those bills, S. 652 would permit the federal regulators of banks, savings associations, and credit unions to make temporary exceptions to statutes and regulations that may hamper the reopening of these institutions, slow down the lending process, and reduce the availability of credit. This authority is intended to facilitate providing much needed financial services to disaster victims, and would have no adverse effect on the safety and soundness of depository institutions.

We share Congress's interest in assisting the victims of natural disasters and support the passage of S. 652.

Sincerely,

JOHN D. HAWKE, JR.,
Under Secretary of Domestic Finance.

FEDERAL DEPOSIT INSURANCE CORP.,
Washington, DC, April 29, 1997.

Hon. ROD GRAMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAMS: Thank you for inviting the Federal Deposit Insurance Corporation to comment on S. 652, the Depository Institution Disaster Relief Act of 1997 (DIDRA), which would allow the FDIC and other federal financial institution regulatory agencies flexibility in enforcing capital and other standards for financial institutions located or doing substantial business within the flood-affected areas of the Red River of the North.

The FDIC is sensitive to the special needs that accompany natural disasters such as floods, earthquakes, and major storms, and we support the intent of DIDRA to facilitate recovery from such disasters. The federal agencies have been granted and have used similar temporary authority during past disasters.

Certain laws and regulations that are beneficial and protect public policy interests in normal times may hamper an insured institution's ability to respond quickly in providing financial services during disasters. We have learned in the past, when natural disasters affect communities, granting very limited relief from such laws does not affect the safety and soundness of insured institutions. Insured institutions continue to be subject to active supervision and bank management is always expected to act in a prudent manner. It is unlikely that regulated institutions would purposely harm themselves or their customers, or cause a loss to the insurance fund solely due to the kind of temporary relief called for by the legislation. If any institution were to become involved in unacceptable activities, the federal financial institution regulatory agencies have substantial enforcement powers to compel correction.

The FDIC supports S. 652 as a reasonable proposal to assist communities in their recovery from this natural disaster. I appreciate the opportunity to comment on this important issue, and the FDIC stands ready to help in any way it can. Please let me know if you have further questions or concerns.

Sincerely,

RICKI HELFER,
Chairman.

BOARD OF GOVERNORS,
FEDERAL RESERVE SYSTEM,
Washington, DC, April 28, 1997.

Hon. ROD GRAMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR: This letter responds to your request for the Board's views on S. 652, ''The Depository Institution Disaster Relief Act of 1997,'' which you introduced to help speed recovery from the recent flooding of the Red River in Minnesota, North Dakota, and South Dakota. The bill would allow the Board to make temporary exceptions to the

requirements of the Truth in Lending and Expedited Funds Availability Acts; would allow the federal banking agencies to permit insured institutions to temporarily exclude certain insurance proceeds from their capital calculations; and would allow the agencies to take actions to facilitate recovery without regard to certain procedural requirements, such as those of the Administrative Procedure Act. S. 652 also contains a ''Sense of the Congress'' resolution calling on the banking agencies to use their existing authority to waive the appraisal requirements of Title XI of FIRREA.

As you know, the proposal closely tracks legislation enacted in 1992 and 1993 in the wake of earlier natural disasters. Based on our experience in administering those similar laws, the Board believes that S. 652 would provide the regulators with useful flexibility that would assist in the disaster-recovery process. Accordingly, the Board supports its enactment.

Thank you for this opportunity to share the Board's views.

Sincerely,

ALAN GREENSPAN,
Chairman.

Mr. GRAMS. Mr. President, this amendment has the support of the chairman of the Senate Banking Committee, Senator ALFONSE D'AMATO, and also the ranking member of that committee, Senator PAUL SARBANES.

I ask unanimous consent that Senators D'AMATO and BENNETT be added as cosponsors to S. 652, the Depository Institution Disaster Relief Act.

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

Mr. GRAMS. Thank you.

Mr. President, we need to assure the people of Minnesota, North Dakota, and South Dakota that the Senate stands behind them, and the entire Congress and the President should stand behind them as well.

I urge swift action on my amendment to the emergency supplemental appropriations, which I hope will have the overwhelming, bipartisan support of my colleagues when it comes to the floor.

Mr. President, I also ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. GRAMS. Thank you, Mr. President.

I yield the floor.

Mr. JOHNSON addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I rise in strong support of the Depository Institution Disaster Relief Act of 1997 as a noncontroversial and bipartisan amendment to the supplemental appropriations bill being considered on the floor of the Senate today.

I want to particularly extend thanks to Senator STEVENS and Senator BYRD for their assistance on this amendment and support of this amendment, as well as their very timely action on the underlying supplemental appropriations legislation. And thanks to Senator D'AMATO and Senator SARBANES of the Banking Committee for their support as well, and, of course, to Senator GRAMS, my colleague from Minnesota, who has done extraordinary work on this legislation. I am proud to join him as a cosponsor of S. 652.

We have had an incredible series of catastrophic events in the Northern Plains, in Minnesota, North Dakota, and South Dakota. It is absolutely essential that this body move expeditiously to provide as much assistance as possible to get individuals, families, businesses, and local governments back on their feet.

This amendment would give the banking regulators the authority to cut through red tape to expedite the handling of loans and deposits for banks, credit unions, and savings and loans in order to move along the rebuilding of our part of the country as quickly as possible.

This legislation has the support of both FDIC and the Federal Reserve. In our three States we have suffered vitally over these last several months. Hundreds of thousands of livestock have been lost, roads are under water, schools closed, hospitals closed. Family businesses are in tremendous stress right now. It is absolutely essential that we provide every element of assistance we possibly can.

I share Senator GRAMS' belief that this legislation will be one more piece of the puzzle necessary to reach that goal. The predecessor of this legislation was a similar amendment enacted in 1992 and 1993. So this is a step that has been taken in the past when our Nation has been undergoing stressful disaster circumstances.

It is very, very appropriate during this year that we reintroduce this amendment to provide this kind of temporary but very important relief. Again, this amendment is bipartisan. It should be noncontroversial.

I again commend Senator GRAMS for his leadership in bringing this amendment to the floor.

I yield back.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, it is our understanding that this amendment that Senator GRAMS has presented to us continues the precedent that was established by his legislation when he was a Member of the other body in 1993.

We have examined the proposed amendment and have been informed that the Banking Committee of the Senate is in agreement with it. Under the circumstances, I know of no opposition to the amendment on this side of the aisle, and we are prepared to accept it. I do note the Senator has asked for the yeas and nays, but perhaps we can dispose of it today if it is possible.

Mr. BYRD. Mr. President, I know of no objections on this side of the aisle. But I do await a response to my call to a Senator so that I can ascertain whether or not this is indeed the case. Until that time, I shall have to withhold my approval.

Mr. STEVENS. Very well.

Mr. President, I ask unanimous consent that the amendment be temporarily set aside so that the bill will be open for other amendments.

We will await the clearance that Senator BYRD has mentioned. I announce that it will be the policy of the committee to have these votes take place, on any amendments presented today, at a time to be designated by the majority leader, after consultation with the minority leader, tomorrow.

The PRESIDING OFFICER (Mr. KYL). The Senator asks unanimous consent to lay aside this amendment?

Mr. STEVENS. Mr. President, I ask unanimous consent to lay aside the Grams amendment for the time being.

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

Mr. STEVENS. 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. GRAMS. 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. GRAMS. Mr. President, I just want to rise today and talk a little bit about the supplemental bill and the needs that are awaiting in Minnesota, North Dakota, and South Dakota as well. As a Senator whose state has been devastated by the flooding of the Red and Minnesota Rivers, I rise in strong support of the emergency supplemental that is before us. I have personally assessed the destruction on several occasions over the past few weeks. If I had not seen the damage myself, it would have been difficult to comprehend the severe impact the snows and floods have had on my State of Minnesota.

My colleagues know of Minnesota's reputation for snow and cold. We are a hardy people and we pride ourselves on our ability to endure even the worst winters. But when we receive 3 years' worth of snow in a single season —that is more than 10 to 12 feet—even Minnesotans can reach their limit. To make matters worse, we have had to endure several straight years of above-average rainfall. With the arrival of spring this year, there was no place for the snow to go, other than into rivers unable to bear the melt-off.

Many Americans watched the television coverage of Grand Forks, ND, and sympathized with the displaced residents of that community when the flood waters swept into town. They saw the burning buildings which have destroyed nearly a city block, all in a sea of water. But just across the Red River, on the Minnesota side, is East Grand Forks, a town of nearly 10,000 people. Their mayor, Lynn Stauss, whom I have talked to several times over the last few weeks, has had to deal with a town that has no water, has no electricity, and has no sewer system.

When I was last in East Grand Forks, most of its homes and businesses were under water. Now that the waters are receding, assessment of the damage is continuing and, of course, the expenses are mounting. Willem Schrage, a Minnesota Department of Agriculture employee, returned to his home and found his basement backed up with 2 feet of sewage. Actually, he said he is one of the lucky ones, and says, ''Things could be worse. At least I still have my home.''

As you know, about 3 weeks ago, just as the spring thaw began to swell the rivers, Minnesota and the Dakotas were hit with another blizzard that dumped a couple of additional feet of snow. This contributed greatly to the severe flooding already predicted.

At the time of year when farmers should be out in the fields, planting, they were out helping their neighbors sandbag to try to minimize the damage. Randy Tufton is an example of that. He is the director of the Farm Service Agency in Ada, MN, and wanted to spend his time helping farmers get the advice and financial assistance they need to cope with the floods. But instead, Randy found himself sandbagging his own home for several days. He had to travel by motorboat just to get to his house.

Jerry Larson, a seed potato grower in the town of Climax, is another such example. Instead of planting this year, he is helping another farmer to try to save his home. Many of our farmers will be losing their homes and farm buildings to the floods. While some of them will be able to start planting after the water recedes, many are still unable to do so and may lose their income for this year. We had almost 2 million acres of farmland in our region under water. In the Red River Valley, one of the most fertile areas of the country, this is a crippling blow to our agricultural economy.

Now we are coming to that time of year when high school students should be thinking about their proms and their graduation festivities. Instead, Don Vellenga, who is the superintendent of Ada Borup Public Schools in Ada is now meeting with FEMA officials to discuss replacing the high school, 67 percent of which has been damaged. There will be no prom this year at the high school and there will be no graduation ceremony either. Don Vellenga, by the way, after meeting with FEMA officials about the school during the day, goes home to a house that has 4 feet of standing water in the basement.

In Breckenridge, at Breckenridge Elementary, Jeri Yaggie, president of the school board, is meeting with FEMA officials and wondering if the school will be replaced, as parents ask where their first graders will begin school this fall.

Hospital administrators normally spend their time providing for the care of their patients. Laura Nelson, who is program director of Bridge Medical Services in Ada, is now looking for ways to get the additional money needed to replace the hospital there.

In Moorhead, I was impressed by the dedication of our young people as they worked alongside their parents and their neighbors in filling sandbags against the rising waters. In East Grand Forks, there was an army of volunteers to feed the hungry, who found shelter for the homeless, and comforted thousands more as the Red River was swallowing an entire community. Their determination repeatedly reminded me of the spirit that brought us together as communities and will keep us together as communities.

It was a week ago today, that I spoke about the flooding crisis before a joint session of our Minnesota State Legislature. I was proud to be accompanied by seven Minnesotans who know all too well the struggle it has taken to fight the floods. They were representatives of the towns that have suffered some of the worst damage, and they deserve our appreciation for guiding their communities through this nightmare. I want to take a moment to mention them by name. They were: Mayor Russell Onstad of Ada, Mayor Kal Michels of Breckenridge, Mayor Donald Osborne of Crookston, Mayor Lynn Stauss of East Grand Forks, Mayor David Smiglewski of Granite Falls, Mayor Jim Curtiss of Montevideo, and also City Council President Millie McLeod of Moorhead, who was there for Mayor Lanning at the meeting. They have served their neighbors well during these trying times.

FEMA has done an outstanding job in Minnesota, and I would like to personally thank the staff, from the Director Mr. Witt, all the way down, for their yeoman-like efforts to be on the scenes and to help provide assistance to Minnesotans and those in North and South Dakota.

When I inspected the flood damage with President Clinton, I was assured that the Government would help the people of Minnesota recover from its devastation. A week ago, the majority leader and our floor leader here today, the distinguished chairman of the Appropriations Committee, made similar pledges during meetings with Minnesota Governor Arne Carlson and me.

I would like to thank Senator STEVENS for reporting out the emergency supplemental so rapidly. We all know how difficult it is to determine the exact extent of damage until the clean-up and the rebuilding is underway, but I believe the committee did an outstanding job to address the needs of the 23 States that have suffered disasters over the past few months. The total $5.581 billion for disaster relief is desperately needed.

The $100 million for CDBG, the EDA money, and the assistance provided by USDA, including the livestock indemnity program in the supplemental, are crucial for Minnesota, where losses could add up to more than $1 billion once we have been able to accurately assess our damages.

Governor Carlson expressed his support for the President's requests of $2.3 billion for FEMA and $100 million for CDBG in the supplemental when he was here in Washington as well last week. At the same time, he recognized that once we obtain an accurate accounting, additional relief could be pursued through the 1998 appropriations process, and/or a future supplemental request that would be made by the President.

I am also pleased that the committee included language I supported that would provide more flexibility in the granting of CDBG funds. That language was useful to the State of Minnesota, as you know, after the 1993 Mississippi River flooding and was requested by the State for this year's flood as well. Some have raised concerns that it is too early to fully estimate the extent of the damage and therefore we may find ourselves with inadequate funding in this bill. To address those concerns, I am working with my colleagues from North Dakota, South Dakota, and Minnesota on an amendment that would add additional funding for CDBG and EDA that represents a better estimate of what we believe the damages will be in our three States. The amendment would also include funding for meeting the education needs of displaced students in our States plus several other smaller items that are not covered yet in the bill.

The amendment would be a compromise among the three States and hopefully the appropriators, who believe they have addressed our needs for the remainder of this fiscal year and prefer to consider longer-term rebuilding requests through the regular appropriations process. It would be offset with current budget authority.

Mr. President, earlier I discussed some of the devastation faced by Minnesota farmers, many of whom are still not sure when they can begin planting for this year. I strongly support the efforts by Secretary Glickman to help farmers through authorization of CRP grazing, increasing the Emergency Loan Assistance Program, deferring payments for FSA borrowers, and inclusion of more farm losses under FEMA itself.

Since it is uncertain whether existing agriculture or FEMA programs will address the needs of all Minnesota farmers, I have also asked Secretary Glickman to consider extending the delayed planting deadline for crop insurance, as well. I have requested clarifications on how, or whether, the disaster relief would cover soil erosion and other run-off problems.

I have asked the Secretary to consider using existing authority under CCC to address the grain storage losses of Minnesota farmers, as well as other property losses suffered by farmers who may not currently qualify for the Emergency Loan Assistance Program.

Mr. President, I want to note again that earlier this afternoon I offered my amendment, the Depository Institution

Disaster Relief Act of 1997, or more commonly referred to as DIDRA, which would facilitate and increase the availability of credit in the disaster areas of all 23 States.

It is noncontroversial, costs nothing, and is supported by the Banking Committee chairman and ranking member, and my colleague from South Dakota, Senator JOHNSON. I urge support from all of my colleagues.

Mr. President, the funds provided by the emergency supplemental will facilitate the cleanup effort, which has just begun. We know it will take many months and possibly several years. The worst part of a disaster like this is the aftermath, when the extent of the damage finally sinks in to all who have suffered losses. It is a time when we need to reach out to those within the disaster area and let them know they have our full support.

It is gestures like that of the California woman who contributed $2,000 apiece to thousands of suffering flood victims as one we will remember for some time. She is one of many heroes of the floods whose efforts will never be fully recognized.

To ensure that I am thoroughly appraised of every step in the cleanup, I have opened an office in Crookston with FEMA to have staff on location to provide whatever assistance we can to facilitate available relief. I want to assure my constituents that I will not allow them to be forgotten now that the flood waters have receded.

Mr. President, I again want to thank the Senate for its efforts to facilitate this needed relief legislation.

Mr. BYRD. Mr. President, I am advised that Senator MIKULSKI says that if Mr. SARBANES has cleared the Grams-Johnson amendment, she has no objection to it as the ranking member of the VA/HUD subcommittee. Therefore, I know of no objection on this side of the bill. I am ready and willing to accept the amendment.

Mr. STEVENS. Mr. President, the yeas and nays have been ordered, and it is my understanding that the Senator would prefer a vote, and the leadership does prefer we have a vote to start the day off at a specific time tomorrow. Therefore, I ask this amendment now be set aside, to come before the Senate for a rollcall vote at a time specified by the leadership, the majority leader after consultation with the minority leader later today.

The PRESIDING OFFICER. Without objection, the request of the Senator from Alaska is ordered.

The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent I be allowed to proceed as in morning business for the purpose of introducing a bill.

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

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

(The remarks of Mr. REID pertaining to the introduction of S. 692 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

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

AMENDMENT NO. 55

(Purpose: To make a technical correction which adjusts the rescission for the Theater High Altitude Area Defense program to the correct fiscal year of appropriations for Research, Development, Test and Evaluation, Defense-Wide)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 55.

Mr. STEVENS. 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 65, line 5, strike the amount ''$41,090,000'' and insert the amount ''$81,090,000''; and

On page 65, line 7, strike the amount ''135,000,000'' and insert the amount ''$95,000,000''.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 55) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, we have a list of amendments that we believe are going to be presented to the Senate, about 20 amendments. It was our hope that we will get some of these presented this afternoon and debated at our leisure and voted on tomorrow. I hoped that we might have votes today, but that is not possible.

I urge Members to let us know if they intend to bring any amendments to the floor this afternoon. There are a series that have been suggested that, I believe, could be worked out and would be acceptable to the managers of the bill on both sides. We hope that we can find some business to accomplish this afternoon on this bill. It is a very important bill, one that should not be delayed if it is possible to move forward.

I urge Members to contact us if they intend to offer amendments today.

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

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

AMENDMENT NO. 56

(Purpose: To authorize the Secretary of Defense to enter into a lease of property for the Defense Finance and Accounting Service at Lexington Blue Grass Station, Lexington, Kentucky)

Mr. STEVENS. Mr. President, I send to the desk an amendment proposed to be offered by Senators FORD and MCCONNELL and ask that it receive immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. FORD and Mr. MCCONNELL, proposes an amendment numbered 56.

Mr. STEVENS. 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:

At the appropriate place in the bill, insert the following:

SEC. . AUTHORITY OF SECRETARY OF DEFENSE TO ENTER INTO LEASE OF BUILDING NO. 1, LEXINGTON BLUE GRASS STATION, LEXINGTON, KENTUCKY.

(a) AUTHORITY TO ENTER INTO LEASE.—Notwithstanding any other provision of law, the Secretary of Defense may enter into an agreement for the lease of Building No. 1, Lexington Blue Grass Station, Lexington, Kentucky, and any real property associated with the building, for purposes of the use of the building by the Defense Finance and Accounting Service. The agreement shall meet the requirements of this section.

(b) TERM.—(1) The agreement under this section shall provide for a lease term of not to exceed 50 years, but may provide for one or more options to renew or extend the term of the lease.

(2) The agreement shall include a provision specifying that, if the Secretary ceases to require the leased building for purposes of the use of the building by the Defense Finance and Accounting Service before the expiration of the term of the lease (including any extension or renewal of the term under an option provided for in paragraph (1)), the remainder of the lease term may, upon the approval of the entity leasing the building, be satisfied by the Secretary or another department or agency of the Federal Government (including a military department) for another purpose similar to such purpose.

(c) CONSIDERATION.—(1) The agreement under this section may not require rental payments by the United States under the lease under the agreement.

(2) The Secretary or other leasee, if any, under subsection (b)(2) shall be responsible under the agreement for payment of any utilities associated with the lessee of the building covered by the agreement and for maintenance and repair of the building.

(d) IMPROVEMENT.—The agreement under this section may provide for the improvement of the building covered by the agreement by the Secretary or other lessee, if any, under subsection (b)(2).

Mr. STEVENS. Mr. President, this is an amendment pertaining to a building in Kentucky to be leased by the Department of Defense. It has been approved by the Subcommittee on Defense appropriations, Senator INOUYE and myself, and Senator BYRD has cleared this for the minority. I ask that it be accepted.

The PRESIDING OFFICER. The question is agreeing to the amendment.

The amendment (No. 56) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. BYRD. Mr. President, I move to lay the motion to reconsider on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, it is apparent that no one is prepared to offer an amendment today. There are several complex amendments coming, and I am sad we cannot get some of them discussed today. But in a few minutes I shall present a closing statement on behalf of the majority leader. Meanwhile, I will announce there will be no further action on this bill today.

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. BENNETT. 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. BENNETT. Mr. President, I ask unanimous consent that I be allowed to proceed as in morning business for not more than 10 minutes.

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

The Senator from Utah.

THE BUDGET AGREEMENT

Mr. BENNETT. Mr. President, I have several matters to discuss with the Senate this afternoon. The first one I would like to touch upon has to do with the budget agreement that was reached over the weekend between negotiators on behalf of the Congress and the President of the United States.

There has been a lot of conversation over the weekend on the talk shows about how terrible this agreement is. I have read where Democrats have attacked the agreement on the grounds that President Clinton has caved in to Republican demands. One Democratic commentator, a former staffer to the President, has said this deal guarantees the reelection of a Republican-controlled Congress in 1998. It is just awful.

Then another commentator says this deal demonstrates how badly the Republicans have caved in to the President. It means the President can no longer be attacked for his failure to step up to the responsibility of dealing with taxes in a logical way or of dealing with Medicare in a responsible way. It is just awful.

There are some who say, when both sides say it is just awful, that means it is truly awful. And then there are others who say, no, when both sides agree it is not what they want, it means we have finally arrived at the logical answer, somewhere down the middle.

I think all of this is a little bit shortsighted. I want to stand and commend those who were involved in the negotiations for having accomplished something truly worthwhile. Does it do what I would like it to do in relation to the Tax Code? The answer is, ''Clearly not.'' We need to do far more about our taxes than this deal will do. Does it solve the Medicare problem in a responsible, long-term way? The answer is, ''Clearly not.'' It simply postpones the issue until we will have to deal with Medicare again. This, too, I find disappointing. In both instances we will see the details come up in the Finance Committee, and I hope the Finance Committee, within the parameters of the deal, can fashion resolutions to these problems that are better than the ones that we have seen talked about in the press up until now.

But as we complain, one side and the other, about the deal not being what we would like, we overlook what I think is a truly significant accomplishment. For the first time in my watching of this process, either as a Member of the Senate or as an observer from the outside, we have a budget deal that does not depend upon smoke and mirrors for its budget figures to be reliable. We have a budget deal that does not say we will postpone all of the hard decisions to the fourth and fifth or sixth years. Instead, it says we will start to face the realities of what is happening around us right now. That is a very significant thing.

The second thing I would like to comment on with respect to this deal was given reference to in this morning's Wall Street Journal in their editorial. They said the real hero of these budget negotiations is neither the administration nor the Congress, but the American economy. The reason we were able to finally arrive at a conclusion that seemed to satisfy temporarily both sides is because the economy is doing so well that the projections indicate that we will have more tax revenue than the earlier projections would have shown. I want to dwell on that for a moment. I gave a major speech on the floor a week or so ago in which I tried to get across the importance of the overall growth of the economy in our budget discussions. We talk about the budget as if everything is a sum zero game, that is, if we take it away from here, you must give it someplace else, and everything adds up to a single sum.

That is not the case. The economy is like a business, constantly growing, constantly changing. I made the point in that previous speech that a sound business executive running a $1.7 trillion corporation would not have the simple choice of either raising prices or cutting spending. We hear the discussion on the floor so often that those are our only two choices in Government. We can either raise tax rates, which is the same thing as raising prices for a business, or we can cut spending, when, in fact, every business executive knows there are times when you can raise your prices and get away with it, and there are times when you should cut your prices in order to increase your market share. There are times when you do need to cut spending if it is wasteful or improper, but there are other times, when you are investing in the future, where you need to increase spending. This budget, for the first time in many years, seems to go down those roads.

There are some areas where we are cutting tax rates, as we should—cutting prices, if you will—to increase our market share and make the economy healthier. There are other places where we do need to cut some spending, and some places where we need to increase some spending. That is what upsets so many of my colleagues on the right side of the aisle. They treat all Government spending as if it is, per se, evil, and any single dollar they can cut out of the budget they assume is good.

They remind me a little of an executive I knew in a company who was under heavy pressure to start to produce profits in his division. He responded to that pressure, and pretty soon the profits started to come in. His boss thought he was a hero. He said, ''Well, I did it by cutting spending.''

It was a year or so later that we discovered in that company what kind of spending he had cut. He had cut routine maintenance, and the physical plant over which he had responsibility was literally falling apart because the routine maintenance had not been done. He was a temporary hero by cutting spending, but, long term, he damaged the business and did damage to the interests of the shareholders.

Our Nation's infrastructure has some significant problems. The air transport problems are very obvious to all. The highway problems are fairly significant and obvious. We need to be doing something about that. This budget allows us to have some of that, yes, increased spending in areas where it makes some sense. Why? Again, because the economy is doing so well.

I have been on this floor when some of my friends have berated Alan Greenspan and said what a terrible job he is doing at the Fed because he has controlled the money supply in a way that they do not like. Can we now suggest it may well be that the current growth of the economy stems from wise stewardship at the Fed, and that, indeed, the reason we can afford some of these increased spending activities called for in this budget come from an intelligent management of the economy long term. Can we also suggest that this has come from an attitude at the Federal Reserve Board that says we must put price stability above all else and it will pay long-term dividends? Maybe it is those dividends we are beginning to cash in on in this budget deal.

There is another thought I would like to leave with you, Mr. President, in terms of the economy and how well it is doing. I have spoken on this floor before about my experience as a business executive during what many people

called the decade of greed, the 1980's, when we took a small company, so small it had four full-time employees, and saw it grow to the point, when I left prior to my run for the Senate, when it had 700 employees. I have commented it was the tax policies that were pursued in those years, pursued primarily by President Ronald Reagan, that made it possible for us to grow that company. But we were attacked because it was the decade of greed, and, yes, indeed, we did do well.

I would like to point out that that company that grew in that period from 4 employees to 700, now has over 3,000. The momentum that was set in place in the 1980's is carrying forward into the 1990's, and it is that company and others like it that are providing the income taxes that make it possible for us to have this kind of a budget deal.

So, as we look at the whole thing, let us understand that there are many things about it that I do not like. There are many things about it that many of the rest of us do not like. But the reason we were able to get this degree of agreement comes from the strength of the economy, and the one lesson we should learn, as we look at this budget agreement, is simply this: As important as anything else we do around here are those things that we do that will cause the economy to grow at a more rapid rate. Whether it is increasing taxes in a certain area or decreasing tax rates in another area, whether it is increasing spending on things like infrastructure and other investments, or whether it is decreasing spending on areas where there is a degree of waste and fraud, all of these things need to be done with the primary goal of seeing that the economy will increase in size.

As it does, a number of things happen. The demand on our social spending goes down. There is no better welfare project in the world than a job, and a booming economy creates more jobs for more people. And we see it in terms of the impact on Government. We should pay attention to those kinds of things.

Mr. President, I will have more to say on this as the budget process goes forward, but, while the weekend talk shows were still ringing in our ears, I wanted to make this general statement.

Mr. President, I ask unanimous consent that I be allowed to continue as in morning business, on another subject, for up to another 5 minutes.

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

Mr. BENNETT. I thank the Chair.

(The remarks of Mr. BENNETT pertaining to the introduction of Senate Resolution 82 are located in today's RECORD under ''Submissions of Concurrent and Senate Resolutions.'')

Mr. BENNETT. I thank the Chair for his time and attention and yield the floor.

MORNING BUSINESS

Mr. BENNETT. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each.

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

Mr. BENNETT. Noticing the absence of a Senator who wishes to take advantage of that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DEWINE. Mr. President, I ask unanimous consent to proceed for the next 10 minutes in morning business.

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

REASONABLE EFFORTS

Mr. DEWINE. Mr. President, I want to call the attention of everyone in the Senate to a very important article that appeared in yesterday's Washington Post Magazine. The article profiles a woman by the name of Diane Hendel. Diane Hendel was the foster mother of twins who had been abandoned by their natural mother. In telling Diane Hendel's story, this article paints a devastating portrait of the foster care system, the foster care system not just in the District of Columbia, but the foster care system across this country.

It is Diane Hendel's story, and it is told from her point of view. But much more important, it is really the story of these two children, these twins, and what our foster care system did and is doing to them. It tells the story of these two children who were abandoned with serious physical problems, and it tells the story of the foster mother, Diane Hendel, who for 2½ years nurtured them, loved them, kept them going, became their mother.

Then this article tells the story of a foster care system bent on family reunification, that when these little children were 3½ years of age, that system decided the natural mother, who had abandoned them, was now the person that they should go to. It tells the horrifying and sad story of these little 3½-year-old children being taken away from the only mother that they ever really knew, to their new mother. All in the name of family reunification. All in the name of protecting the rights of the natural mother, without, in my opinion, any consideration for the rights not of the foster mother, but for the rights of those two little girls.

Mr. President, there are 450,000 children in foster care across this country today. These children are spending far too great a portion of their lives in a legal limbo. Early childhood years are a crucial time in the development of any child. Indeed, there was a recent White House conference devoted to this very subject. It seems to me that as we pay more and more attention to what we all intuitively know—and that is how important the early years are in a child's development, and there was a whole magazine, in Newsweek, this past week, a special issue devoted to early childhood development. We realize, more and more, how precious and important those first few months, those first few years are, to the development of the child and who we become, and what we are is shaped in the first year, 2 years, 3 years, 4 years.

Is it not time that we reexamined in society how cavalier we are about having children who have been taken away from their parents, then sit in sort of a legal limbo, for a year, 2 years, 3 years or 4 years, all the while we, in society, we adults, try to reunify these families? But all the while, all the while, these children are growing up.

Mr. President, children do not have a second opportunity to have their childhood. You never have a second chance to be 2, 3, or 4. What is happening across this country in too many cases is that children are taken, put in a foster home—sometimes multiple foster homes—all the while we, as a society, wait until that magical time when the parents have been fixed—the natural parents. They have been cured, they no longer snort cocaine, they no longer drink alcohol all the time, they no longer abuse their children, and some day we hopefully will put them back, put these children who have been removed, back with these natural parents. I think, Mr. President, that we have to start worrying about the children's rights and less about the rights of the natural parents.

Every piece of new evidence shows us, Mr. President, that the system, the foster care system, is keeping children in foster care for too long. I think this should spur us to action. If any of the Members of the Senate want to become horrified, want to see what is wrong with our foster care system, let them read this story. I think it would shock any American to read it.

The Washington Post article that I just referred to outlines how the principle of making reasonable efforts to reunify troubled families is too often misinterpreted to mean reunifying families at all costs—even abusive families that are really families in name only. Abusive parents, abusive birth parents, are, today, Mr. President, given a second chance, a third chance, a fourth chance, a fifth chance, and on and on, to get their lives back together so then they can welcome their children back home. All the while, while they are trying to get their act together, their lives together, their poor little children are shuttled from foster home to foster home, spending their most formative years deprived of what all children should have—a safe, stable, loving, and permanent home.

The article that I just talked about describes a case where two children, twins, were abandoned by their natural mother, a natural mother who had serious substance abuse problems. These children were then placed in foster care for 3½ years while efforts were made to fix the mother, efforts were made to reunify that family. These particular children happened to be fortunate. They are probably the exception, because they spent the majority of that time with one person, Diane Hendel, who wanted to adopt them, Diane Hendel who nursed them back to health, who helped them get through some very, very tough times.

But now, Mr. President, the system says they cannot stay with the only person that they have known as their mother. They have to go back to their natural mother, the person who abandoned them in the first place. Mr. President, does that really sound like a good idea? I do not think so.

The article quotes child psychiatrist Marilyn Benoit of the Devereux Children's Center in Washington, DC:

Three and a half years? And then the biological mother gets the children back? You have now disrupted the emotional development of those children. You, the court, have created a new abandonment. You have deliberately interjected separation and loss into their lives. What we know that does is disrupt development. You have depression. You have regression. You undermine a sense of trust. You introduce a sense of powerlessness. Children that age, what they want to develop is a sense of mastery, and you have done everything to thwart that, and you have really compromised that child's ability to move on.

Mr. President, I think that comment by a child psychiatrist confirms what all of us know, any of us who know anything about children. Children need a stable and permanent home, a permanent home where they will learn the skills of love, the skills of friendship and survival.

Mr. President, I think that Sister Josephine Murphy, who runs a home of severely abused children in Hyattsville, MD, is also exactly right. She is quoted in the article as saying the following:

I know what they say, blood is thicker than water, and it is, but we're adults, and at some point we have to have the guts to say, ''This is it. No more.''

No more, Mr. President. Enough is enough. Who benefits from the current bias toward reunifying abusive families? Certainly not the children. Whose interests were taken into account when the decision was made to rip these two children away from the only mother that they ever knew? Was it the children's? I don't know any rational person who would say that was in the best interest of the child. In conclusion, Mr. President, let me quote from this article. There is a portion of the article on page 10 that describes the scene when these children were taken away from their foster mother.

. . . Off they go. Goodbye to the toys. Goodbye to their drawings. Goodbye to their bedroom. Goodbye to the house. Goodbye to everything. Just like that. And then, goodbye to Diane. Who leaves the children, as ordered, so they can say hello a moment later to their new mother, who is the woman who conceived them and abandoned them and was charged with neglecting them and now, 3½ years after they were born and 2½ years after Diane took them in with the hope of adopting them, has been declared legally fit to take them with her to a new place, a strange place, their true home.

Just like that.

Goodbye.

Hello.

Mr. President, we have before us in this Congress several bills, one that just passed the House, the Camp-Kennelly bill, one that has been introduced in the Senate, which I am a cosponsor of, the Chafee-Rockefeller bill. Both of these bills, while they will not solve this problem, I think will help because they say quite simply what we all know deep in our hearts the fact should be, which is, yes, whenever possible, whenever reasonable, we should try to reunify families; but while we do that, we should not forget what our ultimate goal should be, which is to be concerned about the safety and welfare of the children.

I think, Mr. President, if we focus on the child and focus on what is in the best interest of the child, we will have fewer crazy, ludicrous decisions, such as the one we have seen recounted in the Washington Post story of this past Sunday.

Mr. President, I thank the Chair and yield the floor.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, May 2, 1997, the Federal debt stood at $5,331,758,952,154.60. (Five trillion, three hundred thirty-one billion, seven hundred fifty-eight million, nine hundred fifty-two thousand, one hundred fifty-four dollars and sixty cents)

One year ago, May 2, 1996, the Federal debt stood at $5,100,093,000,000. (Five trillion, one hundred billion, ninety-three million)

Twenty-five years ago, May 2, 1972, the Federal debt stood at $425,052,000,000 (Four hundred twenty-five billion, fifty-two million) which reflects a debt increase of nearly $5 trillion—$4,906,706,952,154.60 (Four trillion, nine hundred six billion, seven hundred six million, nine hundred fifty-two thousand, one hundred fifty-four dollars and sixty cents) during the past 25 years.

COMMEMORATION OF THE WORK OF JUDY CAMPBELL

Mr. BAUCUS. Mr. President, today I rise to acknowledge the recent retirement of a long-time congressional staff member, a dedicated public servant and a loyal friend. On April 2, 1997, Judy Campbell, who for the past 10 years served as the financial clerk of the Senate Committee on Environment and Public Works, completed 36 years of congressional service. This institution is a better place because of her faithful service.

I first met Judy Campbell late in 1974, shortly after my election to the U.S. House of Representatives. She was one of the first individuals I hired on my congressional staff. Judy's ability and exceptional organizational skills were first brought to my attention by one of the most able and respected legislators of his generation, the late Congressman Richard Bolling of Missouri, for whom Judy had already worked for over a decade. Judy served as my office manager, first in the House of Representatives and then in the Senate, for 12 years.

In 1987, the chairman of the Senate Committee on Environment and Public Works, Senator Quentin N. Burdick of North Dakota, hired Judy and she soon became the committee's financial clerk. Judy served the committee and the Senate in that capacity under four chairmen—Senators Quentin N. Burdick, DANIEL PATRICK MOYNIHAN, JOHN CHAFEE, and myself. The hallmark of Judy's congressional service was always her professionalism. She worked with Democratic and Republican Members and staff with similar dedication and equal enthusiasm.

Judy has also been an invaluable resource to her colleagues on my personal staff, the committee and around the Hill. The process of hiring new staffers always involves a certain amount of coaching and training. Judy was particularly good in this role, and I know she was always willing to provide counseling and support to other committee financial clerks and office managers around the Hill.

Longevity was only one aspect of Judy's career. Through her work she epitomized dedication in public service. For 36 years, Judy has been one of the selfless and nameless individuals who, day in and day out, make the congressional branch of government function effectively, year in and year out. Judy's detailed knowledge of congressional operations and finances is legendary. She took seriously the public trust for the millions of dollars which were her responsibility over the years. To say Judy was prudent with taxpayer funds would be an understatement. In the mid-1970's, when America's ultimate tightwad—Jack Benny—died, the joke in my office was that Judy Campbell took his place.

Mr. President, this institution is a better place because Judy Campbell toiled here. She made a difference. Her many friends on Capitol Hill and I will miss her. I personally wish Judy and her husband Denny nothing but the best in retirement. As they complete construction of a new home this summer, we wish them many years of good health and enjoyment. On April 3, 1997, Judy realized a longtime dream. On that day she started a new career—that of a full-time grandmother.

Thank you, Judy, and good luck.

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

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

NATIONAL PEACE OFFICERS MEMORIAL DAY

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 79.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 79) to commemorate the 1997 National Peace Officers Memorial Day.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

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

Mr. SESSIONS. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

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

The resolution (S. Res. 79) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 79

Whereas, the well-being of all ctiizens of this country is preserved and enhanced as a direct result of the vigilance and dedication of law enforcement personnel;

Whereas, more than 500,000 men and women, at great risk to their personal safety, presently serve their fellow citizens in their capacity as guardians of the peace;

Whereas, peace officers are the front line in preserving our children's right to receive an education in a crime-free environment that is all too often threatened by the insidious fear caused by violence in schools;

Whereas, 117 peace officers lost their lives in the performance of their duty in 1996, and a total of 13,692 men and women have now made that supreme sacrifice;

Whereas, every year 1 in 9 officers is assaulted, 1 in 25 is injured, and 1 in 4,000 is killed in the line of duty;

Whereas, on May 15, 1997, more than 15,000 peace officers are expected to gather in our Nation's Capital to join with the families of their recently fallen comrades to honor them and all others before them: Now, therefore, be it

Resolved by the Senate of the United States of America in Congress assembled, That May 15, 1997, is hereby designated as ''National Peace Officers Memorial Day'' for the purpose of recognizing all peace officers slain in the line of duty. The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this day with the appropriate ceremonies and respect.

SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT OF 1997

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate resume consideration of S. 672.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill.

The bill clerk read as follows:

A bill (S. 672) making supplemental appropriations and rescissions for the fiscal year ending September 30, 1997, and for other purposes.

The Senate continued with the consideration of the bill.

CLOTURE MOTION

Mr. SESSIONS. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on S. 672, the supplemental appropriations bill:

Trent Lott, Ted Stevens, Mike DeWine, Bob Bennett, Tim Hutchinson, Richard G. Lugar, Pete Domenici, Pat Roberts, Connie Mack, Frank H. Murkowski, Richard Shelby, Craig Thomas, Chuck Grassley, Christopher S. Bond, Michael B. Enzi, Jeff Sessions.

MORNING BUSINESS

Mr. SESSIONS. Mr. President, I ask unanimous consent that there now be a period of morning business.

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

NOTICE OF ADOPTION OF AMENDMENTS TO PROCEDURAL RULES

Mr. THURMOND. Mr. President, pursuant to section 303 of the Congressional Accountability Act of 1995 (2 U.S.C. 1383), a notice of adoption of amendments to procedural rules was submitted by the Office of Compliance, U.S. Congress. The notice publishes amendments to the rules governing the procedures for the Office of Compliance under the Congressional Accountability Act. The amendments to the procedural rules have been approved by the Board of Directors, Office of Compliance.

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

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

OFFICE OF COMPLIANCE

The Congressional Accountability Act of 1995: Amendments to Procedural Rules

NOTICE OF ADOPTION OF AMENDMENTS TO PROCEDURAL RULES

Summary: After considering the comments to the Notice of Proposed Rulemaking published January 7, 1997 in the CONGRESSIONAL RECORD, the Executive Director has adopted and is publishing amendments to the rules governing the procedures for the Office of Compliance under the Congressional Accountability Act of 1995 (P.L. 104–1, 109 Stat. 3). The amendments to the procedural rules have been approved by the Board of Directors, Office of Compliance.

For Further Information Contact: Executive Director, Office of Compliance, Room LA 200, 110 Second Street, S.E., Washington, D.C. 20540–1999. Telephone No. 202–724–9250. TDD/TTY: 202–426–1912.

SUPPLEMENTARY INFORMATION

I. Background

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

Pursuant to section 303(b) of the CAA, the Executive Director published for comment a Notice of Proposed Rulemaking (''NPR'') in the CONGRESSIONAL RECORD on January 7, 1997 (143 Cong. R. S25–S30 (daily ed., Jan. 7, 1997)) inviting comments regarding the proposed amendments to the procedural rules. Four comments were received in response to the NPR: three from Congressional offices and one from a labor organization. After full consideration of the comments received, the Executive Director has, with the approval of the Board, adopted these amendments to the procedural rules.

II. Consideration of Comments and Conclusions Regarding Amendments to Existing Rules

A. Section 1.04(d)—Final Decisions

One commenter noted that, although section 1.04(d) provides that the Board will make public final decisions in favor of a complaining covered employee, or charging party under section 210 of the CAA, as well as those that reverse a Hearing Officer's decision in favor of a complaining employee or charging party, section 1.04(d) does not specifically provide that decisions in favor of an employing office will be made public. Rather, such decisions may be made public in the discretion of the Board. The commenter suggested that the rules should provide either that all or none of the decisions be made public, asserting that, if section 1.04(d) were not so modified, there would be ''inconsistent access'' to decisions and ''the impression that the Board's procedures are weighted against employing offices.'' Proposed section 1.04(d) is identical to section 416(f) of the CAA, and its language, therefore, should not and will not be altered, whatever the Board's ultimate practice with respect to the publication of decisions in favor of employing offices.

B. Section 1.07(a)

One commenter suggested that, if section 1.04(d) were not modified to provide for publication of all decisions, the term ''certain final decisions'' in section 1.07(a) should be defined and procedures should be established to challenge Board determinations regarding the publication of decisions. Section 1.07(a) has been modified to make it clear that the referenced final decisions are those described in section 416(f) of the CAA. As section 416(f) of the CAA makes clear which final decisions must be made public and grants the Board complete discretion as to publication of other final decisions, procedures for challenging determinations regarding publication are not warranted.

C. Section 5.01—Complaints

For the reasons set forth in Section III.C.10., *infra,* section 5.01(b)(2) will not be modified to require the General Counsel to conduct a follow-up inspection as a prerequisite to filing a complaint under section 215 of the CAA, as requested by a commenter.

D. Section 5.04—Confidentiality

One commenter suggested that section 5.04 be modified to clarify that proceedings before Hearing Officers and the Board are not confidential. However, with certain exceptions, pursuant to section 416(c) of the CAA, such proceedings are confidential and, therefore, the proposed rule cannot be modified as suggested by the commenter. However, the rule will be clarified to note the statutory exceptions to the confidentiality requirement. In addition, at the suggestion of another commenter, the rule will be modified to cross-reference sections 1.06, 1.07 and 7.12 of the procedural rules, which also relate to confidentiality.

III. Consideration of Comments and Conclusions Regarding Section 215 Procedures

A. Promulgation of the proposed amendments as substantive regulations under section 304

Two commenters restated objections to the Board's decision in promulgating its substantive section 215 regulations (143 Cong. R. S61, S63 (daily ed., Jan. 7, 1997)) not to adopt the Secretary's rules of practice and procedure for variances under the OSHAct (part 1905, 29 C.F.R.), and the Secretary's regulations relating to the procedure for conducting inspections, and for issuing and contesting citations and proposed penalties under the OSHAct (part 1903, 29 C.F.R.) as regulations under section 215(d)(2) of the CAA. The arguments offered by the commenters are substantially the same as those rejected by the Board in its rulemaking on this issue (143 Cong. R. at S63). The Board has fully explained its decision not to adopt Parts 1903 and 1905, 29 C.F.R., as regulations under section 215(d) of the CAA, and for rejecting the arguments made by the commenters. The Board did not consider the Secretary's regulations governing inspections, citations, and variances to be outside the scope of rulemaking under section 304 because they were ''procedural'' as opposed to ''substantive.'' Instead, the Board did not adopt these regulations because they were promulgated to implement sections 8, 9, and 10 of the OSHAct, statutory provisions which are not ''referred to in subsection (a)'' of section 215. Accordingly, these regulations were not within the scope of the Board's rulemaking authority under section 215(d)(2). 143 Cong. R. at S63–64. Thus, the question whether the proposed regulations should have been issued under section 304 of the CAA cannot be addressed by the Executive Director in the context of this rulemaking.

Because the Board has determined that regulations covering variances, citations, and notices cannot be issued under section 215(d), the question is whether such regulations may be issued by the Executive Director under section 303. The essence of the commenters' argument in this rulemaking is that the Executive Director cannot do so because the procedures affect substantive rights of the parties. The commenters' position is based on the substance-procedure distinction that they believe demarcates the boundary between rulemaking under sections 215(d) and 304 and rulemaking under section 303.

As noted above, the Board did not exclude the subjects of variances, citations, and notices from its rulemaking based on a substance/procedure distinction, but because the Secretary's regulations covering these subjects were not within the scope of section 215(d). Similarly, the Executive Director is not barred from promulgating rules governing the procedures of the Office simply because those procedures might affect the substantive rights of the parties.

Contrary to the commenters' argument, the Board's earlier statement (in the context of its rulemaking under section 220(d) of the CAA) that rules governing procedures can be substantive regulations is not controlling with respect to the present issue. In its rulemaking proceeding under section 220(d), the Board determined that the subject matter of the Federal Labor Relations Authority's regulations, including certain regulations purporting to govern procedures of the Authority, were within the plain language setting forth the scope of rulemaking under section 220(d). The question raised by the commenters in that rulemaking was whether regulations falling within the scope of section 220(d) were nevertheless excluded because of their procedural label or character. The Board decided that they were not so excluded, and its statement that procedural rules can be considered substantive regulations was made in that context. *See* 142 Cong. R. S5070, 5072 (daily ed., May 15, 1996). Conversely, in its rulemaking under section 215(d), the Board determined that certain regulations were *not* within the scope of rulemaking under section 215(d), and it rejected the argument that regulations not falling within the scope of section 215(d) should nevertheless be included because of their substantive label or character. Thus, contrary to the commenters' arguments, there is no inconsistency in the underlying rationale of the Board in these two rulemakings. The Board's preambulatory remarks as part of the section 220(d) rulemaking seized upon by the commenters, when read in context, do not control the question here.

The question whether these rules can be promulgated under section 303 must begin and end with the language of the statute. Section 303(a) provides that ''[t]he Executive Director shall, subject to approval of the Board, adopt rules governing the procedures of the Office, including the procedures of hearing officers, which shall be submitted for publication in the Congressional RECORD.'' 2 U.S.C. §1383(a). The regulations in issue plainly meet these criteria. So long as the Executive Director's regulations meet these criteria, the regulations may be promulgated under this authority, whether they affect substantive rights or not.

Given the Board's decision not to promulgate regulations governing the subject of variances, citations, and notices under section 215(d), if the Executive Director accepted the commenters' arguments and did not issue these rules under section 303, it would mean, for example, that no procedures would exist by which variances may be considered by the Board. The Executive Director believes that such a procedure should be provided employing offices. Because promulgation of such procedures is within the scope of the Executive Director's rulemaking under section 303, there is no basis upon which the Executive Director should refuse to address these matters under section 303.

B. References to the General Counsel's designees

Two commenters argued that references in the regulations to ''designees of the General Counsel'' are inappropriate on the theory that the CAA does not authorize the General Counsel to delegate his duties. To the extent that the commenters are arguing that the General Counsel is prohibited from assigning or designating others to perform the inspections and other responsibilities under section 215 of the CAA, such an argument is refuted by section 302(c)(4) of the CAA, which expressly authorizes the General Counsel to ''appoint . . . such additional attorneys as may be necessary to enable the General Counsel to perform the General Counsel's duties.'' 2 U.S.C. §1382(c)(4). Similarly, 215(c) of the CAA provides that the General Counsel exercises the ''authorities granted to the Secretary of Labor'' by subsections (a), (d), (e), and (f) of section 8 of the OSHAct, and sections 9 and 10 of the OSHAct. Those sections in turn recognize that the Secretary may act personally or through an ''authorized representative'' with respect to many of these functions. *See* 29 U.S.C. §§657(e), (f), and 658(a). Thus, the proposed regulation is not inconsistent with section 215 or the provisions of the OSHAct incorporated thereunder.

One of the commenters also argued that the General Counsel may not utilize detailees or consultants in carrying out his duties, because section 302 of the CAA gives the Executive Director the authority to secure the use of detailees. However, section 302 does not limit the functions to which these detailees may be assigned within the Office. Similarly, although the Executive Director may procure the temporary services of consultants ''[i]n carrying out the functions of the Office,'' nothing in the CAA suggests that the Executive Director is barred from obtaining and approving the services of consultants to assist the General Counsel in performing his duties. Indeed, the comprehensive inspections of Legislative Branch facilities were performed in large part through the use of detailees and consultants assisting the General Counsel. The commenters were aware of this use of consultants for this purpose. No claim was made that such inspections could not be conducted with the assistance of consultants.

More to the point, the General Counsel is statutorily responsible for exercising the authorities and performing the duties of the General Counsel as specified in section 215 and is accountable for decisions made therein. The proposed regulatory sections do not purport to delegate the General Counsel's statutory responsibilities to others. The regulations simply recognize that the General Counsel may utilize others to enable him to perform certain functions within those responsibilities (such as assisting in conducting investigations and inspections).

The commenters' implicit argument that the CAA requires the General Counsel to *solely* and personally perform those functions is, quite simply, wrong. It is clear that ''those legally responsible for a decision must in fact make it, but that their method of doing so—their thought processes, their reliance on their staffs—is largely beyond judicial scrutiny.'' *(Yellow Freight System, Inc.* v. *Martin,* 983 F.2d 1195, 1201 (2d Cir. 1993), quoting *KFC National Management Corp.* v. *NLRB,* 497 F.2d 298 (2d Cir. 1974), cert. denied,

423 U.S. 1087 (1976). Thus, the decision to assign or designate others (such as other attorneys in the Office, detailees or others) to perform functions related to the General Counsel's ultimate decisions under section 215 (e.g., whether to issue a citation, a notice and/or a complaint in a particular case) is not prohibited by the CAA or subject to review by individual employing offices, as argued by the commenters.

One of the commenters argued that employing offices should have an opportunity to pass upon the qualifications of individuals chosen by the General Counsel to conduct inspections through a specified process. Nothing in the CAA or the OSHAct authorizes adoption of such a procedure, and such a provision would interfere unduly with the General Counsel's enforcement responsibilities. Adoption of procedures to micro-manage the General Counsel's operations in this area would be improper in the absence of any statutory authority.

C. Inspections, Citations, and Complaints

1. Objection to inspection, entry not a waiver, advance notice of inspection, requirement of *ex parte* administrative inspection warrants (sections 4.04, 4.05, and 4.06)

Three commenters requested that the Executive Director issue regulations requiring the General Counsel to provide advance notice of an inspection to employing offices or to seek a warrant before conducting a nonconsensual search of employing offices. One commenter argued that the Supreme Court's decision in *Marshall* v. *Barlow's, Inc.*, 436 U.S. 307 (1978), which held that the Fourth Amendment's protection against unreasonable searches and seizures applies to nonconsensual inspection of private commercial property, applies to administrative inspections of legislative branch employing offices by another legislative branch entity; the commenter further argued that the rules should require that the General Counsel first notify the employing office of the intent to inspect, obtain written consent prior to inspections, and schedule an appointment with employing offices for such inspections. The other commenter argued that, regardless of whether the Fourth Amendment's protection applies equally to congressional offices, similar privacy interests apply to employing offices to enable them to conduct their legislative business free from unreasonable searches. These commenters asked that the procedural rules include provisions similar to those of section 1903.4 of the Secretary's rules, which were amended to authorize the Secretary to secure an *ex parte* administrative warrant upon refusal to consent to a search in response to the *Barlow's* decision. *See* 45 Fed. Reg. 65916 (Oct. 3, 1980) (Final rule amending section 1903.4, 29 C.F.R.). The third commenter also requested that the final regulations include the compulsory process/*ex parte* administrative warrants provisions of section 1903.4, but did not explain how inclusion of such a provision would be authorized by section 215 of the CAA.

It is not entirely clear that the Fourth Amendment's protections that bar the warrantless search of commercial premises apply (or apply with equal force) to inspections of a legislative branch office by another legislative branch entity, albeit an independent one. The protections of the Fourth Amendment were designed to protect privacy interests against intrusion by the government; it is, therefore, not obvious that they apply to prohibit one legislative branch enforcement entity (the General Counsel) from conducting an investigation of another legislative branch entity (an individual employing office). To be sure, there may be portions of an employing office to which individual persons' expectations of privacy may attach. See, e.g., *O'Connor* v. *Ortega*, 480 U.S. 709 (1987) (expectation of privacy in public employee's desk, files, and areas within his exclusive control); *Schowengerdt* v. *General Dynamics Corp.*, 823 F.2d 1328, 1335 (9th Cir. 1987) (reasonable expectation of privacy found to exist in areas of government property given over to an employee's exclusive control). But it is questionable whether an employing office, as a covered entity (as distinguished from the individuals holding positions within the office or working there), would be found to possess a privacy right to be free from administrative inquiries authorized by a statute duly enacted by Congress. Moreover, section 215(f)'s requirement that the General Counsel conduct a comprehensive inspection of all covered employing offices and other covered facilities on a regular basis and at least once each Congress may well defeat an otherwise reasonable expectation of privacy in such offices and other facilities. See, e.g., *United States* v. *Bunkers*, 521 F.2d 1217, 1219–20 (9th Cir.) (search of postal worker's locker authorized by regulation), *cert. denied*, 423 U.S. 989 (1975); *United States* v. *Taketa*, 923 F.2d 665, 672 (9th Cir. 1991) (valid regulation may defeat an otherwise reasonable expectation of workplace privacy); see also *Donovan* v. *Dewey*, 452 U.S. 593 (1981) (legislative schemes authorizing warrantless administrative searches of commercial property do not necessarily violate the Fourth Amendment).

In any event, whether *Barlow's* and its progeny apply in the context of the CAA is a question that need not be decided here. Section 215 does not provide a mechanism by which warrants may be issued. Section 215 contemplates the assignment of hearing officers, but only after a complaint has been filed by the General Counsel. *See* 2 U.S.C. §1341(c)(3). Moreover, there is no provision in the CAA that would allow such applications to be heard by federal judges. *Compare* 2 U.S.C. §1405(f)(3) (authorizing federal district court to issue orders requiring persons to appear before the hearing officer to give testimony and produce records). Thus, there is no statutory basis upon which such a procedure could be adopted by the Executive Director.

The commenters incorrectly assume that, absent a warrant procedure, the General Counsel would nevertheless enter a workspace over the objection of the employing office/s with jurisdiction over the area or control of the space involved. Just as it would be improper to assume that employing offices would engage in a wholesale refusal to allow inspections, it cannot be assumed that the General Counsel will attempt to force inspectors into work areas over the employing office's objection. *See* 29 U.S.C. §657(a)(2) (Secretary authorized ''to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner . . .''). In the typical case, the General Counsel can be expected to ascertain the reason for the refusal and attempt to secure voluntary consent to conduct the inspection. If the employing office continues to refuse an inspection, there are options presently available to the General Counsel to secure access to the space. These options would include, among others, seeking such consent from the relevant committee(s) of the Congress that have responsibilities for the office space or work area involved, and seeking consent from the Architect of the Capitol and/or other entities that have superintendence or other responsibility for and authority over the facility and access to and/or control of the space involved. If such options are unavailing, the General Counsel could simply note the refusal of the employing office to allow the inspection in, for example, the inspection report submitted to the Congress. Of course, the Office assumes that employing offices will not withhold their consent.

The commenters also argued that advance notice should be given by the General Counsel to conform to protections recognized in the private sector context. One of the commenters specifically requested that the rules require the General Counsel to first schedule an appointment with an employing office prior to an inspection. Although the commenters argued that such notice is consistent with practice under the OSHAct, advance notice of inspections is the *exception*, not the rule, at OSHA. *See* 29 C.F.R. §1903.6; OSHAct section 17(f). Moreover, in enacting the CAA, the Congress understood that its incorporation of the rights and protections of the OSHAct included the standard practice and procedure at OSHA that advance notice would not be given. *See* 142 Cong. R. S 625 (daily ed., Jan. 9, 1995) (section-by-section analysis of the CAA submitted by Senator GRASSLEY) (''[T]he act does not provide that employing offices are to receive notice of the inspections.''). Thus, the commenters' argument that advance notice of inspections is required by OSHA regulations and practice, or by the CAA, is not supported by the statute. Indeed, as one of the commenters acknowledged, its proposal requiring advance notice would require a re-writing of the inspection authority of section 8(a) of the OSHAct, applied by section 215, to read that the General Counsel is authorized ''*upon the notice and consent of the employing office* to enter [without delay and] at reasonable times . . .'' Adoption of a such a rule, which is plainly at odds with the underlying statute, would be improper.

One of the commenters argued alternatively that proposed section 4.06 be modified to include the provisions of section 1903.6, which authorizes advance notice in certain specified circumstances. The provisions of section 1903.6, with appropriate modifications, will be included as part of the final regulations, since such an enforcement policy is not deemed to add to or alter any substantive provision in the underlying statute.

This commenter also requested that section 4.06 be modified to require the General Counsel to issue a written statement explaining why advance notice was not provided to the employing office. Nothing under the CAA or the OSHAct authorizes or suggests such a requirement, nor would any purpose of the CAA be served. Thus, no such modification will be made.

Finally, section 4.05 (Entry not a waiver) will be modified to specifically refer to section 215 of the CAA, as requested by a commenter.

2. References to recordkeeping requirements (sections 4.02 and 4.07)

Two commenters objected to references in proposed section 4.02 of the regulations to ''records required by the CAA and regulations promulgated thereunder,'' and a similar reference in section 4.07, on the theory that no recordkeeping requirements, even those that are inextricably intertwined with the substantive health and safety standards of Parts 1910 and 1926, 29 C.F.R., may be imposed on employing offices under the CAA. The commenters presented no different arguments than those fully considered and rejected by the Board in promulgating its substantive section 215 regulations. *See* 142 Cong. R. at S63. Because the Board has adopted substantive health and safety standards which impose limited recordkeeping requirements on employing offices (e.g., rules relating to employee exposure records), such records are subject to review during an inspection. The Executive Director thus has no basis for the proposed deletion.

3. Security clearances (section 4.02)

Two commenters suggested that section 4.02 of the proposed regulation be amended to provide that the General Counsel or other person conducting a work site inspection obtain an appropriate security clearance before inspecting areas that contain classified information. The General Counsel reports that he is in the process of obtaining, through the appropriate security division of the United States Capitol Police, security clearances for the General Counsel and the General Counsel's inspection personnel to enable them to have access to such areas, if access is required as part of a section 215 inspection. Section 4.02, and other sections as appropriate, will be amended to state that the General Counsel and/or any inspection personnel will be required to either have or obtain appropriate security clearance, if such clearance is required for access to the workspaces inspected.

4. Requests for inspections by employing office (section 4.03)

One commenter noted that, although section 4.03(b) provides that employing office requests for inspections must be reduced to writing on a form provided by the Office, there is no requirement in section 4.03(a) that employee requests be submitted on an Office-provided form. Section 4.03(a) will be modified to provide that employee requests be reduced in writing on an Office-provided form. The commenter has asked that any form developed be submitted for review and comment from employing offices prior to its approval. Since the form is merely an investigative tool of the General Counsel, there is no reason to require that it be ''approved'' by the Board prior to issuance. Inspection forms and other similar documents relating to the General Counsel's enforcement procedures are available from the General Counsel.

5. Scope and nature of inspection (sections 4.03 and 4.08)

One commenter has asked that section 4.03(2) be modified to provide that inspections will be limited to matters included in the notice of violation. Section 4.03(2) is based on virtually identical provisions of the Secretary's regulations, 29 C.F.R. §1903.11. Nothing in section 215 or the provisions of the OSHAct incorporated thereunder would authorize placing a limitation on the General Counsel's inspection authority, as proposed by the commenter.

Similarly, section 8(e) of the OSHAct, 29 U.S.C. §657(e), and proposed section 4.08 provide that a representative of the employer and a representative authorized by the employees shall be given an opportunity to accompany the inspector, and section 4.08 will not be modified to provide that parties be given the opportunity to seek immediate review of the General Counsel's determinations regarding authorized representatives, or to provide specific standards by which the General Counsel may deny the right of accompaniment, or that parties have a ''fair'' opportunity to accompany the General Counsel's designee during the inspection, as suggested by two commenters. As with the proposed modifications of section 4.03, nothing in section 215, the OSHAct, or the Secretary's rules and practice under the OSHAct, would authorize placing these limitations on the General Counsel's enforcement authorities. On the contrary, such a modification provides parties with a tool for delay, allowing an office to forestall prompt inspection and abatement of hazards while the parties litigate the issue of whether an employing office was denied a ''fair'' opportunity for accompaniment or whether a representative of employees is an appropriately authorized representative. Nothing in the OSHAct, as applied by section 215 of the CAA, would sanction such a rule.

6. Inspector compliance with health and safety requirements (section 4.07)

Two commenters requested that section 4.07 of the proposed regulations add the provisions of 29 C.F.R. §1903.7(c), which provide that health and safety inspectors take reasonable safety precautions to ensure that their inspection practices are not hazardous and comply with the employer's safety and health rules at the work site. This enforcement policy will be included within the final regulations.

7. Consultation with employees (section 4.09)

Section 4.09 tracks the provisions of section 1903.10 of the Secretary's regulations, which provide that inspectors may consult with employees concerning health and safety and other matters deemed necessary for an effective and thorough inspection, and that afford employees an opportunity to bring violations to the attention of the inspectors during the course of an inspection. A commenter has requested that section 4.09 be modified to require specific limits on the time, place, and manner of such consultations, and that employees be required to first put in writing violations that they intend to bring to the attention of inspectors during the course of an inspection. Nothing in section 215 of the CAA or the provisions of the OSHAct incorporated thereunder requires or permits the modifications requested by the commenter.

8. Inspection not warranted; informal review (section 4.10)

A commenter requested that proposed section 4.10(a) be revised to state that, after conducting informal conferences to review a decision not to conduct an inspection of a work site, the General Counsel ''shall'' (rather than ''may'') affirm, modify or reverse the decision. The final regulations will include the change suggested by the commenter.

A second commenter requested that the final regulations include the provisions of 29 C.F.R. §1903.12(a), which permit parties to make written submissions as part of the informal conference. The final regulations will include these provisions, as suggested by the commenter.

9. Citations (section 4.11)

Two commenters requested that section 4.11 of the final regulations include the language of 29 C.F.R. §1903.14(a) that ''No citation may be issued under this section after the expiration of six months following the occurrence of any violation.'' The commenters argued that the proposed regulations ''omit this important substantive right'' under section 9(c) of the OSHAct. Section 9(c) of the OSHAct is a temporal limitation on the ability of the Secretary to issue a citation and thus is included within the scope of section 215(c). It applies regardless of whether or not a procedural regulation ''implements'' it. Nevertheless, because the proposed provision simply tracks the clear and unambiguous statutory provision of section 9(c) of the OSHAct and does not purport to create or modify any substantive right, it will be included in section 4.11 of the final regulations.

One commenter requested that section 4.11(a), which authorizes the General Counsel to issue citations or notices even if the employing office immediately abates, or initiates steps to abate the violation, be deleted. However, this provision tracks the language of section 1903.14(a) and is consistent with section 215 of the CAA. Thus, it will not be modified as requested by the commenter.

10. *De minimis* violations (sections 4.11 and 4.13)

Two commenters argued that the Executive Director should adopt provisions regarding ''*de minimis*'' violations, consistent with section 9(a) of the OSHAct and 29 C.F.R. §§1903.14 and 1903.16. Section 9(a) of the OSHAct provides, in relevant part, that ''[t]he Secretary may prescribe procedures for the issuance of a notice in lieu of a citation with respect to *de minimis* violations which have no direct or immediate relationship to safety or health.'' Although OSHA formerly required inspectors to issue citations on *de minimis* violations under this provision, the practice has been abandoned. OSHA Field Inspection Reference Manual ch. III.C.2.g. (1994) (''De Minimis violations . . . shall not be included in citations. . . . The employer should be verbally notified of the violation and the [Compliance Safety and Health Officer] should note it in the inspection case file.''). Thus, a provision enabling the General Counsel to issue notices for *de minimis* violations is of little practical utility under section 215. However, the text of section 215(c)(2)(A) authorizes the General Counsel to issue a ''citation or notice,'' which reasonably would include a notice of *de minimis* violations. Including such a provision in these regulations is consistent with the CAA, and does not create a substantive requirement. Thus, sections 4.11 and 4.13 will be modified to provide that the General Counsel may issue notices of *de minimis* violations in appropriate cases, as requested by the commenters.

11. Failure to correct a violation for which a citation has been issued; notice of failure to correct a violation; complaint (section 4.14)

Section 4.14(a) of the proposed regulations provide that, ''if the General Counsel determines'' that an employing office has failed to correct timely an alleged violation, he or she ''may'' issue a notification of such failure before filing a complaint against the office. Two commenters argued that the proposed regulations are contrary to section 215(c)(2)(B) of the CAA because they do not require the General Counsel to issue a notification before filing a complaint. Similarly, these commenters argued that section 5.01 be modified to require the General Counsel to conduct a follow-up inspection as a prerequisite to filing a complaint under section 215. Nothing in section 215(c)(2)(B) *requires* the General Counsel to issue a notification or to conduct a follow-up inspection prior to filing a complaint. Instead, section 215 grants the General Counsel the authority to file a complaint after issuing ''a citation or notification,'' if the General Counsel determines that a violation has not been corrected. 2 U.S.C. §1341(c)(3).

The section-by-section analysis of the CAA explains the basis for section 215(c)(2)'s language authorizing the General Counsel to issue a citation or a notice. It makes clear that section 215 does not require the General Counsel to issue a notification prior to filing a complaint where an employing office has failed to abate a hazard outlined in the citation: [Under section 215] the general counsel can issue a citation and proceed to file a complaint if the violation remains unabated. Or the general counsel may file a notification after the citation is not complied with, and then file a complaint. The general counsel may not file a notification without having first filed a citation which has not been honored. The choice whether to follow a citation with a complaint once it is evident that there has not been compliance, or to file a notification before the filing of the complaint, will normally turn on whether the general counsel believes that good faith efforts are being undertaken to comply with

the citation, but the time period for complete remediation of the citation period has expired.'' 141 Cong. R. S621, S625 (daily ed. Jan. 9, 1995) (section-by-section analysis). Therefore, because the commenters' requested change is contrary to the statutory procedure outlined in section 215, it may not be adopted as a procedure of the Office under section 303.

2. Informal conferences (section 4.15)

One commenter requested that section 4.15 be modified to require the General Counsel to allow participation in an informal conference by persons other than the requesting party (complaining employee or employing office). Section 4.15, which states that such participation is ''at the discretion of the General Counsel,'' tracks section 1903.19 of the Secretary's regulations and is consistent with section 215 of the CAA. Thus, it will not be modified as requested by the commenter. However, as requested by the commenter, section 4.15 will be revised to clarify that any settlement entered into between the parties to such a conference shall be subject to the approval of the Executive Director, to conform to section 414 of the CAA.

13. Notice of contest

A commenter argued that the procedural regulations should provide a procedure for filing notices of contest, as outlined in 29 C.F.R. §1903.17 and consistent with section 9(a) of the OSHAct. However, the changes proposed by the commenter would flatly contradict the statutory procedures outlined in section 215. As the Board noted in its rulemaking under section 215, the statutory enforcement scheme under section 215 differs significantly from the comparable statutory provisions of the OSHAct.

The enforcement procedures of the OSHAct are set forth in sections 8, 9, 10, and 11 of the OSHAct, 29 U.S.C. §§657–660. Section 8(a) of the OSHAct authorizes the Secretary's inspectors to conduct reasonable safety and health inspections at places of employment. 29 U.S.C. §657(a). If a violation is discovered, the inspector may issue a citation to the employer under section 9(a) of the OSHAct, specifically describing the violation, fixing a reasonable time for its abatement and, in his or her discretion, proposing a civil monetary penalty. 29 U.S.C. §§658, 659. Section 8(c) permits an employer to notify the Secretary that it intends to contest the citation. 29 U.S.C. §659(c). If the employer does not contest the citation within 15 working days, it becomes a final abatement order and is ''not subject to review by any court or agency.'' 29 U.S.C. §659(b). Section 10(c) of the OSHAct also gives an employee or representative of employees a right to contest the period of time fixed in the citation for abatement of the violation. In either event, the Occupational Safety and Health Review Commission must afford the employer and/or the employee ''an opportunity for a hearing.'' 29 U.S.C. §659(c). Section 10(c) also requires the Commission to provide affected employees or their representatives ''an opportunity to participate as parties to hearings under this subsection.'' *Id.*

Rather than either incorporating by reference the statutory enforcement procedures of the OSHAct described above or adopting them in *haec verba* in section 215, the CAA provides a detailed statutory enforcement scheme which departs from the OSHAct in several significant respects. Section 215(c) makes reference to sections 8(a), 8(d), 8(e), 8(f), 9, and 10 of the OSHAct, but only to the extent of granting the General Counsel the ''authorities of the Secretary'' contained in those sections to ''inspect and investigate places of employment'' and to ''issue a citation or notice . . . or a notification'' to employing offices. Section 215(c)(1), (2). Other portions of sections 8, 9, and 10 of the OSHAct that do not relate to the Secretary's authority to conduct inspections or to issue citations or notices are not incorporated into sections 215(c). Instead, section 215(c) provides a detailed procedure regarding inspections and citations which, although modeled on sections 8, 9, and 10 of the OSHAct, differs in several significant respects from the OSHAct enforcement scheme.

For example, under section 10 of the OSHAct, the employer must initiate a contest within 15 days of receipt to prevent the citation from becoming final; under section 215(c), the General Counsel must initiate a complaint to obtain a final order against an employing office that fails or refuses to abate a hazard outlined in the citation. Section 10(c) of the OSHAct gives employees and representatives of employees a right to participate as parties before the Occupational Safety and Health Appeals Review Board; section 215(c)(5) does not provide such party participation rights to employees and suggests that only the General Counsel and the employing office may participate in any review of decisions issued under section 215.

Section 215(c) of the CAA outlines the specific procedures regarding variances, citations, notifications and hearings under section 215. Any procedural regulations adopted by the Executive Director under section 303 of the CAA cannot conflict with these statutorily-mandated procedures. See *United States* v. *Fausto*, 108 S.Ct. 668, 677 (1988) (the provision of detailed review procedures provides strong evidence that Congress intended such procedures to be exclusive); *Block* v. *Community Nutrition Institute*, 467 U.S. 340, 345–48 (1984) (omission of review procedures for consumers affected by milk market orders, coupled with the provision of such procedures for milk handlers so affected, was strong evidence that Congress intended to preclude consumers from obtaining judicial review); *Whitney Nat. Bank* v. *Bank of New Orleans & Tr. Co.*, 85 S.Ct. 551, 557 (1965) (where Congress has provided statutory review procedures, such procedures are to be exclusive).

Given the fact that section 215(c) sets forth a detailed enforcement procedure which is significantly different than the procedures of the OSHAct, it is reasonable to conclude that Congress did not intend the Board to presume that the regulations regarding such procedures would be ''the same'' as the Secretary's procedures, as they generally must be if they fall within the Board's substantive rulemaking authority under section 215(d)(2). See *Lorillard* v. *Pons*, 434 U.S. 575 (1978) (manner in which Congress employed incorporation by reference evidenced an intent on the part of Congress to assimilate the remedies and procedures of the FLSA into the ADEA, except in those cases where, in the ADEA itself, Congress made plain its decision to follow a different course than that provided for in the FLSA). Thus, the commenters' interpretation is not supported by section 215.

Here, there is no statutory authority for the filing and determination of notices of contest by employing offices. The only way in which a safety and health issue can be presented to a hearing officer is in connection with a complaint filed by the General Counsel. These procedural regulations cannot be used to engraft provisions not provided for in the statute and, more importantly, which conflict with the procedures expressly set forth therein. For the same reasons, there is no statutory basis upon which to create a procedure allowing an employing office to petition for modification of abatement dates (29 C.F.R. §1903.14a), as requested by this commenter.

14. Trade secrets

A commenter requested that the regulations include the provisions of section 1903.7, 29 C.F.R., relating to protection of trade secrets information. Section 1903.7 implements section 15 of the OSHAct, which provides that information obtained by the Secretary in connection with any inspection or proceeding under the OSHAct ''which might reveal a trade secret referred to in section 1905 of title 18 of the United States Code'' shall be considered confidential. It is not clear that section 15 of the OSHAct applies to proceedings under section 215 of the CAA. However, the current procedural rules attempt to protect privileged or otherwise confidential information from disclosure in CAA proceedings. If any employing office possessed information that constituted a ''trade secret'' within the meaning of section 15, the Office's procedures recognize that confidential or privileged materials or other information should be protected from disclosure in appropriate circumstances. *See* section 6.01 (c)(3) and (d) of the Procedural Rules (authorizing hearing officers to issue any order to prevent discovery or disclosure of confidential or privileged materials or information, and dealing with claims of privilege). If employing offices maintain information that would constitute ''trade secrets'' within the meaning of section 15 of the OSHAct, protection against disclosure of such information should be extended to inspections and other information gathering under section 215. Accordingly, the final rules will include, with appropriate modification, the provisions of section 1903.7 as section 4.07(g).

D. Variances

1. Publication of variance determinations and notices (sections 4.23, 4.25, 4.26, and 4.28)

Two commenters requested that sections 4.23, 4.25, 4.26, and 4.28 specify the manner in which the Board's final determinations and other notices will be made public, either by publication in the CONGRESSIONAL RECORD or its equivalent. The regulations will be amended to provide that the Board shall transmit a copy of the final decision to the Speaker of the House and President pro tempore of the Senate with a request that the order be published in the CONGRESSIONAL RECORD. Since the CAA does not require publication of such orders in the CONGRESSIONAL RECORD, the decision to publish in the CONGRESSIONAL RECORD is solely within the discretion of Congress.

Hearings (sections 4.25 and 4.26)

Two commenters have suggested that the provisions regarding referral of matters appropriate for hearing to hearing officers in sections 4.25 and 4.26 of the proposed regulations be revised to replace ''may'' with ''shall'' to conform to the language of section 215. They further suggest that the references in section 4.25 and 4.26 requiring applicants to include a request for a hearing be deleted as unnecessary. After considering these comments and the statutory language, the regulations will be amended to provide for referral to hearing officers.

E. Enforcement policy regarding employee rescue activities

Two commenters argued that the regulations should include the provisions of subsection (f) of 29 C.F.R. §1903.14, which provides that, with certain exceptions, no citations may be issued to an employer because of rescue activity undertaken by an employee. However, this provision was adopted by the Secretary as ''a general statement of agency policy'' and is ''an exercise of OSHA's prosecutorial discretion in carrying out its enforcement responsibilities'' under the OSHAct. *See* ''Policy on Employee Rescue Efforts,'' 59 Fed. Reg. 66612 (Dec. 27, 1994)

(amending 29 C.F.R. pt. 1903 to add section 1903.7; noting that rule is effective immediately upon publication because ''the rescue policy simply states OSHA's enforcement policy'' regarding citations involving employee rescue activities). Because it is an enforcement policy, the Secretary reserves the right to modify it ''in specific circumstances where the Secretary or his designee determines that an alternative course of action would better serve the objectives of the Act.'' 29 C.F.R. §1903.1. The General Counsel has stated his intention to follow, where not inconsistent with the CAA, the enforcement policies of the Secretary, which would include the policy on employee rescue activities. Thus, this policy will be expressly stated as part of the final procedural regulations at section 4.11(f), as requested by the commenters. However, so that such policies are consistent with the Secretary's part 1903 regulations, the final regulations will add the proviso of section 1903.1, 29 C.F.R., that, to the extent statements in these regulations at section 4.01 set forth general enforcement policies they may be modified in specific circumstances by the General Counsel on the same terms as similar enforcement policies of the Secretary.

F. Regulations governing inspections, citations, and notices in the case of Member retirement, defeat, and office moves

A commenter has requested regulations that would specify the employing office to whom the General Counsel should issue citations and notices in cases where circumstances have changed since the time of the alleged violation, such as when a Member dies, retires, or is not reelected, or when an employing office moves from one office to another. After considering the matter, the Executive Director has determined that it would be inappropriate to issue procedural rules governing these issues. The hypothetical situations posited by the commenter are better addressed by the General Counsel and ultimately, the Board, in the context of actual cases. When and if the situations hypothesized by the commenter occur, the General Counsel and the Board are better positioned to make determinations based on the facts presented. *See NLRB* v. *Bell Aerospace Co.*, 416 U.S. 267, 294–95 (1974) (use of adjudication rather than rulemaking within agency discretion).

G. Technical and nomenclature changes

Commenters have suggested a number of technical and nomenclature corrections in the language of the proposed regulations. The Executive Director has considered all of these suggestions and, as appropriate, has adopted them.

H. Additional comments

One of the commenters requested that the Executive Director review several proposed changes in procedural rules suggested by commenters in response to the earlier July 11, 1996 Notice of Proposed Rulemaking and either promulgate regulations to address these issues or supply a written response as to why such regulations are not necessary. These suggestions included: (1) changes in the special procedures for the Architect of the Capitol and Capitol Police; (2) a rule allowing parties to negotiate changes to the Agreement to Mediate; (3) a procedure by which the parties, instead of the Executive Director, would select Hearing Officers; (4) procedures by which the Office would notify employing offices of various matters; (5) additional requirements for the filing of a complaint; (6) changes in counseling procedures; and (7) a procedure which would allow parties to petition for the recusal of individual Board members.

As stated in the preamble of the Notice of Adoption of Amendments to Procedural Rules, such comments and suggestions were not the subject of or germane to the proposals made in that rulemaking. 142 Cong. R. H10672, H10674 and S10980, S10981 (daily ed., Sept. 19, 1996). Nor are they here. The Notice of this rulemaking clearly stated that the proposed revisions and additions to the procedural rules were intended to provide for the implementation of Parts B and C of title II of the CAA, which were generally effective on January 1, 1997, and to establish procedures for consideration of matters arising under those parts.

As stated in the September 19, 1996 Notice of Adoption of Amendments, the Office, like most agencies, reviews its policies and procedures on an ongoing basis. Where its experience suggests that additional or amended procedures are needed, it will modify its policies and propose amendments to its procedures, to the extent appropriate under the CAA.

Signed at Washington, D.C. on this 18th day of April, 1997.

RICKY SILBERMAN,
Executive Director,
Office of Compliance.

IV. Text of adopted amendments to procedural rules.

§1.01 Scope and Policy

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

§1.02(i)

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

§1.03(a)(3)

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

§1.04(d)

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

§1.05(a)

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

§1.07(a)

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

Subpart D—Compliance, Investigation, Enforcement and Variance Procedures Under Section 215 of the CAA (Occupational Safety and Health Act of 1970)

Inspections, Citations, and Complaints

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4.02 Authority for inspection
4.03 Request for inspections by employees and employing offices
4.04 Objection to inspection
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Inspections, Citations and Complaints

§4.01 Purpose and scope

The purpose of sections 4.01 through 4.15 of this subpart is to prescribe rules and procedures for enforcement of the inspection and citation provisions of section 215(c)(1) through (3) of the CAA. For the purpose of sections 4.01 through 4.15, references to the ''General Counsel'' include any authorized representative of the General Counsel. In situations where sections 4.01 through 4.15 set forth general enforcement policies rather than substantive or procedural rules, such policies may be modified in specific circumstances where the General Counsel or the General Counsel's designee determines that an alternative course of action would better serve the objectives of section 215 of the CAA.

§4.02 Authority for Inspection

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

(b) Prior to inspecting areas containing information which is classified by an agency of the United States Government (and/or by any congressional committee or other authorized entity within the Legislative Branch) in the interest of national security, and for which security clearance is required as a condition for access to the area(s) to be inspected, the individual(s) conducting the inspection shall have obtained the appropriate security clearance.

§4.03 Requests for inspections by employees and covered employing offices

(a) *By covered employees and representatives.*

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

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

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

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

§4.04 Objection to inspection

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

§4.05 Entry not a waiver

Any permission to enter, inspect, review records, or question any person, shall not imply or be conditioned upon a waiver of any cause of action or citation under section 215 of the CAA.

§4.06 Advance notice of inspections

(a) Advance notice of inspections may not be given, except in the following situations: (1) in cases of apparent imminent danger, to enable the employing office to abate the danger as quickly as possible; (2) in circumstances where the inspection can most effectively be conducted after regular business hours or where special preparations are necessary for an inspection; (3) where necessary to assure the presence of representatives of the employing office and employees or the appropriate personnel needed to aid in the inspection; and (4) in other circumstances where the General Counsel determines that the giving of advance notice would enhance the probability of an effective and thorough inspection.

(b) In the situations described in paragraph (a) of this section, advance notice of inspections may be given only if authorized by the General Counsel, except that in cases of apparent imminent danger, advance notice may be given by the General Counsel's designee without such authorization if the General Counsel is not immediately available. When advance notice is given, it shall be the employing office's responsibility promptly to notify the authorized representative of employees, if the identity of such representative is known to the employing office. (*See* section 4.08(b) as to situations where there is no authorized representative of employees.) Upon the request of the employing office, the General Counsel will inform the authorized representative of employees of the inspection, provided that the employing office furnishes the General Counsel's designee with the identity of such representative and with such other information as is necessary to enable him promptly to inform such representative of the inspection. Advance notice in any of the situations described in paragraph (a) of this section shall not be given more than 24 hours before the inspection is scheduled to be conducted, except in apparent imminent danger situations and in other unusual circumstances.

§4.07 Conduct of inspections

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

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

(c) In taking photographs and samples, the General Counsel's designees shall take reasonable precautions to insure that such actions with flash, spark-producing, or other equipment would not be hazardous. The General Counsel's designees shall comply with all employing office safety and health rules and practices at the workplace or location being inspected, and they shall wear and use appropriate protective clothing and equipment.

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

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

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

(g) *Trade Secrets.*

(1) At the commencement of an inspection, the employing office may identify areas in the establishment which contain or which might reveal a trade secret as referred to in section 15 of the OSHAct and section 1905 of title 18 of the United States Code. If the General Counsel's designee has no clear reason to question such identification, information contained in such areas, including all negatives and prints of photographs, and environmental samples, shall be labeled ''confidential—trade secret'' and shall not be disclosed

by the General Counsel and/or his designees, except that such information may be disclosed to other officers or employees concerned with carrying out section 215 of the CAA or when relevant in any proceeding under section 215. In any such proceeding the hearing officer or the Board shall issue such orders as may be appropriate to protect the confidentiality of trade secrets.

(2) Upon the request of an employing office, any authorized representative of employees under section 4.08 in an area containing trade secrets shall be an employee in that area or an employee authorized by the employing office to enter that area. Where there is no such representative or employee, the General Counsel's designee shall consult with a reasonable number of employees who work in that area concerning matters of safety and health.

§4.08 Representatives of employing offices and employees

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

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

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

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

§4.09 Consultation with employees

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

§4.10 Inspection not warranted; informal review

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

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

§4.11 Citations

(a) If, on the basis of the inspection, the General Counsel believes that a violation of any requirement of section 215 of the CAA, or of any standard, rule or order promulgated pursuant to section 215 of the CAA, has occurred, he or she shall issue a citation to the employing office responsible for correction of the violation, as determined under section 1.106 of the Board's regulations implementing section 215 of the CAA, either a citation or a notice of de minimis violations that have no direct or immediate relationship to safety or health. An appropriate citation or notice of de minimis violations shall be issued even though after being informed of an alleged violation by the General Counsel, the employing office immediately abates, or initiates steps to abate, such alleged violation. Any citation shall be issued with reasonable promptness after termination of the inspection. No citation may be issued under this section after the expiration of 6 months following the occurrence of any alleged violation.

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

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

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

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

(f) No citation may be issued to an employing office because of a rescue activity undertaken by an employee of that employing office with respect to an individual in imminent danger unless:

(1)(i) Such employee is designated or assigned by the employing office to have responsibility to perform or assist in rescue operations, and

(ii) The employing office fails to provide protection of the safety and health of such employee, including failing to provide appropriate training and rescue equipment; or

(2)(i) Such employee is directed by the employing office to perform rescue activities in the course of carrying out the employee's job duties, and

(ii) The employing office fails to provide protection of the safety and health of such employee, including failing to provide appropriate training and rescue equipment; or

(3)(i) Such employee is employed in a workplace that requires the employee to carry out duties that are directly related to a workplace operation where the likelihood of life-threatening accidents is foreseeable, such as a workplace operation where employees are located in confined spaces or trenches, handle hazardous waste, respond to emergency situations, perform excavations, or perform construction over water; and

(ii) Such employee has not been designated or assigned to perform or assist in rescue operations and voluntarily elects to rescue such an individual; and

(iii) The employing office has failed to instruct employees not designated or assigned to perform or assist in rescue operations of the arrangements for rescue, not to attempt rescue, and of the hazards of attempting rescue without adequate training or equipment.

(4) For the purpose of this policy, the term ''imminent danger'' means the existence of any condition or practice that could reasonably be expected to cause death or serious physical harm before such condition or practice can be abated.

§4.12 Imminent danger

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

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

§4.13 Posting of citations

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

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

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

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

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

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

§4.15 Informal conferences

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

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

§4.20 Purpose and scope

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

§4.21 Definitions

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

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

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

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

§4.22 Effect of variances

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

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

The Board will transmit every final action granting a variance, limitation, variation, tolerance, or exemption under this part to the Speaker of the House of Representatives and the President pro tempore of the Senate with a request that such final action be published in the Congressional record. Every such final action shall specify the alternative to the standard involved which the particular variance permits.

§4.24 Form of documents

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

§4.25 Applications for temporary variances and other relief

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

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

(1) The name and address of the applicant;

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

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

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

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

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

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

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

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

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

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

(3) *Notice of the grant of an interim order.* If an interim order is granted, a copy of the order shall be served upon the applicant for the order and other parties and the terms of the order shall be transmitted by the Board to the Speaker of the House of Representatives and the President pro tempore of the Senate with a request that the order be published in the Congressional Record. It shall be a condition of the order that the affected employing office shall give notice thereof to affected employees by the same means to be used to inform them of an application for a variance.

§4.26 Applications for permanent variances and other relief

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

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

(1) The name and address of the applicant;

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

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

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

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

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

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

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

(3) *Notice of the grant of an interim order.* If an interim order is granted, a copy of the order shall be served upon the applicant for the order and other parties, and the terms of the order shall be transmitted by the Board to the Speaker of the House of Representatives and the President pro tempore of the Senate with a request that the order be published in the Congressional Record. It shall be a condition of the order that the affected employing office shall give notice thereof to affected employees by the same means to be used to inform them of an application for a variance.

§4.27 Modification or revocation of orders

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

(i) The name and address of the applicant;

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

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

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

a. Giving a copy thereof to their authorized representative;

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

c. Other appropriate means.

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

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

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

§4.28 Action on applications

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

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

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

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

(b) *Adequate applications.* (1) If an application has not been denied pursuant to paragraph (a) of this section, the Office shall cause to be published a notice of the filing of the application, which the Board will transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate with a request that the order be published in the Congressional Record.

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

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

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

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

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

§4.29 Consolidation of proceedings

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

§4.30 Consent findings and rules or orders

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

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

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

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

(3) A waiver of any further procedural steps before the hearing officer and the Board; and

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

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

(1) Submit the proposed agreement to the hearing officer for his or her consideration; or

(2) Inform the hearing officer that agreement cannot be reached.

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

§4.31 Order of Proceedings and Burden of Proof

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

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

§5.01(a)(2)

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

§5.01(b)(2)

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

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

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

§5.01(c)(2)

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

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

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

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

the names and titles of the responsible individuals; and

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

§5.01(d)

(d) Amendments to the complaint may be permitted by the Office or, after assignment, by a Hearing Officer, on the following conditions: that all parties to the proceeding have adequate notice to prepare to meet the new allegations; that the amendments, as appropriate, relate to the violations for which the employee has completed counseling and mediation, or relate to the charge(s) investigated and/or the citation or notification issued by the General Counsel; and that permitting such amendments will not unduly prejudice the rights of the employing office, the labor organization, or other parties, unduly delay the completion of the hearing or otherwise interfere with or impede the proceedings.

§5.04 Confidentiality

Pursuant to section 416(c) of the Act, except as provided in sub-sections 416(d), (e) and (f), all proceedings and deliberations of Hearing Officers and the Board, including any related records, shall be confidential. Section 416(c) does not apply to proceedings under section 215 of the Act, but does apply to the deliberations of Hearing Officers and the Board under section 215. A violation of the confidentiality requirements of the Act and these rules could result in the imposition of sanctions. Nothing in these rules shall prevent the Executive Director from reporting statistical information to the Senate and House of Representatives, so long as that statistical information does not reveal the identity of the employees involved or of employing offices that are the subject of a matter. *See also* sections 1.06, 1.07 and 7.12 of these rules.

§7.07(f)

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

§7.12

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

§8.03(a)

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

§8.04 Judicial Review

Pursuant to section 407 of the Act,

(a) the United States Court of Appeals for the Federal Circuit shall have jurisdiction over any proceeding commenced by a petition of:

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

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

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

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

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

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

REPORT ON THE U.S. COMPREHENSIVE PREPAREDNESS PROGRAM—MESSAGE FROM THE PRESIDENT—PM 32

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 Armed Services:

To the Congress of the United States:

The National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201), title XIV, section 1443 (Defense Against Weapons of Mass Destruction), requires the President to transmit a report to the Congress that describes the United States comprehensive readiness program for countering proliferation of weapons of mass destruction. In accordance with this provision, I enclose the attached report.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 2, 1997.*

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 7, 1997, the Secretary of Senate, on May 1, 1997, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

S. 305. An act to authorize the President to award a gold medal on behalf of the Congress to Francis Albert ''Frank'' Sinatra in recognition of his outstanding and enduring contributions through his entertainment career and humanitarian activities, and for other purposes.

H.R. 1001. An act to extend the term of appointment of certain members of the Prospective Payment Assessment Commission and the Physician Payment Review Commission.

Under the authority of the order of the Senate of January 7, 1997, the enrolled bills were signed on May 1, 1997, during the adjournment of the Senate by the President pro tempore [Mr. THURMOND].

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on May 2, 1997, he had presented to the President of the United States, the following enrolled bill:

S. 305. An act to authorize the President to award a gold medal on behalf of the Congress to Francis Albert ''Frank'' Sinatra in recognition of his outstanding and enduring contributions through his entertainment career and humanitarian activities, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1786. A communication from the Secretary of Defense, transmitting, pursuant to law, notice of a retirement; to the Committee on Armed Services.

EC–1787. A communication from the General Counsel of the Navy, transmitting a draft of proposed legislation relative to the Chief of Chaplains, United States Navy; to the Committee on Armed Services.

EC–1788. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, proposed regulations relative to civil monetary penalties; to the Committee on Rules and Administration.

EC–1789. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report on the fabrication of bombs and others weapons of mass destruction; to the Committee on the Judiciary.

EC–1790. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report on the activities and operations the Public Integrity Section for calendar year 1995; to the Committee on the Judiciary.

EC–1791. A communication from the Executive Director the Federal Labor Relations Authority, transmitting, pursuant to law, the report for public information requests for calendar year 1996; to the Committee on the Judiciary.

EC–1792. A communication from the Director of the Administrative Office of the United States Courts, transmitting, pursuant to law, the wiretap report for calendar year 1996; to the Committee on the Judiciary.

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. MURKOWSKI:

S. 691. A bill entitled the ''Public Land Management Participation Act of 1997''; to the Committee on Energy and Natural Resources.

By Mr. REID:

S. 692. A bill to require that applications for passports for minors have parental signatures; to the Committee on Foreign Relations.

By Mr. D'AMATO:

S. 693. A bill to amend the Internal Revenue Code of 1986 to provide that the value of qualified historic property shall not be included in determining the taxable estate of a decedent; to the Committee on Finance.

By Ms. SNOWE:

S. 694. A bill to establish reform criteria to permit payment of United States arrearages in assessed contributions to the United Nations; to the Committee on Foreign Relations.

S. 695. A bill to restrict intelligence sharing with the United Nations; to the Committee on Foreign Relations.

S. 696. A bill to establish limitations on the use of funds for United Nations peacekeeping activities; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BENNETT (for himself, Mr. D'AMATO, Mr. HELMS, Mr. DODD, Mr. ASHCROFT, Mrs. HUTCHISON, and Mr. BROWNBACK):

S. Res. 82. A resolution expressing the sense of the Senate to urge the Clinton Administration to enforce the provisions of the Iran-Iraq Arms Non-Proliferation Act of 1992 with respect to the acquisition by Iran of C-802 cruise missiles; to the Committee on Foreign Relations.

By Ms. SNOWE:

S. Con. Res. 24. A concurrent resolution expressing the sense of Congress on the importance of the Eastern Orthodox Ecumenical Patriarchate; to the Committee on Foreign Relations.

S. Con. Res. 25. A concurrent resolution expressing the sense of the Congress that the Russian Federation should be strongly condemned for its plan to provide nuclear technology to Iran, and that such nuclear transfer would make Russia ineligible under terms for the Freedom Support Act; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MURKOWSKI:

S. 691. A bill entitled the ''Public Land Management Participation Act of 1997''; to the Committee on Energy and Natural Resources.

THE PUBLIC LAND MANAGEMENT PARTICIPATION ACT OF 1997

Mr. MURKOWSKI. Mr. President, I will take this opportunity to rise this afternoon to introduce a very important piece of legislation that I know the occupant of the chair will find interesting. It is called the Public Land Management Participation Act of 1997.

This legislation is intended to put the word ''public'' and the populace back into public land management and the word ''environment,'' back into environmental protection.

Passage of this act will ensure that all the gains that we made over the past quarter of a century in creating an open, participatory Government which affords strong environmental protection for our public lands are really protected.

For those who thought that those battles were fought and won with the passage of the National Environmental Protection Act in 1969 and the Federal Land Policy Management Act in 1976, I have some bad news. There is one last battle to be fought.

Standing in this very Chamber on January 20, 1975, Mr. President, Senator Henry ''Scoop'' Jackson of Washington State spoke to the passion Americans feel for their public lands. He said:

> The public lands of the United States have always provided the arena in which we Americans have struggled to fulfill our dreams. Even today dreams of wealth, adventure, and escape are still being acted out on those far-flung public lands. These lands and the dreams—fulfilled and unfulfilled—which they foster are part of our national destiny. They belong to all Americans.

I quote and emphasize, Mr. President, ''They belong to all Americans.''

Amazingly—there exist today legal authorities by which the President, without the public process or congressional approval, can create vast land management units called national monuments, world heritage sites, and biospheric reserves.

Special management units which affect how millions of acres of our public lands are managed. What people can do on those lands is also affected, what the future will be for surrounding communities.

That is a powerful trust to bestow on anyone, even a President.

On September 12, 1996, the good people of Utah woke up to find themselves the most recent recipient of a philosophy that says, ''Trust us. We are from the Government, and we know what is best for you.'' On that day, standing not in Utah but in the State of Arizona, our President invoked the 1906 Antiquities Act to create 1.7 million acres of national monument in southern Utah.

Notice, Mr. President, he did not do this in Utah. He did it in Arizona. One can only assume he might have had some protests if he had done it in Utah. The withdrawal, however, took place in Utah. It created a 1.7 million acre national monument in the southern part of the State. By utilizing this antiquated law, the President was able to avoid—that's right, avoid—Nation's environmental laws and ignore public participation laws as well. With one swipe of the pen, every shred of public input and environmental law promulgated in this country over the past quarter of a century was shoved into the trash heap of political expediency.

What happened in Utah last fall is but the latest example of a small cadre of administration officials deciding for all Americans how our public lands should be used. It is by no means the only one, Mr. President. As the Senator from Alaska, I have had a great deal of personal experience in this area.

In 1978, President Jimmy Carter created 17 national monuments in Alaska covering more than 55 million acres of lands. That is an area about the size of South Carolina. He withdrew these lands, with the stroke of his pen—no public process, no hearing, no participation from the State. This was then followed in short order by Secretary of the Interior Cecil Andrus, who withdrew an additional 50 million. A total of 105 million acres, Mr. President. All this land was withdrawn for multiple use without any input from the people of my State, the public, or the Congress of the United States. With over 100 million acres of withdrawn land held over Alaska's head, like the sword of Damocles; we were forced to cut the best deal we could. Twenty years later, the people of my State are still struggling to cope with the weight of these decisions.

I would not be here this afternoon if the public, the people of Utah and Congress, had not been denied a voice in the creation of the Grand Staircase-Escalante National Monument. I would not be here if environmental protection procedures had not been ignored.

But the people were denied the opportunity to speak. Mr. President, Congress was denied its opportunity to participate, and environmental procedure was simply ignored. The only voice we have heard was the President's. Without bothering to ask us what we thought about it, he told the citizens of Utah and the rest of the country that he knew better than we did what was good for us.

Now, this is an administration that prides itself in a public process. There was no public process here, Mr. President. We had been debating for some time the issue of Utah wilderness. It was ongoing, but the President, for political expediency, took it upon himself to invoke the Antiquities Act. It has been a long time since anyone has had the right to make those kind of unilateral public land decisions for the American public. Since the passages of the Federal Land Policy and Management Act in 1976, we have had a system of law underpinning public land use decisions. Embodied with this law is public participation. Agencies propose an action, they present the action to the public, the public debates the issue. The public can then appeal bad decisions, the courts resolve the disputes, and the management unit is then created.

Where was this public process, Mr. President, in the special use designation of 1.7 million acres of Federal land in southern Utah? The answer is clear: There wasn't any. Since the passage of the National Environmental Policy Act

of 1969, activities which affect the environment are subject to strict environmental laws. Does anyone believe there was no environmental threat posed by the creation of a national monument?

Imagine how the sensitive natural features of the high desert environment would respond to the rhythmic pounding of unlimited hiking boots worn by legions of adoring visitors as they tromp through the area. Where is the NEPA compliance documentation associated with this action? There is not any.

The creation of specialized public use designations such as national parks and wilderness areas are debated within the Halls of Congress, right here. These debates provide for the financial and legal responsibilities which come with the creation of special management units.

Where are the proceedings from those debates? There aren't any, Mr. President. They simply don't exist because, in the heat of an election year, the administration determined that the public process, environmental analyses and congressional deliberations were simply a waste of time.

Mr. President, either you believe in a public process or you do not; you can't have it both ways. If we can no longer trust the administration to involve the public in major land use decisions, then where does it fall? It falls right here to the Congress.

Mr. President, the legislation which I offer today will require any future designations of national monuments, world heritage sites, or biospheric reserves to follow the public participation principles laid down under existing law over the past 25 years. No poetic images, no flowery words, no smoke and mirrors, just good old-fashioned public land management process.

Before these special land management units can be created, my legislation will require that the agencies gather and analyze resource data affected by the land use decisions; full public participation in the creation of these units with all appeal rights protected; compliance with the National Environmental Policy Act; congressional review and ratification, and Presidential signature.

No longer will an administration be able to sidestep public participation and environmental reviews to further political agendas. Nobody—not even the President of the United States—should be above the law.

The Public Land Management Participation Act will make all future land use decisions a joint responsibility of the public, the Congress, and the President—no more loopholes.

I don't question the need for national monuments, world heritage sites, or biospheric reserves. Sometimes they are needed to protect historic treasures, natural resources, et cetera. But if they are to serve the common good, they must be created under the same system of land management law that has governed the use of the public domain for the past 25 years.

There has always been a sacred bond between the American people and the lands they hold in common ownership. No one, regardless of high station or political influence, has the right to impose his will over the means by which the destiny of those lands is decided. This legislation reestablishes that bond.

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

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

S. 691

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Public Land Management Participation Act of 1997.''

SEC. 2. PURPOSE.

The purpose of this Act is to ensure that the public and the Congress have both the right and a reasonable opportunity to participate in decisions that affect the use and management of all public lands owned or controlled by the Government of the United States.

SEC. 3. CLARIFICATION OF PUBLIC AND CONGRESSIONAL ROLE IN DECLARATION OF NATIONAL MONUMENTS.

The Antiquities Act (16 U.S.C. 431a) is amended by adding the following new section:

''431b. PUBLIC AND CONGRESSIONAL ROLES IN NATIONAL MONUMENT DECLARATIONS.—(a) The Secretaries of the Interior and Agriculture shall provide an opportunity for public involvement and by regulation shall establish procedures, including public hearings where appropriate, to give Federal, State, and local governments and the public, adequate notice and opportunity to comment upon and participate in the formulation of plans relating to the declaration of national monuments upon the lands owned or controlled by the Government of the United States pursuant to the authority of the Antiquities Act (16 U.S.C. 431).

''(b) In addition, the Secretary of the Interior and Agriculture shall, prior to any recommendations for declaration of an area,

''(i) ensure compliance with all applicable federal land management and environmental statutes, including the National Environmental Policy Act (40 U.S.C. 4321–4370d);

''(ii) cause mineral surveys to be conducted by the Geological Survey to determine the mineral values, if any, that may be present in such areas;

''(iii) identify all existing rights held on federal lands contained within such areas by type and acreage; and

''(iv) identify all State lands contained within such areas.

''(c) After such reviews and mineral surveys, the Secretary of the Interior or Agriculture shall report to the President his recommendations as to what lands owned or controlled by the Government of the United States warrant declaration as a national monument.

''(d) The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendations with respect to declaration as national monuments of each such area, together with a map thereof and a definition of its boundaries. Such advice by the President shall be given within two years of the receipt of each report from the Secretary. After the effective date of Public Land Management Participation Act, a recommendation of the President for declaration of a national monument shall become effective only if so provided by an Act of Congress.''

SEC. 4. CLARIFICATION OF PUBLIC AND CONGRESSIONAL ROLES IN WORLD HERITAGE SITE LISTING.

Section 401 of the National Historic Preservation Act Amendments of 1980 (16 U.S.C. 470a–1) is amended

(1) in subsection (a) in the first sentence, by

(A) inserting ''(in this section referred to as the Convention)'' after ''1973''; and

(B) inserting ''and subject to subsections (b), (c), (d), (e), and (f)'' before the period at the end;

(2) in subsection (b) in the first sentence, by inserting '', subject to subsection (d),'' after ''shall''; and

(3) adding at the end the following new subsections:

''(d) If the area proposed for designation is not wholly contained within an existing unit of the National Park System, the Secretary of the Interior and Agriculture;

''(1) shall provide an opportunity for public involvement and by regulation shall establish procedures, including public hearings where appropriate, to give Federal, State, and local governments and the public, adequate notice and opportunity to comment upon and participate in the formulation of plans relating to the designation of any lands owned by the United States for inclusion on the World Heritage List pursuant to the Convention.''

''(2) After such review, the Secretary of the Interior or Agriculture shall report to the President his recommendations as to what lands owned by the United States warrant inclusion on the World Heritage List pursuant to the Convention.''

''(3) The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendations with respect to the designation of any lands owned by the United States for inclusion on the World Heritage List pursuant to the Convention. Such advice by the President shall be given within two years of the receipt of each report from the Secretary. After the effective date of Public Land Participation Management Act, a recommendation of the President for designation of any lands owned by the United States for inclusion on the World Heritage List shall become effective only if so provided by an Act of Congress.''

''(e) The Secretary of the Interior or Agriculture shall object to the inclusion of any property in the United States on the list of World Heritage in Danger established under Article 11.4 of the Convention unless

''(1) The Secretary has submitted to the Speaker of the House and the President of the Senate a report describing the necessity for including that property on the list; and

''(2) The Secretary is specifically authorized to assent to the inclusion of the property on the list, by a joint resolution of the Congress enacted after the date that report is submitted.

''(f) The Secretary of the Interior and Agriculture shall submit an annual report on each World Heritage Site within the United States to the Chairman and Ranking Minority member of the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, that contains the following information for each site:

''(1) An accounting of all money expended to manage the site.

''(2) A summary of Federal full time equivalent hours related to management of the site.

''(3) A list and explanation of all nongovernmental organizations contributing to the management of the site.

''(4) A summary and account of the disposition of complaints received by the Secretary related to management of the site.''.

SEC. 5. CLARIFICATION OF PUBLIC AND CONGRESSIONAL ROLES IN THE DESIGNATION OF UNITED NATIONS BIOSPHERE RESERVES.

Title IV of the National Historic Preservation Act Amendments of 1980 (16 U.S.C. 470a–1 et seq.) is amended by adding at the end the following new section:

''Sec. 403. (a) No Federal official may nominate any lands in the United States for designation as a Biosphere Reserve under the Man and Biosphere Program of the United Nations Educational, Scientific, and Cultural Organization.

''(b) Any designation of an area in the United States as a Biosphere Reserve under the Man and Biosphere Program of the United Nations Educational, Scientific, and Cultural Organization shall not have, and shall not be given, any force or effect, unless the Biosphere Reserve is specifically authorized by an Act of Congress.

''(c) The Secretary of the Interior and Agriculture shall provide an opportunity for public involvement and by regulation shall establish procedures, including public hearings where appropriate, to give Federal, State, and local governments and the public, adequate notice and opportunity to comment upon and participate in the formulation of plans relating to the designation of any lands owned by the United States as a Biosphere Reserve under the Man and Biosphere Program of the United Nations Educational, Scientific, and Cultural Organization.

''(d) After such review, the Secretary of the Interior or Agriculture shall report to the President his recommendations as to what lands owned by the United States warrant inclusion as a Biosphere Reserve.

''(e) The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendations with respect to the designation of any lands owned by the United States for inclusion as a Biosphere Reserve. Such advice by the President shall be given within two years of the receipt of each report from the Secretary. After the effective date of Public Land Participation Management Act, a recommendation of the President for declaration of a Biosphere Reserve shall become effective only if so provided by an Act of Congress.

''(f) The Secretary of State shall submit an annual report on each Biosphere Reserve within the United States to the Chairman and Ranking Minority member of the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, that contains the following information for each reserve:

''(1) An accounting of all money expended to manage the reserve.

''(2) A summary of Federal full time equivalent hours related to management of the reserve.

''(3) A list and explanation of all nongovernmental organizations contributing to the management of the reserve.

''(4) A summary and account of the disposition of the complaints received by the Secretary related to management of the reserve.''

SECTION-BY-SECTION ANALYSIS OF S. 691

SECTION 1. SHORT TITLE

Public Land Management Participation Act of 1977.

SECTION 2. PURPOSE

To ensure that the public and the Congress have both the right and a reasonable opportunity to participate in decisions that effect the use and management of all public lands owned or controlled by the Government of the United States.

SECTION 3. CLARIFICATION OF PUBLIC AND CONGRESSIONAL ROLE IN DECLARATION OF NATIONAL MONUMENTS

This section amends the Antiquities Act by adding language that requires future National Monument Declarations be proceeded by full public participation and Congressional Ratification.

3(a) Directs the Secretaries of Interior and Agriculture to develop regulations that allow Federal, State, and local governments and the public to comment on and participate in the National Monument declaration process.

3(b) Directs the Secretaries to conduct mineral surveys and identify all existing rights on lands contained within proposed National Monument boundaries.

3(c) Authorizes the Secretaries of Interior and Agriculture to make recommendations to the President lands which warrant inclusion in a National Monument.

3(d) Authorizes the President to make recommendations to the Congress lands which warrant inclusion in a national monument. Further states that no declaration of a monument shall become effective until so provided by an Act of Congress.

SECTION 4. CLARIFICATION OF PUBLIC AND CONGRESSIONAL ROLES IN WORLD HERITAGE SITE LISTING

This section amends the National Historic Preservation Act by adding language that requires future World heritage Site designations be proceeded by full public participation and Congressional ratification.

d(1) Directs the Secretaries of Interior and Agriculture to develop regulations that allow Federal, State, and local governments and the public to comment on and participate in the World Heritage Site Listing process.

d(2) Authorizes the Secretaries of Interior and Agriculture to make recommendations to the President lands which warrant inclusion in a World heritage Site.

d(3) Authorizes the President to make recommendations to the Congress lands which warrant inclusion in a World heritage Site. Further states that no declaration of a World heritage Site shall become effective until so provided for by an Act of Congress.

(e) Directs the secretaries of Interior and Agriculture to object to the inclusion of property in the United states on a list of World heritage in Danger without explicit approval to do so by a joint resolution of Congress.

(f) Requires the Secretaries of Interior and Agriculture to submit an annual report to Congress detailing the cost of operating each World heritage Site, who contributed to the management of the site, and how any complaints about the site were handled.

SECTION 5. CLARIFICATION OF PUBLIC AND CONGRESSIONAL ROLES IN THE DESIGNATION OF UNITED NATIONS BIOSPHERE RESERVES

This section amends the National Historic Preservation Act by adding language that requires future Biosphere Reserve designations be proceeded by full public participation and Congressional ratification.

(c) Directs the Secretaries of Interior and Agriculture to develop regulations that allow Federal, State, and local governments and the public to comment on and participate in the Biosphere Reserve declaration process.

(d) Authorizes the Secretaries of Interior and Agriculture to make recommendations to the President lands which warrant inclusion in a Biosphere Reserve.

(e) Authorizes the President to make recommendations to the Congress lands which warrant inclusion in a national monument. Further states that no declaration of a Biosphere Reserve shall become effective until so provided for by an Act of Congress.

(e) Directs the secretaries of Interior and Agriculture to object to the inclusion of property of the United states without explicit approval to do so by a joint resolution of Congress.

(f) Requires the Secretaries of Interior and Agriculture to submit an annual report to Congress detailing the cost of operating the site, who contributed to the management of the site, and how any complaints about the site were handled.

By Mr. REID:

S. 692. A bill to require that applications for passports for minors have parental signatures; to the Committee on Foreign Relations.

PASSPORT LEGISLATION

Mr. REID. Mr. President, today I rise to introduce legislation which will help resolve a serious problem that plagues this Nation. Last year, and unless we do something this year, 1,000 young boys and girls will be abducted from their home and taken to foreign countries. Most of them will never come back to this country. These are young people who have every right to be in this country, but one of their parents gets a passport and takes them someplace.

This legislation I am introducing involves a young boy by the name of Mikey Kale. His father was Croatian. His father got a passport signed—not notifying the mother—and went to Croatia. This is one of the happy endings of these stories. This young boy was allowed to come home with his mother—not allowed to come home. She went through a lot of time and effort and spent a lot of money to get him so she could bring him home.

Most of the time the children never return. For example, Mr. President, this last week on ABC's ''Prime Time,'' they featured a case very similar to the Mikey Kale case, a case that involved a mother who took a daughter to Costa Rica. She did not have custody of the child. Sole custody was awarded to the father. A warrant was issued for her arrest. For more than 3 years this father has searched, and suffered, trying to get back his daughter. He has been unable to do so. It appears, even pursuant to that television program, that they know where the child is, but because of the complexity of the law in Costa Rica, the child has not been allowed to return.

Extradition law, generally, does not include child abduction. So most parents are stymied. I repeat, 1,000 young boys and girls each year are abducted in this manner. Usually, these abductions take place during or after a contentious divorce, sometimes even by an abusive parent, many times by an abusive parent. At a time when these children are most vulnerable and most uncertain about their future, they are snatched and taken to a foreign country.

The tragedy of this wrong is best illustrated by an ordeal forced upon people from the State of Nevada. No family should have to go through what

Fred and Barbara Spierer went through in 1993. Barbara's ex-husband obtained a passport for 6-year-old Mikey without Barbara's knowledge, consent or approval. On Valentine's Day, 1993, he abducted Mikey, boarded an airplane, and left for his country of Croatia, his native country. At that time, that country was, for lack of a better description, in a state of war. After tremendous emotional and financial efforts, the Spierers were able to get Mikey to come home.

I stress, this problem is more common than we would like to think. It has been suggested that we do something about it. This legislation will do that. What, in effect, this legislation would do is say if you are going to take a child outside the United States, you must have the signatures of both parents. If one parent has custody, then only that signature is required. If there is joint custody, it would take both signatures. It is not difficult to get the signatures of both parents to take a child outside the country. Thousands of parents throughout the United States are currently undergoing the same emotional and financial stress that the Spierers experienced. This simple change in the law would prevent future agony and distress.

As I indicated, Mr. President, few parents are as fortunate as the Spierers. Few will ever see their children again. Recovery rates for children, once they are in a foreign country, are extremely low. It is a sad fact that once a child leaves the United States, it is nearly impossible to get the child returned as most nations do not recognize custody orders from the U.S. courts.

As I said, most extradition treaties do not cover international parental abductions. Experience shows that foreign governments are generally reluctant to extradite parental abductors. Often when facing extradition, the abducting parents will hide the child with a friend or relative in a foreign country or even go to another foreign country, complicating things even more. This action prevents the child from ever being returned.

At any rate, getting a child returned in the United States is extremely expensive, far beyond the resources of most families. Many families have to spend in excess of $50,000 just in lawyers trying to retrieve their children, often, to no avail. Prevention is the only feasible way of dealing with international parental abductions. The best way to prevent international parental abductions is to make it more difficult for parental abductors to obtain passports for the minor children.

The aim of the Mikey Kale Passport Notification Act is prevention. It prevents parental abductors from obtaining U.S. passports for their minor children. This, Mr. President, seems the least we could do.

By Mr. D'AMATO:

S. 693. A bill to amend the Internal Revenue Code of 1986 to provide that the value of qualified historic property shall not be included in determining the taxable estate of a decedent; to the Committee on Finance.

THE ESTATE TAX HISTORY PRESERVATION ACT

● Mr. D'AMATO. Mr. President, I introduce legislation that will provide a new tax incentive for qualifying owners of national historic landmark houses that will encourage the preservation and public accessibility to these houses. It is designed to prevent private owners of historical properties from being forced to sell because of concern over the financial burden of Federal estate taxes.

Under current law, the value of historical property is included in determining the taxable estate of a decedent. This raises serious concerns to families that are maintaining and opening to the public these architectural historical homes. They are sharing these treasures with our Nation. To force the operation of these privately funded museum properties to end, due to fear over future estate tax burdens that will be thrust on their descendants is depriving our citizens the opportunity to enjoy the architectural wonders of these homes. Tourists in many States will be denied the opportunity to visit these homes and experience the heritage of these historical sites.

Mr. President, I propose that an estate tax exemption be provided for qualified historical properties. The number of historical homes that will qualify is modest since this legislation requires private, taxable ownership and national historical landmark status, as well as a willingness on the part of the owner to operate the premises as a museum subject to strict requirements. While the legislation has minimal effects on Federal revenues it plays a major role in preserving extraordinarily important properties.

This bill is an opportunity for the Government to encourage preservation of history. Historical homes help preserve the themes of our common heritage and highlight the unique pattern of each community. They contribute to the perpetuation of the historical fabric of our national life. They are a source of a community's pride in accomplishment and beauty.

Section 1(b)(7) of the National Historic Preservation Act of 1966 states that:

> Although the major burdens of historic preservation have been borne and major efforts initiated by private agencies and individuals, and both should continue to play a vital role, it is nevertheless necessary and appropriate for the Federal Government to accelerate its historic preservation programs and activities to get maximum encouragement to agencies and individuals undertaking preservation by private means, and to assist State and local governments and the National Trust Historic Preservation in the United States to expand and accelerate their historical preservation programs and activities.

That is what this legislation does. It encourages private citizens to preserve historical properties rather than sell or develop them despite their desire to do so. Winston Churchill recognized the importance of preserving historical properties when in 1943 he said ''We shape our buildings, and afterwards our buildings shape us''.

Mr President, I urge my colleagues on both sides of the aisle to join me in cosponsoring this important legislation.

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

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

S. 693

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

SECTION 1. EXCLUSION FROM ESTATE TAX FOR HISTORIC PROPERTY SUBJECT TO PRESERVATION EASEMENT.

(a) IN GENERAL.—Part IV of subchapter A of chapter 11 of the Internal Revenue of 1986 (relating to taxable estate) is amended by adding at the end the following new section:

''SEC. 2057. QUALIFIED HISTORIC PROPERTY.

''(a) GENERAL RULE.—For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to the value of any qualified historic property included in the gross estate.

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

''(1) QUALIFIED HISTORIC PROPERTY.—

''(A) IN GENERAL.—The term 'qualified historic property' means any historic property if—

''(i) on or before the date on which the return of the tax imposed by section 2001 is filed, a qualified real property interest described in section 170(h)(2)(C) in such property is held by a qualified organization for the purpose described in section 170(h)(4)(A)(iv), and

''(ii) such property is covered by an agreement meeting the requirements of subsection (c) which is entered into on or before such date.

''(B) TREATMENT OF PERSONAL PROPERTY.—Such term includes personal property included within, or associated with, qualified historic property (as defined in paragraph (1)) if such personal property—

''(i) is held by the decedent holding such qualified historic property,

''(ii) has been so included within, or associated with, such qualified historic property throughout the 10-year period ending on the date of the decedent's death, and

''(iii) is covered by the agreement referred to in subparagraph (A)(ii) which covers such qualified historic property.

''(2) HISTORIC PROPERTY.—The term 'historic property' means—

''(A) any building (and its structural components)—

''(i) which is designated as a National Historic Landmark under section 101 of the National Historic Preservation Act throughout the 10-year period ending on the date of the decedent's death,

''(ii) which was owned by the decedent or a member of the decedent's family (as defined in section 2032A(e)(2)) throughout such 10-year period, and

''(iii) which was originally used for residential purposes, and

''(B) any other real property to the extent reasonably necessary for public view and visitation of the property described in subparagraph (A).

''(3) QUALIFIED ORGANIZATION.—The term 'qualified organization' has the meaning given to such term by section 170(h)(3).

''(4) TREATMENT OF QUALIFIED HISTORIC PROPERTY HELD BY A CORPORATION.—In the case of a corporation all of the stock in which was held on the date of the decedent's death by the decedent or members of the decedent's family (as defined in section 2032A(e)(2))—

''(A) stock in such corporation shall be treated for purposes of this section as qualified historic property to the extent that the value of such stock is attributable to qualified historic property held by such corporation, but

''(B) the requirements of subsection (c) shall be met only if each member of the decedent's family holding such stock on such date sign the agreement referred to in subsection (c).

''(c) REQUIREMENTS FOR AGREEMENT.—

''(1) IN GENERAL.—For purposes of subsection (b)(1)(A)(ii), an agreement meets the requirements of this subsection if—

''(A) such agreement is a written agreement signed by each person in being who has an interest (whether or not in possession) in the historic property (other than the qualified organization),

''(B) such agreement is entered into with a State historic preservation agency (or similar State agency) and filed with the Secretary with the return of the tax imposed by section 2001,

''(C) such agreement provides that the only activities carried on at the historic property are activities which are substantially related (aside from the need for income or funds or the use made of the profits derived) to—

''(i) the public view and visitation of such property and the property described in the last sentence of subsection (b)(1) with respect to such property), and

''(ii) the maintenance and preservation of such property and surrounding areas for such public view and visitation,

''(D) such agreement provides that the historic property will be open to the public for a period of at least 20 years beginning on the date on which the return of the tax imposed by section 2001 is filed, and

''(E) such agreement provides that any admission fees (if any) shall bear a reasonable relationship to admission fees for other comparable tourist sites and shall be approved by such State historic preservation agency (or similar State agency).

''(2) TREATMENT OF FOOD, LODGING, AND MEETING FACILITIES PROVIDED TO GENERAL PUBLIC.—The regular carrying on—

''(A) a trade or business of providing lodging shall be treated as not substantially related for purposes of paragraph (1)(C),

''(B) a trade or business of providing food shall be treated as not substantially related for purposes of paragraph (1)(C) unless—

''(i) such food is only provided to individuals who pay the generally applicable admission fees (if any) for admission to the property by individuals to whom no food is provided, and

''(ii) only an insubstantial portion of the structures on the historic property is devoted to the provision of such food, and

''(C) a trade or business of providing facilities for meetings or events shall be treated as not substantially related for purposes of paragraph (1)(C) unless all of the net proceeds from such trade or business are used for maintenance or preservation of the historic property.

''(3) OPEN TO THE PUBLIC.—For the purposes of paragraph (1)(D), the 20-year period referred to in such paragraph shall be suspended during reasonable periods of renovation.

''(d) TAX TREATMENT OF DISPOSITIONS AND FAILURE TO COMPLY WITH AGREEMENT.—

''(1) IMPOSITION OF ADDITIONAL ESTATE TAX.—If, during the 20-year period referred to in subsection (c)(1)(D)—

''(A) any person signing the written agreement referred to in subsection (c) disposes of any interest in the qualified historic property, or

''(B) there is a violation of any provision of such agreement (as determined under regulations prescribed by the Secretary), then there is hereby imposed an additional estate tax.

''(2) EXCEPTION FOR CERTAIN TRANSFEREES WHO AGREE TO BE BOUND BY AGREEMENT.—No tax shall be imposed under paragraph (1) by reason of any disposition if the person acquiring the property—

''(A) is a qualified organization or is a member of the family (as defined in section 2032A(e)(2)) of the person disposing of such property, and

''(B) agrees to be bound by the agreement referred to in subsection (b)(4) and to be liable for any tax under this subsection in the same manner as the person disposing of such property.

''(3) AMOUNT OF ADDITIONAL TAX.—

''(A) IN GENERAL.—The amount of the additional tax imposed by paragraph (1) with respect to any property shall be an amount equal to the applicable percentage of the excess of—

''(i) what would (but for subsection (a)) have been the tax imposed by section 2001 (reduced by the credits allowable), over

''(ii) the tax imposed by section 2001 (as so reduced).

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage is the percentage determined in accordance with the following table for the year (of 20-year period referred to in subsection (c)(1)(D)) in which the event described in paragraph (1) occurs:

"If the event occurs during:	The applicable percentage is:
The 1st 12 years of such 20-year period	100 percent
The 13th or 14th year of such period	80 percent
The 15th or 16th year of such period	60 percent
The 17th or 18th year of such period	40 percent
The 19th or 20th year of such period	20 percent.

''(4) DUE DATE.—The additional tax imposed by this subsection shall be due and payable on the day which is 6 months after the date of the disposition or violation referred to in paragraph (1).

''(5) LIABILITY FOR TAX.—Any person signing the agreement referred to in subsection (c) (other than the executor) shall be personally liable for the additional tax imposed by this subsection. If more than 1 person is liable under this subsection, all such persons shall be jointly and severally liable.

''(6) CERTAIN OTHER RULES TO APPLY.—Rules similar to the rules of sections 1016(c), 2013(f), and 2032A(f) shall apply for purposes of this subsection.

''(e) OTHER SPECIAL RULES.—

''(1) COORDINATION WITH DEDUCTION FOR TRANSFER OF EASEMENT.—Section 2055(f) shall not apply to any interest referred to therein with respect to property for which a deduction is allowed under subsection (a).

''(2) DENIAL OF DEDUCTION OF INDEBTEDNESS ON EXCLUDED PROPERTY.—No deduction shall be allowed under section 2053 for indebtedness in respect of property the value of which is deducted under subsection (a).

''(3) SUBMISSION OF ANNUAL INVENTORIES OF PERSONAL PROPERTY.—The Secretary shall require the submission to the Secretary of such inventories of personal property which is qualified historic property as the Secretary determines are necessary for purposes of this section.''

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of section 1014 of such Code is amended by striking the period at the end of paragraph (3) and inserting '', or'' and by adding after paragraph (3) the following new paragraph:

''(4) in the case of property the value of which was deducted under section 2057(a), the adjusted basis of such property in the hands of the decedent immediately before the death of the decedent.''

(2) Subparagraph (A) of section 2056A(b)(10) of such Code is amended by inserting ''2057,'' after ''2056,''.

(3) The table of sections for part IV of subchapter A of chapter 11 of such Code is amended by adding at the end the following new item:

''Sec. 2057. Qualified historic property.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the estates of decedents dying after the date of the enactment of this Act.●

By Ms. SNOWE:

S. 694. A bill to establish reform criteria to permit payment of U.S. arrearages in assessed contributions to the United Nations; to the Committee on Foreign Relations.

S. 695. A bill to restrict intelligence sharing with the United Nations: to the Committee on Foreign Relations.

S. 696. A bill to establish limitations on the use of funds for U.N. peacekeeping activities; to the Committee on Foreign Relations.

UNITED NATIONS REFORM LEGISLATION

Ms. SNOWE. Mr. President, today I am introducing a package of three bills which address the most critical issues affecting our relations with the United Nations. These are the U.S. arrearage in financial contributions to the United Nations, the sharing of U.S. intelligence with the United Nations, and U.S. contributions to U.N. peacekeeping activities.

The United Nations Reform Act of 1997 is a bill that I have been working on for over a year in my former capacity as chair of the Foreign Relations Subcommittee on International Operations. With the United Nations now entering its second half-century, the question being raised is not whether the United Nations can continue its growth for another 50 years, but whether it can survive as an important international institution for the next 5.

With a new Secretary of State who formerly served as U.N. Ambassador, with a new U.N. Ambassador who formerly served as a respected Member of Congress, and with a new U.N. Secretary General, I believe that we have a unique opportunity over the next 2 years to genuinely restore a bipartisan consensus on the United Nations within Congress and among the American people. That is the intent of this legislation, which sets reasonable and achievable reform criteria for the United Nations, linked to a 5-year repayment plan for the nearly $1 billion in

arrearages that have built up in the U.N. system over the past few years.

The plan would set up a five-step annual process under which the President would each year have to certify that specific reform guideposts have been met at the United Nations, permitting the payment each year of one-fifth of outstanding U.S. arrearages.

In the first year, the President would have to certify that a hard freeze zero nominal growth budget at the United Nations had been maintained and that budgetary transparency at the world body had been enhanced through opening up the United Nations to member State auditing and fully funding the new U.N. inspector general office.

In the second year, the President would have to certify that U.S. representation had been restored to a key U.N. budgetary oversight body, the Advisory Committee on Administrative and Budgetary Questions [ACABQ].

In the third year, the President would have to certify that a longstanding U.N. peacekeeping reform goal had been achieved. This reform would ensure that the United States receives full credit or reimbursement for the very substantial logistical and in-kind support our military provides to assessed U.N. peacekeeping missions.

In the fourth year, the President would have to certify that a significant reform in the United Nations' budget process had been achieved. This reform would be to divide the U.N. regular budget into an assessed core budget and a voluntary program budget. The source of much of the United Nations' problems stems from the fact that the United Nations' assessed budget is increasingly used for development programs and other activities that should not be included in our mandatory dues for membership. This reform can be achieved without a revision in the U.N. Charter.

Finally, in the fifth year the President would have to certify that a major U.N. consolidation plan has been approved and implemented. This plan must entail a significant reduction in staff and an elimination of the rampant duplication, overlap, and lack of coordination that exists throughout the U.N. system.

Clearly, there is an urgent need to turn around the United Nations' dangerous slide into constant crisis, which could ultimately threaten the organization's usefulness as an important tool for addressing world problems. I am convinced that this can only be achieved through the kind of bold reform agenda that is set forth in this legislation.

Mr. President, I believe it is useful for us to look back on the original purpose of the United Nations, as it was envisioned 51 years ago. The United Nations was created from the ashes of World War II, with the hope of avoiding future world-wide conflagrations through international cooperation. The main focus for this mission was the Security Council, the only entity empowered under the U.N. Charter to act on the great questions of world peace. The General Assembly was intended to be a forum for debate on any issue that any nation wanted to bring before the assembled nations of the world. The U.N. Secretariat was to be a small professional staff needed to support the activities of the Security Council and General Assembly.

The U.N. system was also to conduct specific activities in technical cooperation, such as those undertaken by the International Civil Aviation Organization and the International Telecommunications Union. Finally, the United Nations was to have an important role in responding to international humanitarian crises. Most critical is the work of the U.N. High Commissioner for Refugees, who today protects over 40 million of the world's most vulnerable men, women, and children—particularly women and children, who comprise 80 percent of the world's refugees.

Regrettably, the United Nations system that exists today falls short of the intentions of its founders. There are two interrelated, fundamental problems with U.N. system. One is that there are those who attempted to use the world organization to advance agendas that frankly do not reflect world realities. The more the United Nations is used to transcend what some see as the harsh realities of the world and its Nation-State system, the less relevant the United Nations becomes to the real world in which we all live.

Closely related has been the massive and uncoordinated growth of the United Nations and its specialized agencies. The U.N. General Assembly and its related bodies in the specialized agencies have used the tool of the budget to grow the U.N. bureaucracy far beyond what is needed to respond to real world problems. The small professional staff of the U.N. Secretariat now approaches 18,000—counting the proliferation of consultants and contract employees—and the staff of the U.N. system worldwide now exceeds 53,000.

Too many nations simply do not find a compelling need for efficiency and budgetary restraint in the U.N. system. Of the U.N.'s 185 member nations, a near-majority 91 countries are assessed at the minimum .01 percent rate, paying essentially nothing toward U.N. budget. The top ten assessed countries—United States, Japan, Germany, France, Russia, Britain, Italy, Canada, Spain and Brazil—are billed for 78 percent of the U.N. budget, with the United States, at 25 percent, paying nearly twice that of any other country. In just 10 years of supposed zero-growth budgets, the U.N.'s budget has doubled. In the last 18 years the U.N.'s budget has tripled.

There are those who argue that all of the U.N.'s problems come from the United States. But the United Nation's difficulties with the United States arise from these deeply rooted problems within the U.N. structure itself. Even many supporters of the United Nations have characterized today's U.N. system as bloated, inefficient, duplicative, and disorganized. For instance, Canadian businessman and six-time U.N. Under-Secretary-General Maurice Strong has stated that the United Nations ''could work better than it does today with less than half as many people.'' I believe it is significant, and encouraging, that the new Secretary General, Mr. Kofi Annan, has appointed Mr. Strong to be his top adviser on reform issues.

The surprising thing is that among serious analysts of the United Nations there is remarkable agreement on what needs to be done. The U.N. system needs to be significantly reduced in size and needs true consolidation among its far-flung, duplicative elements. The budget process needs similarly dramatic reform. The United Nations needs to concentrate on a few key achievable missions—security, humanitarian relief, purely technical cooperation—and refrain from its proliferating exercises in internal nation-building and grandiose missions of global norm-setting. All of these basic reform needs have been addressed in the U.N. reform legislation I am introducing today.

As complements to my U.N. reform bill, I am also introducing two U.N.-related bills which I sponsored in the last Congress. The first would protect U.S. intelligence information which is shared with the United Nations or any of its affiliated organizations by requiring that procedures for protecting intelligence sources and methods are in place at the United Nations that are at least as stringent as those maintained by countries with which the United States regularly shares similar types of information. This requirement may be waived by the President for national security purposes but only on a case by case basis and only when all possible measures for protecting the information have been taken.

This legislation grew out of my concern about reports of breaches of U.S. classified material by the United Nations in 1993, 1994, and in 1995 when the United Nations pulled out of Somalia. I am pleased to note that more attention is being paid by this body to the problems that can result when U.S. intelligence information is shared with international bodies. Condition 5 of the recently approved resolution of ratification for the Chemical Weapons Convention, which protects U.S. intelligence shared with the Organization for the Protection of Chemical Weapons, was based on my intelligence-sharing legislation.

To complete the package of three bills, I am introducing today the International Peacekeeping Reform Act of 1997 which I also sponsored in the 104th Congress. Before any funds can be made available for U.N. peacekeeping activities, this legislation requires the President to certify to Congress that hostilities have ceased and all parties agree to a U.N. peacekeeping role, that

the percentage of the U.S. assessed share of the total cost of the operation does not exceed the percentage of the U.S. assessed share for the regular U.N. budget, and that adequate measures have been taken to protect U.S. intelligence information provided in support of the operation.

Furthermore, my bill would require that, if the operation is to include units of the U.S. Armed Forces to carry out combat missions, the President must certify that the operation advances U.S. security interests, that U.S. participation is critical to the operation's success, that the units will be under the operational command and control of the U.S. armed forces, and that the U.S. military personnel will be fully protected by the Geneva Convention of 1949 governing the treatment of prisoners of war. This legislation requires the President to notify Congress of the intent to support an international peacekeeping operation at least 15 days before any vote of the United Nations Security Council to establish, expand or modify such an operation. If the President determines that an emergency exists which prevents him from meeting the 15-day advance notice requirement, the notice is to be provided in a timely manner, but no later than 48 hours after the Security Council vote.

The three measures I am introducing today will, I believe, go a long way toward setting a new course in our relations with the United Nations. If we in Congress fail to rise to the challenge; if the U.N. attempts to defend an unsustainable status quo; if the Administration's new foreign policy team does not reach out to Congress to achieve a genuine bipartisan consensus on the need for U.N. reform; if the U.N.'s dangerous slide to expensive irrelevance continues, then we will have lost a unique opportunity for reform. If this should happen, it is not at all clear to me whether such an opportunity will soon return.

Mr. President, I urge my colleagues to consider the legislation I am introducing today as the best course for restoring the bipartisan consensus in this country on the United Nations.

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

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

S. 694

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 ''United Nations Reform Act of 1997''.

SEC. 2. PAYMENT OF UNITED STATES ARREARAGES IN ASSESSED CONTRIBUTIONS TO THE UNITED NATIONS.

(a) LIMITATION.—Notwithstanding any other provision of law, for each of the fiscal years 1998 through 2002, no funds shall be available for obligation or expenditure to the United Nations for the payment except under procedures of United States assessed contributions to the United Nations more than one year in arrears at the time of passage of this Act under United States Government accounting except under procedures under subsection (b);

(b) PROCEDURES FOR THE RELEASE OF UNITED STATES ARREARAGES TO THE UNITED NATIONS.—In accordance with procedures applicable to reprogramming notifications under section 34 of the State Department Basic Authorities Act of 1956, for each fiscal year 1998 through 2002, the President may make available for obligation or expenditure to the United Nations an amount not to exceed 20% of United States assessed contributions to the United Nations more than one year in arrears at the time of passage of this Act under United States Government accounting if on January 31 of each fiscal year 1998 through 2002 the President determines and certifies to the relevant committees of the Congress that the applicable reform criteria for each fiscal year has been met.

(c) DEFINITIONS.—As used in this section:

(1) RELEVANT COMMITTEES OF THE CONGRESS .—The term ''relevant committees of the Congress'' means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

(2) APPLICABLE REFORM CRITERIA.—The term ''applicable reform criteria'' means—

(A) for fiscal year 1998 that the United Nations has maintained a zero nominal growth budget in United States dollar terms and has made all of its programs, offices and activities open to auditing by the national auditing and inspecting agencies of its member states to include, but not be limited to the United States General Accounting Office and the State Department Office of Inspector General, that the United Nations Office of Internal Oversight Services has been fully funded at its request level, and that all products of the Office of Internal Oversight Services relevant to United Nations budgetary and administrative matters are available to all United Nations member states;

(B) for fiscal year 1999 that all criteria for fiscal year 1998 continue to be met and that United States representation on the United Nations Advisory Committee on Administrative and Budgetary Questions has been restored;

(C) for fiscal year 2000 that all criteria for fiscal years 1998 and 1999 continue to be met and that procedures for assessing contributions for United Nations peacekeeping activities have been reformed to ensure that for all logistical, in-kind, and non-cash aid provided by the United States to support United Nations assessed peacekeeping activities that the United States either receives from the United Nations cash reimbursement for the full value of such aid or credit toward the payment of assessed contributions for peacekeeping operations;

(D) for fiscal year 2001 that all criteria for fiscal years 1998 through 2000 continue to be met and that the United Nations has divided its regular budget into a small ''core'' assessed budget representing only those activities determined by the General Accounting Office to be necessary for the United Nations to maintain its existence under the terms of the United Nations Charter and a voluntary ''program'' budget that would include all United Nations programs, developmental activities, regional activities, economic and social activities, and related staff; and

(E) for fiscal year 2002 that all criteria for fiscal years 1998 through 2001 continue to be met and that the United Nations has approved and implemented systemwide structural reform, entailing a significant reduction in staff, that would eliminate all outdated activities and program duplication and would encompass all relevant United Nations specialized agencies.

S. 695

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

SECTION 1. RESTRICTIONS ON INTELLIGENCE SHARING WITH THE UNITED NATIONS.

The United Nations Participation Act of 1945 (22 U.S.C. 287 et seq.) is amended by adding at the end the following new section:

''SEC. 13. RESTRICTIONS ON INTELLIGENCE SHARING WITH THE UNITED NATIONS.

''(a) PROVISIONS OF INTELLIGENCE INFORMATION TO THE UNITED NATIONS.—(1) No United States intelligence information may be provided to the United Nations or any organization affiliated with the United Nations, or to any official or employee thereof, unless the President certifies to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and the Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives that the Director of Central Intelligence (in this section referred to as the 'DCI'), in consultation with the Secretary of State and the Secretary of Defense, has required, and such organization has established and implemented, procedures for protecting intelligence sources and methods (including protection from release to nations and foreign nationals that are otherwise not eligible to receive such information) no less stringent than procedures maintained by nations with which the United States regularly shares similar types of intelligence information. Such certification shall include a description of the procedures in effect at such organization.

''(2) Paragraph (1) may be waived upon written certification by the President to the appropriate committees of Congress that providing such information to the United Nations or an organization affiliated with the United Nations, or to any official or employee thereof, is in the direct national security interest of the United States and that all possible measures protecting such information have been taken, except that such waiver must be made for each instance such information is provided, or for each such document provided.

(b) PERIODIC AND SPECIAL REPORTS.—(1) The President shall periodically report, but not less frequently than quarterly, to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and the Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives on the types and volume of intelligence provided to the United Nations and the purposes for which it was provided during the period covered by the report. Such periodic reports shall be submitted to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives with an annex containing a counterintelligence and security assessment of all risks, including an evaluation of any potential adverse impact on national collection systems, of providing intelligence to the United Nations, together with information on how such risks have been addressed.

(2) The President shall submit a special report to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and the Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives within 15 days after the

United States Government becomes aware of any unauthorized disclosure of intelligence provided to the United Nations by the United States.

''(c) LIMITATION.—The restriction of subsection (a) and the requirement for periodic reports under paragraph (1) of subsection (a) shall not apply to the provision of intelligence that is provided only to, and for the use of, appropriately cleared United States Government personnel serving with the United Nations.

''(d) DELEGATION OF DUTIES.—The President may not delegate or assign the duties of the President under Secretary (a).

''(e) RELATIONSHIP TO EXISTING LAW.—Nothing in this section shall be construed to—

''(1) impair or otherwise affect the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure pursuant to section 103(c)(5) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(5)); or

''(2) supersede or otherwise affect the provisions of title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).''.

S. 696

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 ''International Peacekeeping Reform Act of 1997''.

SEC. 2. LIMITATION ON THE USE OF FUNDS FOR UNITED NATIONS PEACEKEEPING ACTIVITIES.

(a) LIMITATION.—Notwithstanding any other provision of law, none of the funds made available to the Department of State under the account ''Contribution for International Peacekeeping Activities'' or any other funds made available to the Department of State under any law to pay for assessed or voluntary contributions to United Nations peacekeeping activities shall be available for obligation or expenditure to the United Nations to establish, expand in size, or modify in mission a United Nations peacekeeping operations unless, with respect to such peacekeeping operation—

(1) the President submits a certification to the appropriate congressional committees under subsection (c); and

(2) except as provided in paragraph (b), the President has notified the appropriate congressional committees of the intent to support the establishment of the peacekeeping operation at least 15 days before any vote in the Security Council to establish, expand, or modify such operation. The notification shall include the following:

(A) A cost assessment of such action (including the total estimated cost and the United States share of such cost).

(B) Identification of the source of funding for the United States share of the costs of the action (whether in an annual budget request, reprogramming notification, a rescission of funds, a budget amendment, or a supplemental budget request.

(b) PRESIDENTIAL DETERMINATION OF EXISTENCE OF EMERGENCY.—If the President determines that an emergency exists which prevented submission of the 15-day advance notification specified in paragraph (a) and that the proposed action is in the direct national security interests of the United States, the notification described in paragraph (a) shall be provided in a timely manner but no later than 48 hours after the vote by the Security Council.

(C) CERTIFICATION TO CONGRESS.—The President shall determine and certify to the Congress that the United Nations Peacekeeping operation described under paragraph (a) meets the following requirements:

(1) The operation involves an international conflict in which hostilities have ceased and all significant parties to the conflict agree to the imposition of United Nations peacekeeping forces for the purpose of seeking an enduring solution to the conflict.

(2) With respect to any assessed contribution to such United Nations peacekeeping activity, the percentage of the United States assessed share for the total cost of the operation is no greater than the percentage of the United States assessed share for the regular United Nations budget.

(3) In the event that the provision of United States intelligence information involving sources and methods on intelligence gathering is planned to be provided to the United Nations to support the operation, adequate measures have been taken by the United Nations to protect such information.

(4) With respect to the participation in the operation of units of the United States Armed Forces trained to carry out direct combat missions—

(A) the operation directly advances United States national security interests,

(B) the participation of such units is critical to the success of the operation,

(C) such units will be under the operational command and control of the United States Armed Forces, and

(D) any member of the United States Armed Forces participating in the operation would have access to the full protection of the Geneva Convention Relative to the Treatment of Prisoners of War (signed at Geneva, August 12, 1949) if captured and held by combatants to other parties to the conflict.

(d) DEFINITIONS.—As used in this section:

(1) the term ''appropriate congressional committees'' means the Foreign Relations and Appropriations Committees of the Senate and the International Relations and Appropriations Committees of the House of Representatives;

(2) the term ''adequate measures'' refers to the implementation of procedures for protecting intelligence sources and methods (including protection from release to nations and foreign nationals that are otherwise not eligible to receive such information) no less stringent than procedures maintained by nations with which the United States regularly shares similar types of intelligence information, as determined by the Director of Central Intelligence upon consultation with the Secretary of State and Secretary of Defense; and

(3) the term ''direct combat'' means engaging an enemy or hostile force with individual or crew-served weapons while being exposed to direct enemy fire, a high probability of direct physical contact with the enemy or hostile force, and a substantial risk of capture.

ADDITIONAL COSPONSORS

S. 181

At the request of Mr. GRASSLEY, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 181, a bill to amend the Internal Revenue Code of 1986 to provide that installment sales of certain farmers not be treated as a preference item for purposes of the alternative minimum tax.

S. 295

At the request of Mr. JEFFORDS, the names of the Senator from South Carolina [Mr. THURMOND] and the Senator from Texas [Mr. GRAMM] were added as cosponsors of S. 295, a bill to amend the National Labor Relations Act to allow labor management cooperative efforts that improve economic competitiveness in the United States to continue to thrive, and for other purposes.

S. 358

At the request of Mr. DEWINE, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 358, a bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

S. 419

At the request of Mr. BOND, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 419, a bill to provide surveillance, research, and services aimed at prevention of birth defects, and for other purposes.

S. 494

At the request of Mr. KYL, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 494, a bill to combat the overutilization of prison health care services and control rising prisoner health care costs.

S. 548

At the request of Mr. ROBERTS, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Texas [Mrs. HUTCHISON], and the Senator from Maine [Ms. COLLINS] were added as cosponsors of S. 548, a bill to expand the availability and affordability of quality child care through the offering of incentives to businesses to support child care activities.

S. 570

At the request of Mr. NICKLES, the names of the Senator from Oklahoma [Mr. INHOFE], the Senator from Georgia [Mr. COVERDELL], the Senator from Colorado [Mr. ALLARD], the Senator from Texas [Mrs. HUTCHISON], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 570, a bill to amend the Internal Revenue Code of 1986 to exempt certain small businesses from the mandatory electronic fund transfer system.

S. 652

At the request of Mr. GRAMS, the names of the Senator from New York [Mr. D'AMATO] and the Senator from Utah [Mr. BENNETT] were added as cosponsors of S. 652, a bill to facilitate recovery from the recent flooding of the Red River of the North and its tributaries by providing greater flexibility for depository institutions and their regulators, and for other purposes.

SENATE RESOLUTION 79

At the request of Mr. KEMPTHORNE, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of Senate Resolution 79, A resolution to commemorate the 1997 National Peace Officers Memorial Day.

SENATE CONCURRENT RESOLUTION 24—RELATIVE TO THE EASTERN ORTHODOX ECUMENICAL PATRIARCHATE

Ms. SNOWE submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 24

(a) FINDINGS.—The Congress finds that—

(1) the Ecumenical Patriarchate is the spiritual center for more than 250,000,000 Orthodox Christians world-wide, including approximately 5,000,000 in the United States;

(2) in recent years the Ecumenical Patriarchate has experienced a number of security threats in Turkey;

(3) His All Holiness Patriarch Bartholomew and those associated with the Ecumenical Patriarchate are Turkish citizens and have the full protection of Turkish law; and

(4) the reopening of the Halki School of Theology, the only educational institution for Orthodox Christian leadership in Turkey, would assist the long-term viability of the Ecumenical Patriarchate.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should—

(1) continue to support the Ecumencial Patriarchate's non-political, religious mission;

(2) encourage the continued maintenance of the institution's physical security needs, as provided for under Turkish and international law; and

(3) use its good offices to encourage the reopening of the Ecumenical Patriarchate's Halki Patriarchal School of Theology.

SENATE CONCURRENT RESOLUTION 25—RELATIVE TO THE RUSSIAN FEDERATION

Ms. SNOWE submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 25

Resolved by the Senate (the House of Representatives concurring),

(a) FINDINGS.—The Congress finds that—

(1) Iran is aggressively pursuing a program to acquire and/or develop nuclear weapons;

(2) the Director of Central Intelligence, in September of 1994, confirmed that Iran is manufacturing and stockpiling chemical weapons;

(3) Iran has opposed the Middle East peace process and continues to support the terrorist group Hezballah in Lebanon and radical Palestinian groups;

(4) Iran has asserted control over the Persian Gulf island of Abu Musa, which it had been previously sharing with the United Arab Emirates;

(5) during the last few years Iran has reportedly acquired several hundred improved Scud missiles from North Korea;

(6) Iran has moved modern air defense missile systems, tanks, additional troops, artillery, and a surface-to-surface missiles onto islands in the Persian Gulf, some of which are disputed between Iran and the United Arab Emirates;

(7) Iran has already taken delivery of as many as thirty modern MiG–29 fighter aircraft from the Russian Federation;

(8) The Russian Federation has sold modern conventionally powered submarines to Iran, which increase Iran's capability to blockade the Straits of Hormuz and the Persian Gulf; and

(9) the Russian Federation continues to move forward on implementing a commercial agreement to provide Iran with critical nuclear technology despite having been provided with detailed information by the President of the United States on Iran's nuclear weapons program in violation of the Nuclear Non-Proliferation Treaty.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Russian Federation should be strongly condemned for continuing to implement a commercial agreement to provide Iran with nuclear technology that could assist that country in its development of nuclear weapons, and

(2) the continued implementation of its commercial nuclear agreement with Iran makes the Russian Federation ineligible for United States economic assistance under the terms of the Freedom Support Act.

SENATE RESOLUTION 82—EXPRESSING THE SENSE OF THE SENATE TO URGE THE CLINTON ADMINISTRATION RELATIVE TO C–802 CRUISE MISSILES

Mr. BENNETT (for himself, Mr. D'AMATO, Mr. HELMS, Mr. DODD, Mr. ASHCROFT, Mrs. HUTCHISON, and Mr. BROWNBACK) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 82

Whereas the United States escort vessel U.S.S. Stark was struck by a cruise missile, causing the death of 37 United States sailors;

Whereas the China National Precision Machinery Import Export Corporation is marketing the C–802 model cruise missile for use against escort vessels such as the U.S.S. Stark;

Whereas the China National Precision Machinery Import Export Corporation has delivered 60 C–802 cruise missiles to Iran for use by vessels of the Iranian Revolutionary Guard Navy;

Whereas Iran is acquiring land batteries to launch C–802 cruise missile which will provide its armed forces with a weapon of greater range, reliability, accuracy, and mobility than before;

Whereas 15,000 members of the United States Armed Forces are stationed within range of the C–802 cruise missile being acquired by Iran;

Whereas the Department of State believes that ''[t]hese cruise missiles pose new, direct threats to deployed United States forces'';

Whereas the delivery of cruise missiles to Iran is a violation of the Iran-Iraq Arms Non-Proliferation Act of 1992 (50 U.S.C. 1701 note); and

Whereas the Clinton Administration ''has concluded at present that the known types [of C–802 cruise missiles] are not of a destabilizing number and type'': Now, therefore, be it

Resolved, That the Senate urges the Clinton Administration to enforce the Iran-Iraq Arms Non-Proliferation Act of 1992 (50 U.S.C. 1701 note) with respect to the acquisition by Iran of C–802 model cruise missiles or to carry out an alternative policy that would address such acquisition in a manner similar to that provided for in that Act.

Mr. BENNETT. Mr. President, I am submitting today a resolution to address a matter that I consider vital to our national security. I have here a picture of the U.S.S. *Stark* that was disabled 10 years ago by an Exocet missile fired by the Iranians. Thirty-seven American sailors were killed in this disaster.

I call your attention to a new missile patterned after the Exocet, only it is described by its sales brochures as having a ''mighty attack capability with great firepower.'' This is the C–802, an antishipping cruise missile. The sales group that is touting the mighty power of the C–802 is the Chinese. The Chinese have taken the Exocet and increased its power and increased its deadliness.

The C–802 is being shipped. This picture shows a Chinese vessel, on the deck of which there are five smaller vessels, each one of which is equipped with four C–802's. You can see them on the back of the ships. These are the smaller ships on the back deck of this larger cargo vessel.

Those ships are en route to Iran. The Chinese have now sold to Iran some 60 C–802's for their use in the Persian Gulf. Some 60 are mounted on 15 patrol boats. These patrol boats, again, have four missiles each.

If one missile could damage the *Stark* as badly as we saw in the first picture, you see what 15 missiles could do. But the Chinese are not stopping with shipboard missiles. Here is an example of a land-based C–802, and the Chinese are now in the process of selling these to the Iranians.

Why should we be concerned about the land-based C–802? Here is a map of the Persian Gulf. This land mass is Iran. There are 500 miles of Iranian coastal waters facing the Persian Gulf. This is the Strait of Hormuz through which a very large percentage of the world's oil must go every day, something in excess of 25 percent. The Iranians have repeatedly threatened to close the Strait of Hormuz if the rest of the world does not do what Iran wishes it to do in a variety of ways. We heard such a threat, again, over the weekend with the Iranians saying that if the Americans were to try to take any kind of retaliatory action against Iranian terrorism, they would close this Strait of Hormuz.

With land-based C–802's, they could hide them in caves or put them in other locations all along this 500-mile area, so that any shipping coming out of Kuwait, the United Arab Emirates, or Saudi Arabia into the Persian Gulf would be vulnerable to an attack from a land-based C–802. With 15 patrol boats, each one having 4 missiles, or 60 sea-based missiles, the Iranians could actually attack from either side, having the patrol boats out here on one side of the shipping lanes, with the land-based missiles on the other, and effectively seal off the world's supply of oil from the Middle East without too much difficulty.

In personal human terms, there are about 15,000 U.S. servicemen and servicewomen within the range of the C–802 missiles in the gulf.

Mr. President, there is a law known as the Gore-McCain Act passed in 1992 which says that foreign companies that deliver cruise missiles to Iran are subject to sanctions. I raised this issue with Secretary Albright, and I have raised it since in subsequent hearings. In January, Secretary Albright informed me that the administration will

not enforce the terms of the Gore-McCain Act on the grounds that the missiles are not ''destabilizing.''

I am not quite sure what the word ''destabilizing'' means in this kind of a circumstance, but that is where the administration has chosen to come down.

I believe that a nondestabilizing missile can be just as deadly to a ship as a destabilizing missile. Once a missile is fired, it knows no semantic definition, as it goes on its course for a kill. Ask the sailors on the *Stark* whether the presence of the Exocet missiles were destabilizing in the circumstance in the Middle East or not. Thirty-seven of them are dead.

Given our obligation to those that we would place in harm's way in the name of this country, I believe the time has come to put this issue on the front burner. I have asked the administration about it. I have used the congressional oversight circumstance to bring it to their attention. Now, Mr. President, today, I submit a resolution outlining the sense of the Senate that the administration either enforce the Gore-McCain Act in this circumstance or take some other appropriate action.

Mr. President, I ask unanimous consent that the letter which I sent to Madeleine Albright on the 17th of April and a fact sheet relating to the C–802 missile be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, April 17, 1997.

Hon. MADELEINE K. ALBRIGHT,
Secretary of State,
Washington, DC.

DEAR SECRETARY ALBRIGHT: During 1996 Chinese defense companies delivered a number of missile boats to the Iranian Revolutionary Guard Navy. Each missile boat was armed with four C–802 cruise missiles. Recently, Deputy Assistant Secretary of State Robert Einhorn told the Senate, ''These cruise missiles pose new, direct threats to deployed U.S. forces.''

It is now my understanding that China is about to deliver the land variant of the C–802 to Iran. When the Iranian Revolutionary Guard acquires C–802s in quantity, it will have a weapon with greater range, reliability, accuracy, and mobility than anything currently in its inventory.

The delivery of advanced cruise missiles to Iran is a violation of the Gore-McCain Act. However, in answer to my query on this issue in January, you answered, ''The Administration has concluded at present that the known transfers (of C–802s) are not of a destabilizing number and type.''

However, I believe that the arrival of additional C–802s in Iran is a matter of grave concern to the United States, and the Administration has an obligation either to sanction the perpetrators or put in motion an alternative policy of equivalent strength.

Sincerely,

ROBERT F. BENNETT,
U.S. Senator.

C–802 FACT SHEET

U.S.S. Stark: American Navy escort vessel struck by two Exocet type cruise missiles in May 1987 killing 37 sailors and disabling the ship for sixteen months.

C–802: Chinese cruise missile similar to the Exocet and marketed for use against naval escort vessels. According to its manufacturer, the China National Precision Instrument Import-Export Corporation, the C–802 is characterized by ''mighty attack capability, great firepower.'' It has a range of 120 km [75 miles] and a high explosive warhead of 165 kg [363 lbs.].

Iranian Revolutionary Guard Navy: Iran is believed to possess sixty C–802 missiles aboard 15 Chinese and French missile boats.

Land-based Variant: Iran is believed to be acquiring an undetermined number of C–802 missiles which will be mounted on Transporter-Erector-Launchers [TELs]. For over a year Iran has been constructing tunnels and other fortifications along its Persian Gulf and Gulf of Oman coastlines which could accommodate these TELs.

Threat to U.S. forces: 15,000 U.S. servicemen and women are potentially within range of these missiles. On April 11, Deputy Assistant Secretary of State Robert Einhorn told the Senate Governmental Affairs Committee, ''These cruise missiles pose new and direct threats to deployed U.S. Forces.'' During 1996 Admiral Scott Redd, Commander-in-Chief of the U.S. Fifth Fleet declared the missiles to be a ''360 degree threat which can come at you from basically anywhere at sea in the gulf or out in the Gulf of Oman.''

U.S. Law: The Iran-Iraq Arms Non-Proliferation Act of 1992 (50 U.S.C. 1701 note) prohibits foreign persons from delivering advanced conventional weapons, including cruise missiles, to Iran.

Administration Position: The Administration ''has concluded at present that the known types [of C–802 missiles] are not of a destabilizing number and type.''

[Sources: New York Times, various Jane's publications]

AMENDMENTS SUBMITTED

SUPPLEMENTAL APPROPRIATIONS ACT

GRAMS (AND OTHERS) AMENDMENT NO. 54

Mr. GRAMS (for himself, Mr. JOHNSON, and Mr. DASCHLE) proposed an amendment to the bill (S. 672) making supplemental appropriations and rescissions for the fiscal year ending September 30, 1997, and for other purposes; from the Committee on Appropriations; as follows:

At the appropriate place, insert the following new title:

TITLE ___—DEPOSITORY INSTITUTION DISASTER RELIEF

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Depository Institution Disaster Relief Act of 1997''.

SEC. ___02. TRUTH IN LENDING ACT; EXPEDITED FUNDS AVAILABILITY ACT.

(a) TRUTH IN LENDING ACT.—During the 180-day period beginning on the date of enactment of this Act, the Board may make exceptions to the Truth in Lending Act (15 U.S.C. 1601 et seq.) for transactions within an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), has determined that a major disaster exists, or within an area determined to be eligible for disaster relief under other Federal law by reason of damage related to the 1997 flooding of the Red River of the North and its tributaries, if the Board determines that the exception can reasonably be expected to alleviate hardships to the public resulting from such disaster that outweigh possible adverse effects.

(b) EXPEDITED FUNDS AVAILABILITY ACT.—During the 180-day period beginning on the date of enactment of this Act, the Board may make exceptions to the Expedited Funds Availability Act (12 U.S.C. 4001 et seq.) for depository institution offices located within any area referred to in subsection (a) if the Board determines that the exception can reasonably be expected to alleviate hardships to the public resulting from such disaster that outweigh possible adverse effects.

(c) TIME LIMIT ON EXCEPTIONS.—Any exception made under this section shall expire not later than the earlier of—

(1) 1 year after the date of enactment of this Act; or

(2) 1 year after the date of any determination referred to in subsection (a).

(d) PUBLICATION REQUIRED.—Not later than 60 days after the date of a determination under subsection (a), the Board shall publish in the Federal Register a statement that—

(1) describes the exception made under this section; and

(2) explains how the exception can reasonably be expected to produce benefits to the public that outweigh possible adverse effects.

SEC. ___03. DEPOSIT OF INSURANCE PROCEEDS.

The appropriate Federal banking agency may, by order, permit an insured depository institution, during the 18-month period beginning on the date of enactment of this Act, to subtract from the institution's total assets, in calculating compliance with the leverage limit prescribed under section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o), an amount not exceeding the qualifying amount attributable to insurance proceeds, if the agency determines that—

(1) the institution—

(A) had its principal place of business within an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined that a major disaster exists, or within an area determined to be eligible for disaster relief under other Federal law by reason of damage related to the 1997 flooding of the Red River of the North and its tributaries, on the day before the date of any such determination;

(B) derives more than 60 percent of its total deposits from persons who normally reside within, or whose principal place of business is normally within, areas of intense devastation caused by the major disaster;

(C) was adequately capitalized (as defined in section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o)) before the major disaster; and

(D) has an acceptable plan for managing the increase in its total assets and total deposits; and

(2) the subtraction is consistent with the purpose of section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o).

SEC. ___04. BANKING AGENCY PUBLICATION REQUIREMENTS.

(a) IN GENERAL.—During the 180-day period beginning on the date of enactment of this Act, a qualifying regulatory agency may take any of the following actions with respect to depository institutions or other regulated entities whose principal place of business is within, or with respect to transactions or activities within, an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined that a major disaster exists, or within an area determined to be eligible for disaster relief under other Federal law by reason of damage

related to the 1997 flooding of the Red River of the North and its tributaries, if the agency determines that the action would facilitate recovery from the major disaster:

(1) PROCEDURE.—Exercise the agency's authority under provisions of law other than this section without complying with—

(A) any requirement of section 553 of title 5, United States Code; or

(B) any provision of law that requires notice or opportunity for hearing or sets maximum or minimum time limits with respect to agency action.

(2) PUBLICATION REQUIREMENTS.—Make exceptions, with respect to institutions or other entities for which the agency is the primary Federal regulator, to—

(A) any publication requirement with respect to establishing branches or other deposit-taking facilities; or

(B) any similar publication requirement.

(b) PUBLICATION REQUIRED.—Not later than 90 days after the date of an action under this section, a qualifying regulatory agency shall publish in the Federal Register a statement that—

(1) describes the action taken under this section; and

(2) explains the need for the action.

(c) QUALIFYING REGULATORY AGENCY DEFINED.—For purposes of this section, the term ''qualifying regulatory agency'' means—

(1) the Board;

(2) the Office of the Comptroller of the Currency;

(3) the Office of Thrift Supervision;

(4) the Federal Deposit Insurance Corporation;

(5) the Federal Financial Institutions Examination Council;

(6) the National Credit Union Administration; and

(7) with respect to chapter 53 of title 31, United States Code, the Secretary of the Treasury.

SEC. ___05. SENSE OF THE CONGRESS.

It is the sense of the Congress that each Federal financial institutions regulatory agency should, by regulation or order, make exceptions to the appraisal standards prescribed by title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.) for transactions involving institutions for which the agency is the primary Federal regulator with respect to real property located within a disaster area pursuant to section 1123 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3352), if the agency determines that the exceptions can reasonably be expected to alleviate hardships to the public resulting from such disaster that outweigh possible adverse effects.

SEC. ___06. OTHER AUTHORITY NOT AFFECTED.

Nothing in this title limits the authority of any department or agency under any other provision of law.

SEC. ___07. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term ''appropriate Federal banking agency'' has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(2) BOARD.—The term ''Board'' means the Board of Governors of the Federal Reserve System.

(3) FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCY.—The term ''Federal financial institutions regulatory agency'' has the same meaning as in section 1121 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350).

(4) INSURED DEPOSITORY INSTITUTION.—The term ''insured depository institution'' has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(5) LEVERAGE LIMIT.—The term ''leverage limit'' has the same meaning as in section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o).

(6) QUALIFYING AMOUNT ATTRIBUTABLE TO INSURANCE PROCEEDS.—The term ''qualifying amount attributable to insurance proceeds'' means the amount (if any) by which the institution's total assets exceed the institution's average total assets during the calendar quarter ending before the date of any determination referred to in section ___03(1)(A), because of the deposit of insurance payments or governmental assistance made with respect to damage caused by, or other costs resulting from, the major disaster.

STEVENS AMENDMENT NO. 55

Mr. STEVENS proposed an amendment to the bill S. 672, supra; as follows:

On page 65, line 5, strike the amount ''$41,090,000'' and insert the amount ''$81,090,000'' and

On page 65, line 7, strike the amount ''135,090,000'' and insert the amount ''$95,000,000''.

FORD AMENDMENT NO. 56

Mr. STEVENS (for Mr. FORD for himself and Mr. MCCONNELL) proposed an amendment to the bill, S. 672, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . AUTHORITY OF SECRETARY OF DEFENSE TO ENTER INTO LEASE OF BUILDING NO. 1, LEXINGTON BLUE GRASS STATION, LEXINGTON, KENTUCKY.

(a) AUTHORITY TO ENTER INTO LEASE.—Notwithstanding any other provision of law, the Secretary of Defense may enter into an agreement for the lease of Building No. 1, Lexington Blue Grass Station, Lexington, Kentucky, and any real property associated with the building, for purposes of the use of the building by the Defense Finance and Accounting Service. The agreement shall meet the requirements of this section.

(b) TERM.—(1) The agreement under this section shall provide for a lease term of not to exceed 50 years, but may provide for one or more options to renew or extend the term of the lease.

(2) The agreement shall include a provision specifying that, if the Secretary ceases to require the leased building for purpose of the use of the building by the Defense Finance and Accounting Service before the expiration of the term of the lease (including any extension or renewal of the term under an option provided for in paragraph (1)), the remainder of the lease term may, upon the approval of the entity leasing the building, be satisfied by the Secretary or another department or agency of the Federal Government (including a military department) for another purpose similar to such purpose.

(c) CONSIDERATION.—(1) The agreement under this section may not require rental payments by the United States under the lease under the agreement.

(2) The Secretary or other lease, if any, under subsection (b)(2) shall be responsible under the agreement for payment of any utilities associated with the lease of the building covered by the agreement and for maintenance and repair of the building.

(d) IMPROVEMENT.—The agreement under this section may provide for the improvement of the building covered by the agreement by the Secretary or other lessee, if any, under subsection (b)(2).

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC HEALTH AND SAFETY

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the Public that a hearing of the Subcommittee on Public Health and Safety, Senate Committee on Labor and Human Resources will be held on Tuesday, May 5, 1997, 9:30 a.m., in SD–430 of the Senate Dirksen Building. The subject of the hearing is ''Protecting Public Health: CDC Project Grants for Preventable Health Services.'' For further information, please call the committee, 202/224–5375.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a executive session of the Senate Committee on Labor and Human Resources will be held on Wednesday, May 6, 1997, 9:30 a.m., in SD–430 of the Senate Dirksen Building. The following are on the agenda to be considered.

1. S. : Individuals with Disabilities Education Act Amendments of 1997.

2. Presidential nominations.

For further information, please call the committee, 202/224–5375.

AUTHORITY FOR COMMITTEE TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Monday, May 5, for purposes of conducting a hearing before the full committee which is scheduled to begin at 10:30 a.m. The purpose of this hearing is to consider S. 430, the New Mexico Statehood and Enabling Act Amendments of 1997.

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

ADDITIONAL STATEMENTS

OUTLOOK SCHOOL MCI/NASA PROJECT

● Mr. GORTON. Mr. President, I would like to pay tribute to the efforts of those individuals involved with the Outlook Elementary School project in Outlook, WA. Their tremendous generosity will provide the technology our students need to succeed in school and in life.

The importance of keeping our children abreast of technology is hard to exaggerate. The National Science Foundation reports that over 700,000 new technicians, scientists, mathematicians, and engineers must be found by the year 2010 simply to keep up with technological demands.

Business and political leaders from around the country have called for increased emphasis on technology in education. Some fear, however, that rural

and small-town America could be overlooked in this effort. Seeing this potential problem, Astronaut Bonnie Dunbar enlisted the support of MCI in providing free computers and Internet access to the students of Outlook Elementary School in Outlook, WA. Bonnie Dunbar is a graduate of Outlook Elementary, and is a model and inspiration to many. In the hallway of this small school is the phrase ''From Outlook to NASA.'' With the generosity of MCI, and the efforts of Bonnie Dunbar, more students will have the benefits of state-of-the-art technology, and also have the stars within their reach.●

SEAN J. WHITE

● Mr. LIEBERMAN. Mr. President, I rise today to acknowledge Sean J. White. Sean has been a member of the King & Low-Heywood Thomas School [KLHT] community since his freshman year. That same year he was elected treasurer of the student government. He also served as a ranking member of the Constitution Committee. Mr. White was a member of the school newspaper staff and became editor-in-chief of The Standard in 1997. He has been an active member of Model United Nations and Political Union, as the vice chairman. At the end of this year his term as chairman of the Political Union and as president of Model United Nations will begin.●

TRIBUTE TO HARRISON EITELJORG

● Mr. LUGAR. Mr. President, I rise today to pay tribute to Harrison Eiteljorg, a dear friend and longtime patron of the arts, who passed away last week at the age of 93. This afternoon, friends and family will gather in Indianapolis to remember Harrison and to celebrate his remarkable life.

Harrison Eiteljorg was the founder and chief benefactor of the Eiteljorg Museum of American Indians and Western Art. This museum, located in downtown Indianapolis, houses his extensive collection of paintings and sculptures of the American West, with works by Frederic Remington, Georgia O'Keefe, Albert Bierstadt, and Thomas Hart Benton. It also contains his collection of Indian artifacts, with costumes, weapons, ceremonial objects and masks representing tribes of the Midwest, Plains, and Northwest coast. The Eiteljorg collection is perhaps the finest of its type anywhere in the world.

Harrison Eiteljorg found absolute joy in the pursuit, discovery and acquisition of paintings and sculptures of the American West. Early in his life, business interests took Eiteljorg on frequent and extended trips to the West and Southwest. His interest in Indian artifacts and crafts developed at this time, together with his attraction to Western painting and sculpture.

Eiteljorg began assembling his collections in the late 1940's. His first piece was Olaf Weighorst's Cutting Horse, which depicts a cowboy about to rope a steer. As his collection grew, Eiteljorg tried to meet many of the artists whose works he purchased, in an effort to share a few moments of their lives. And, he gave his encouragement and financial support to several young artists, enabling them to devote full time and attention to their art.

Harrison Eiteljorg was also a supporter and active member of the Indianapolis Museum of Art. He became a member of the IMA Board of Trustees in 1962, served as board chairman from 1974 to 1983, and had been honorary chairman since 1987. In the 1980's, Eiteljorg made a gift to the IMA of more than 1,000 pieces from his collection of African and oceanic art.

As a former mayor of Indianapolis, I understand the importance of citizens being involved in their local communities. Harrison Eiteljorg's strong sense of civic responsibility and duty helped make Indianapolis a showcase for art and culture.

Harrison Eiteljorg's personal commitment to preserving the heritage of American Indians and the evolution of the West is to be commended. While he will be sorely missed, his important collections will continue to educate and enchant visitors to the Eiteljorg Museum and the Indianapolis Museum of Art for many years to come.●

AFRICAN-AMERICAN MEDAL OF HONOR RECIPIENTS

● Mr. TORRICELLI. Mr President, I rise today in strong support of Senator KEMPTHORNE's effort to provide Medal of Honor recipient Vernon Joseph Baker, and the heirs of Medal of Honor recipients Edward Carter and Charles Thomas, with retroactive compensation for their awards.

During World War II Mr. Baker was an Army 2d lieutenant serving with the 92d Infantry Division in Europe. During a 2-day action near Viareggio, Italy he single-handedly wiped out two German machinegun nests, led successful attacks on two others, drew fire on himself to permit the evacuation of his wounded comrades, and then led a battalion advance through enemy minefields. Mr. Baker is the only one of these three men still alive today, and he currently resides in St. Maries, ID.

Edward Carter, of Los Angeles, was a staff sergeant with the 12th Armored Division when his tank was destroyed in action near Speyer, Germany, in March of 1945. Mr. Carter led three men through extraordinary gunfire that left two of them dead, the third wounded, and himself wounded five times. When eight enemy riflemen attempted to capture him, he killed six of them, captured the remaining two and, using his prisoners as a shield, recrossed an exposed field to safety. The prisoners yielded valuable information. Mr Carter died in 1963.

Charles Thomas, of Detroit, was a major with the 103d Infantry Division serving near Climbach, France, in December of 1944. When his scout car was hit by intense artillery fire, Mr. Thomas assisted the crew to cover and, despite severe wounds, managed to signal the column some distance behind him to halt. Despite additional multiple wounds in the chest, legs, and left arm, he ordered and directed the dispersion and emplacement of two antitank guns that effectively returned enemy fire. He refused evacuation until certain his junior officer was in control of the situation. Mr. Thomas died in 1980.

I commend Mr. Baker, Mr. Carter, and Mr. Thomas for their bravery and Senator KEMPTHORNE for leading this effort.

As a result of their heroics, these men had clearly met the criteria for being awarded a Medal of Honor, the Nation's highest award for valor. This medal is only awarded to a member of the U.S. armed services who ''distinguishes themselves conspicuously by gallantry and intrepidity at the risk of their life and beyond the call of duty,'' with an act ''so conspicuous as to clearly distinguish the individual above their comrades.'' However, because of the racial climate of the time and the segregated nature of the Army in 1945, African-Americans were denied the Medal of Honor. It is a sad testament to America's legacy of discrimination that although 1.2 million African-Americans served in the military during the Second World War, including Mr. Baker, Mr. Carter, and Mr. Thomas, none received 1 of the 433 Medals of Honor awarded during the conflict.

This past January our Nation took an important step in correcting this injustice by awarding Mr. Vernon Joseph Baker, and six of his dead comrades, the Medal of Honor during a long-overdue ceremony at the White House. This recognition of these men's extraordinary courage was a vindication for all African-American heroes of World War II. In order to further demonstrate our profound thanks to these brave men, I support Senator KEMPTHORNE's effort to retroactively compensate Mr. Baker, and the heirs of Mr. Carter and Mr. Thomas for the money that they would have received from the Army for receiving the Medal of Honor. The other three heros died as a result of the brave deeds which qualified them to receive the Medal, and thus would not have received any compensation by the military.

Each recipient of this Medal is entitled to receive a token monthly stipend from their respective branch of the military after they leave active duty service. In 1945 the stipend was $10 and today it has risen to $400. Since he was denied the Medal more than a half century ago, Mr. Baker and the survivors of Mr. Carter and Mr. Thomas, deserve to receive the same amount of money that they would have received had they been awarded the Medal at the close of World War II. America is profoundly thankful for the patriotism of these

men, and awarding retroactive compensation to them is a simple way to express our gratitude for their service. For these reasons I stand today to recognize Mr. Baker, Mr. Carter, and Mr. THOMAS, and support retroactively compensating them for their accomplishments.●

JUVENILE CRIME

● Mr. FRIST. Mr. President, a few weeks ago in Nashville, three armed teenage thugs struck the youngest member of my staff with a pistol, robbed, and terrorized him. All three have lengthy juvenile records. Two were convicted of armed robbery at age 14 and served time in a juvenile facility. Last month, over the vehement objection of the prosecutor, both were released early for good behavior. It took these juveniles less than a month to rearm and commit another violent crime.

In Tennessee over the past 4 months, we have had a string of senseless murders which have left Tennesseans in a state of shock, fear, and confusion. One incident, for which arrests have been made, is the tragic story of the four members of the Lillelid family of east Tennessee. They were car-jacked at a rest stop on Interstate 81 and later found executed in a ditch, with multiple gunshot wounds to the head and chest. The mother, father, and 6-year-old daughter all died, while the 2-year-old son was shot twice, but survived. The police have arrested six people in connection to the murders—four adults and two juveniles—all are under 20 years of age.

This pointless tragedy is just one of many recent stories which have riveted the attention of people across Tennessee. The death of Charlie Thoet as he was closing a restaurant just outside of Nashville in January; the murder of Steve Hampton and Sarah Jackson as they were opening another establishment in February; the triple homicide of Robert Santiago, Robert Allen Sewell, and Andrea Brown and the attempted murder of Jose Alfredo Romirez Gonzalez at a fast food restaurant in March; and the most recent incident, the murders of Michelle Mace and Angela Holmes at an ice cream shop just last week, have left many across Tennessee questioning our society and its lack of respect for human life. All of these victims were hard working people with families and friends, hopes and dreams whose lives were brought to an end in a brutal, violent, senseless fashion.

Mr. President, I want to be very clear that in no way do I mean to suggest that all of these unsolved murders were caused by juveniles. However, the two cases first mentioned were cases with juvenile and very young adult offenders. And violent juvenile crime is growing across this country. From 1985 to 1994 arrest of juveniles for all serious violent offenses increased 75 percent; arrest for homicides increased 150 percent; and arrests of juveniles for weapon possession increased 103 percent. These statistics coupled with the fact that there will be a large increase in the number of juveniles early in the next century—by 2005 the number of males 14–17 will increase 25 percent—means that we are about to face a crime epidemic the likes of which this country has never experienced. The Justice Department estimates that in the next 13 years juvenile arrests for violence crimes will more than double and juvenile arrests for murder will increase by 45 percent.

So what do we do? Currently, less than 10 percent of juvenile offenders commit far greater than half of all juvenile crimes. Rather than adopt a shotgun approach, we need to focus our efforts to make it harder for this small portion of the population to continually commit crimes. In addition, it has been proven time and time again that adult repeat offenders often begin as juvenile repeat offenders and that the severity of the crimes only increase. We must interrupt the cycle of violence while the offender is still a juvenile.

I believe that the most important step we can take is make sure that these young people understand that there are consequences for their actions. In Tennessee, usually a juvenile will have been convicted of three crimes before he or she is considered for juvenile detection. I think we all realize that if these kids are caught doing something 3 times then that means they have probably done it closer to 20 times. I believe that a vital element in deterring crime is the certainty of punishment for first and second offenses. Juvenile offenders must know for certain that they are responsible and will be held accountable for their actions.

Criminals must also serve their entire sentence. If the teenagers, who attacked my staffer a few weeks ago, had served their full sentences, then that crime would never have happened. We do not have enough resources to capture and arrest every criminal several times. Once our police officers have put their lives on the line to catch a criminal, and our overworked, underpaid prosecutors have obtained a conviction, it is inexcusable for that criminal not to serve his or her full sentence.

There are other steps we can take to make sure it is easier for law enforcement and the courts to send a strong message to juvenile offenders. Most Americans would probably be surprised to learn that in most areas juveniles are not fingerprinted and their record of violent crimes are not weighed at all in adult criminal proceedings. They may also not be aware that in most States there is a minimum age for a juvenile to be bound over to adult court.

Crime, especially juvenile crime, is a problem for which our entire community must find the solution. Parents, teachers, law enforcement, judges, social services, and, yes, the business community as well, must play integral roles. I am very interested in a new project just getting underway in Memphis, TN, which will do just that. The Shelby County Tennessee Juvenile Offender Transition Program is an innovative new plan for a supervised, independent living center for juvenile offenders aimed at reducing recidivism and assisting youth to obtain the skills necessary to break the cycle of crime and to make the transition into a productive adulthood. The program includes education and vocational training requirements tailored to each participant, coupled with a highly structured mentoring program with area universities and a business sponsorship which includes part-time employment during the program with the prospect of employment after completion of the program or tuition reimbursement for continued education. The juveniles have to serve their entire sentence, but this program will give the juvenile court an alternative to sending these young people back to the neighborhoods and the problems where we know they will only get in trouble again and end up back in our courts and our prisons. It is not the solution to all of the problems we face with juvenile crime, but this is an innovative, new approach to assist some of our young people, those who we might be able to help, in making a positive change. The program calls on all aspects of our communities to find solutions and I believe that these efforts deserve our support.

Mr. President, I believe that it is time to take a long hard look at the areas I have highlighted and consider long overdue reforms to the juvenile justice system. There is consensus on several issues from both Republican and Democrats, and therefore, I think it is time for the U.S. Senate to address this most pressing concern of the American people.●

ADAM J. PLATZNER

● Mr. LIEBERMAN. Mr. President, I rise today to acknowledge Adam J. Platzner. Adam arrived at the Kind & Low-Heywood Thomas School [KLHT] in September 1994—sophomore year. Almost immediately following his arrival he was elected by his classmates to the Student Government as a case representative. He was appointed by the Student Government president to the position of direction of Student Government Development. He was also appointed chairman of the Constitution Committee. In these posts he not only raised money but he also supervised the formation of, and coauthored the new Student Government's constitution. Through his efforts the students now have representation on the board of trustees' committees. In the middle of April 1994, Mr. Platzner among other things, founded and was elected chairman of the Political Union. He was also elected vice president of the Student Body and chairman of the Student Council. Adam Platzner

was chosen to represent the school as the ambassador to the Hugh O'Brien Youth Foundation's annual conference.

The following year—junior year—Mr. Platzner raised funds and chaired the Student Council. He was also selected to sit on the board of trustees' education committee—2-year term—and elected president of the Model United Nations Organization. Adam Platzner won the Outstanding Delegate Award at the Ivy League Model United Nations Conference, as well as the class prize for his hard work, leadership, and dedication In the city of New Rochelle, NY, Mr. Platzner was appointed to the Youth Court.

During his senior year he continued to lead the KLHT Political Union forward. In the beginning of the year he was appointed to lead Students Against Driving Drunk. It was in decline and Mr. Platzner's job is to turn it around. Adam Platzner continues to be a dedicated member of the KLHT community.●

EUROPEAN UNION BANANA TRADE INEQUITY

● Mr. INOUYE. Mr. President, I join today with my friend and colleague from Hawaii, Senator AKAKA, to congratulate Ambassador Charlene Barshefsky and her staff at the Office of the U.S. Trade Representative on their outstanding work to date in the World Trade Organization [WTO] action involving the European Union [EU] banana policy. On March 18, 1997, a neutral WTO panel charged with reviewing the banana case issued a detailed interim report finding the EU regime to be in violation of over 20 WTO principles. This represents more violations in a single case than has ever before been found in the history of the General Agreement on Tariffs and Trade and WTO dispute settlement.

Although narrow in scope, the one implication I am obliged to mention first relates to U.S. banana production. Hawaii has produced bananas commercially for almost 160 years. Bananas are Hawaii's seventh leading agricultural crop by value and show considerable promise for expansion and export. This growth potential is extremely important as Hawaii makes a critical transition from a large plantation style agricultural base in sugar and pineapple to a diversified crop base featuring a very wide range of tropical and subtropical products. While Hawaii is a small producer of bananas by global standards, the distortions to global banana trade caused by the EU banana import regime have taken a decisive toll on Hawaiian producers in the form of depressed producer prices. If the EU's panel report is adopted as expected, it will have a leveling effect on the prices received by Hawaii banana growers.

Other U.S. agricultural interests far beyond the banana sector also stand to benefit if the banana panel ruling is adopted in its present form. Farming interests throughout our country, including in Hawaii, share a widespread concern that international agreements do not adequately protect them against unfair foreign trading practices, particularly against repeat offenders like the EU. With the banana report now out in preliminary form, we are close to having in hand the most favorable, comprehensive findings ever rendered against a single EU agricultural policy. The Journal of Commerce properly described the ruling as ''a welcome signal that the WTO will not simply acquiesce when Brussels requires all member nations to raise their trade barriers to the highest level imposed elsewhere in the union.'' I request that the Journal of Commerce editorial in which that quote appears, entitled ''Ending banana inanity,'' be included in the RECORD immediately following our remarks today.

Mr. AKAKA. Mr. President, I am pleased to join Senator INOUYE in encouraging the U.S. Trade Representative's continued pursuit of this case. The consequences of this interim WTO report are significant—not just for Hawaii, but for the U.S. agricultural community and for U.S. trading interests generally. Ambassador Barshefsky wisely recognized those implications when she joined with numerous other WTO members in calling for a WTO dispute settlement panel to condemn the EU banana import regime.

The WTO panel acknowledged that in an increasingly interdependent global economy, governments will be held accountable for the adverse consequences their trade policies may have on foreign producing sectors, however large or small they might be. Hence, if the banana panel's interim report is adopted, as we expect it to be, small producing interests, such as the banana producers of Hawaii will be entitled under the long arm of the WTO to all rights and interests guaranteed by that treaty. Since the success of small producing interests is a critical aspect of Hawaii's agricultural future, this long arm protection is of great reassurance to us.

Under the new WTO rules, if the banana report is adopted, the EU will face a stark choice: it will either have to dismantle this unlawful regime or face legal WTO trade retaliation. After decades of EU disregard of U.S. agricultural interests, a strict enforcement of that choice should establish an effective model for resolving future disputes with the EU and, equally important, should deter the EU from even engaging in unlawful agricultural policies in the first instance. Restored confidence in international dispute settlement should, in turn, help broaden the general view that trade agreements are a positive force in the promotion of U.S. agricultural trading interests.

The banana report promises to be helpful to U.S. agriculture in still another way. By clarifying the conditions under which agricultural tariff rate quotas [TRQ's] can be administered, the report should prevent countries from using TRQ's to accomplish the sort of nontransparent, discriminatory and restrictive non-tariff barriers that the Uruguay Round sought to eliminate.

In addition to the favorable precedent being set for American agriculture, the banana report also gives expansive life and coverage to the new WTO agreement governing services. The report found that U.S. service suppliers engaged in the wholesale distribution of fresh fruit have had their conditions of trade adversely affected by the EU regime in numerous ways, always to the direct benefit of EU corporate interests. The measure of U.S. harm as a result of these services violations may exceed $1 billion, a level well in excess of the harm normally implicated in international dispute settlement actions. By strictly upholding U.S. service supplier interests in this case, the panel has helped ensure meaningful, lasting protection of all U.S. sectors covered by the new international services accord.

In short, if adopted, the WTO banana report will represent an unambiguous win for multiple trading interests throughout our country. We accordingly ask our Senate colleagues to lend all necessary support to Ambassador Barshefsky and her staff to secure adoption and full implementation of this important WTO report.

The editorial follows:

[From the Journal of Commerce, Apr. 11, 1997]

ENDING BANANA INANITY

An interim ruling last month by a World Trade Organization dispute panel, calling on the European Union to overhaul its system of banana trade preferences, was a big achievement for the 40 countries—one-third of the WTO's membership—involved in the case. It showed that a rules-based trading system can yield just decisions even in complex and politically charged cases.

The banana case involved a decades-old system of trade preferences that European nations granted their banana producing former colonies in Africa, the Caribbean and the Pacific. For six of those countries, that preferential access left relatively slim quotas for Latin American producers, many of whom market their fruit through U.S.-based Chiquita Brands.

That difficulty was compounded when, in 1993, the EU sought to transform the voluntary preference program adopted by some of its member states into a uniform regime for the entire union. That meant forcing Germany, Belgium, the Netherlands and other EU states to impose caps on banana imports, driving up the price and limiting the supply of the Latin American bananas their consumers prefer.

In principle, the EU could have handled this change in a way that did not discriminate against third countries and break WTO rules. But Brussels took the opportunity to set up a whole new system that favored European banana marketing companies and put Chiquita Brands at a disadvantage. The mechanism was a Byzantine system of import and export licenses, which were made available to European marketers and to the foreign governments willing to cooperate with them.

Four countries—Colombia, Costa Rica, Venezuela and Nicaragua—were made an

offer by the EU that they couldn't refuse: Agree to supply bananas under the EU regime or be punished with less access to the world's largest banana market. The EU also enlisted Caribbean politicians to defend the system it had set up to benefit European marketers. The result was that Chiquita saw its market share in Europe plunge by nearly 50%, costing it hundreds of millions of dollars.

The United States has fought this system in world trade bodies for years. Dispute panels of General Agreement on Tariffs and Trade, forerunner of the WTO, twice ruled that Europe's banana regime violates trade law, but the EU refused to honor those rulings. Washington's persistence may pay off yet, however, since the WTO's rules prevent a single nation from blocking a panel ruling.

To its credit, the three-member WTO panel withstood overheated lobbying by the EU and its allies in the Caribbean, who falsely charged that the United States was out to wreck the original preference program for former colonies. Instead, the panel identified the real issue: the right of investors in services—in this case, marketing and distributing bananas—to have a fair shot at a big market.

Moreover, the EU's claims notwithstanding the panel's interim ruling will not threaten Caribbean exports to Europe, which amount to 8% of Europe's banana imports. The only losers will be the big European banana trading firms, which will not longer be able to charge monopoly prices.

The ruling also is a welcome signal that the WTO will not simply acquiesce when Brussels requires all member nations to raise their trade barriers to the highest level imposed elsewhere in the union. The WTO allows this ''leveling up,'' but also requires that exporters in third countries be compensated for their losses. The panel decision, if finalized, would require the EU to offer such compensation.

The decision is a victory for European consumers, who have been paying high prices as a result of the EU banana regime. If the interim ruling is finalized—as is expected—and the EU implements it as it should, Europe's long chapter of banana inanity may finally draw to a close.

WTO DISPUTE SETTLEMENT PANEL REPORT

Mr. GLENN. Mr. President, I rise to bring my colleagues' attention to a recent and very significant decision by a dispute settlement panel of the new World Trade Organization [WTO]. The case is extraordinarily complex and I congratulate Ambassador Charlene Barshefsky and her staff at USTR on their skillful handling of this matter on behalf of the United States.

To summarize the issue, the United States, Mexico, Ecuador, Honduras, and Guatemala went to WTO dispute settlement seeking an end to an EU banana trade regime which discriminates against banana exports from certain Latin American countries and against certain United States and Latin American banana marketing companies. The EU regime has deprived Latin American countries of market share and export growth in the EU and has taken business away from United States and Latin American banana marketers, giving that business over to European marketing firms.

The WTO panel's decision is a major victory for the United States and our Latin American partners in the case. The panel found that the EU banana regime is founded on over 20 violations of international trade agreements, including the General Agreement on Tariffs and Trade [GATT], the General Agreement on Trade in Services [GATS], and the Agreement on Import Licensing Procedures.

This case has implications much broader than simply the banana trade. The United States has many, very contentious, on-going agricultural trade disputes with the EU, and for that reason U.S. agricultural interests have been watching the banana case with great interest. First, this case is an example of the successful use of WTO dispute settlement to resolve these agricultural trade issues. Further, according to the American Farm Bureau, the panel's report ''helps establish clear parameters for the implementation of agricultural tariff rate quotas [TRQ's]. These parameters will help prevent TRQ's from becoming the very type of nontariff barrier the Uruguay Round sought to eliminate.''

In addition, this case is the first test of the General Agreement on Trade in Services. The United States was instrumental in ensuring that GATS was included in the final Uruguay Round Agreement. It is in our interest to see the MFN and ''national treatment'' obligations, traditionally applied to goods in trade agreements, now extend to services, an increasingly important portion of U.S. foreign commerce. The panel decision in the banana case interprets broadly the GATS protections against government policies which discriminate against foreign service suppliers. This is an important precedent and a significant victory for U.S. interests.

Once again, Mr. President, I complement USTR on a job well done and urge the administration to persevere through the inevitable appeal process, doing everything necessary to ensure that this important ruling is not undermined. I sincerely hope that, with the panel's decision in hand, a negotiated solution to end the discriminatory banana regime can be found. However, if not, the United States has a WTO-sanctioned right to retaliate, which we should not hesitate to invoke, if necessary, to achieve full EU conformity with the panel ruling in this case.

A HOPEFUL STEP FOR AMERICA'S FARMERS

Mr. DEWINE. Mr. President, I am very pleased to join with my distinguished colleagues from Hawaii, Senator INOUYE and Senator AKAHA, to congratulate Ambassador Charlene Barshesfsky and her team at the Office of the U.S. Trade Representative for the efforts they have taken in their case against the European Union [EU] banana regime, which is pending before the World Trade Organization [WTO]. I know this is an issue of interest not just for the three of us, but also my Ohio colleague, Senator GLENN, my distinguished friend from Utah, Senator HATCH, and the majority leader, Senator LOTT. Last week, the six of us joined together in a letter to Ambassador Barshefsky, expressing our appreciation for her office's great work to date.

The case in question was brought before the WTO by the United States, Mexico, Guatemala, Honduras, and Ecuador. Last March, a panel of the WTO made public an interim report, which found the EU banana regime to be in violation of more than 20 WTO principles. As the senior Senator from Hawaii pointed out, this one case has produced more violations than any other in the history of the WTO dispute settlement process.

I am sure one could ask why a Senator from Ohio would be interested in a trade dispute involving bananas. It's easy to answer: I am a Senator who represents a large number of farmers in Ohio. Ohio farmers produce agricultural goods for both domestic and international markets. Indeed, if American agriculture is to remain a growth industry, we need to increase our presence in world markets. It's that simple.

The hard fact for many farmers is that free and fair trade on the world stage hasn't always been simple, particularly when they have to go up against the EU. It is our job in Washington to achieve and advance trade agreements that protect and advance our agricultural interests. That can be easier said than done. It took years of negotiations before Congress finally ratified the General Agreement on Tariffs and Trade and supported the creation of the WTO. Despite this progress in our trade laws and agreements, I still hear from farmers who believe that international trade agreements don't do the job, or express a lack of confidence in the WTO system.

That's why I followed with great interest the case against the EU banana regime. The ultimate outcome of this case stands to shape both the real and perceived effectiveness of our U.S. trade team, and the WTO as a means to achieve those goals.

Last month's interim report represents the most significant and hopeful sign that our Nation's interests can be voiced effectively in the WTO. It's important to emphasize the interim report is a first step. The report still must be adopted by the WTO and the EU be compelled to achieve full conformity with its findings. If the WTO adopts the report, it will be the first time the United States has won a case brought against the EU in the WTO. If adopted, U.S. agricultural trade policy will stand at a vital crossroads. America's farmers have battled the EU's tough and predatory trade practices for decades. Now, it appears that the WTO is in a position to shift the balance toward fairness and respect for U.S. agricultural interests in two ways: First, by offering an impartial forum to hear and resolve trade disputes; and second, by serving notice to the EU that its past practices will not be tolerated.

Again, I congratulate Ambassador Barshefsky and her team for their persistent efforts to stand up for America's farmers before the WTO. I urge my colleagues to express their support as well. I hope we will see continued success as this report proceeds through the adoption process, and as other cases are brought before the WTO.

ORDERS FOR TUESDAY, MAY 6, 1997

Mr. SESSIONS. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10 a.m., on Tuesday, May 6. I further ask unanimous consent that on Tuesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then immediately resume consideration of S. 672, the supplemental appropriations bill.

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

Mr. SESSIONS. Mr. President, I further ask unanimous consent that the first-degree amendments under the cloture motion be filed by 2:30 p.m., tomorrow.

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

Mr. SESSIONS. Mr. President, I now ask unanimous consent that on Tuesday, the Senate stand in recess from the hours of 12:30 to 2:15 in order for the weekly policy conferences to meet.

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

PROGRAM

Mr. SESSIONS. For the information of all Senators, tomorrow morning the Senate will resume consideration of S. 672, the supplemental appropriations bill. As previously announced, the Senate will recess from 12:30 to 2:15 in order for the weekly policy luncheons to meet. There is a pending amendment which will necessitate a rollcall vote. Senators will be notified as soon as possible as to the scheduling of that and other votes. In addition, we expect other amendments to the supplemental appropriations bill to be introduced tomorrow. Therefore, Senators can expect additional voting during Tuesday's session of the Senate. As a reminder to all Senators, a cloture motion was filed today. Therefore, all first-degree amendments must be filed by 2:30 p.m. to be in order.

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

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. SESSIONS. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:06 p.m., adjourned until Tuesday, May 6, 1997, at 10 a.m.