

The purpose of this hearing is to review S. 150, a bill to authorize an entrance fee surcharge at the Grand Canyon National Park; S. 340, a bill to direct the Secretary of the Interior to conduct a study concerning equity regarding entrance, tourism, and recreational fees for the use of Federal lands and facilities; and S. 1695, a bill to authorize the Secretary of the Interior to assess up to \$2 per person visiting the Grand Canyon or other national park to secure bonds for capital improvements to the park.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Parks, Historic Preservation, and Recreation, Committee on Energy and Natural Resources, United States Senate, 364 Dirksen Senate Office Building, Washington, DC. 20510-6150.

For further information, please contact Jim O'Toole of the subcommittee staff at (202) 224-5161.

SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. CAMPBELL. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, September 19, 1996, at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to review S. 1539, a bill to establish the Los Caminos del Rio National Heritage area along the Lower Rio Grande Texas-Mexico border; S. 1583, a bill to establish the Lower Eastern Shore American Heritage area; S. 1785, a bill to establish in the Department of the Interior the Essex National Heritage Commission; and S. 1808, a bill to amend the act of October 15, 1966 (80 Stat. 915), as amended, establishing a program for the preservation of additional historic property throughout the Nation.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Parks, Historic Preservation, and Recreation, Committee on Energy and Natural Resources, U.S. Senate, 364 Dirksen Senate Office Building, Washington, DC 20510-6150.

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AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. DEWINE. Mr. President, I ask unanimous consent that the Com-

mittee on the Judiciary be authorized to meet during the session of the Senate on Friday, August 2, 1996, at 10 a.m. to hold a hearing on White House access to FBI background summaries.

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

SUBCOMMITTEE ON SOCIAL SECURITY AND FAMILY POLICY

Mr. DEWINE. Mr. President, the Finance Committee requests unanimous consent for the Subcommittee on Social Security and Family Policy to conduct a hearing on Friday, August 2, 1996, beginning at 10 a.m. in room SD-215.

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

ADDITIONAL STATEMENTS

LEGISLATION TO AMEND THE COMMODITY EXCHANGE ACT

• Mr. LUGAR. Mr. President, today Senator LEAHY and I announced that we will propose legislation to amend the Commodity Exchange Act, which establishes the ground rules for commodity futures trading in the United States. Our decision to proceed with legislation follows a public hearing on June 5 and extensive discussions with industry and federal regulators.

I commend Senator LEAHY for his bipartisan cooperation in this as in so many other matters. In order that our colleagues and the general public may understand the legislation we plan to introduce, I ask that a statement issued earlier today by the two of us be printed in the RECORD. I further ask that a letter signed by the two of us and addressed to Acting CFTC Commissioner Tull also be printed in the RECORD.

The material follows:

REFORMING AND UPDATING THE COMMODITY EXCHANGE ACT: OUTLINE OF PLANNED LEGISLATION

The Commodity Exchange Act has benefited the American economy. It has helped encourage a dynamic, world-class futures trading industry that allows farmers, ranchers and other business operators to manage risk, provides investment opportunities and offers protection to consumers of its services. From time to time, Congress has re-examined the Act to bring it up to date with changing markets. Such an update is now opportune.

On June 5, the Committee on Agriculture, Nutrition, and Forestry heard testimony on the need to update the Commodity Exchange Act. Since then, committee staff have consulted extensively with federal agencies and private industry, seeking to explore the implications of legislative proposals by various groups.

As a result of this thorough process, we have decided to introduce legislation to amend the Commodity Exchange Act. Because it is late in the legislative session, it is unlikely the bill we introduce will become law this year. We intend it to spark discussion, with the aim of completing work on revisions to the Act in 1997.

In considering possible legislation, we have been ably advised by CFTC staff. While the CFTC is unconvinced that new legislation is

needed, commission officials have cooperated with our staff whenever they have been asked. We want to thank them publicly for this assistance.

In addition, commission staff have been receptive to addressing some issues through administrative action. Although some reforms we propose are beyond the scope of the commission's current statutory authorities, others could be resolved without legislation. We encourage the CFTC to work toward this end.

There is a public interest in a strong, competitive U.S. futures industry because of its critical role in price discovery and business risk management. This public interest implies, and requires, a degree of regulation. In recent years, U.S. futures exchanges have also faced increasing competition from foreign exchanges and from over-the-counter derivative products.

U.S. exchanges face some regulatory costs that are not borne by their competitors. The Act, and the Commodity Futures Trading Commission's actions to implement its requirements, must strike an appropriate balance between prudent regulation and the need for a cost-competitive industry.

We will introduce legislation in September. The reason for delaying introduction is a provision of the Act called the "Treasury amendment." The amendment excludes certain transactions from the CFTC's jurisdiction and has been the subject of varying interpretations since it was first enacted. Many firms and associations have requested that Congress clarify the Treasury amendment, and we agree that clarification is in order.

The CFTC and the Treasury Department have been working to arrive at a common interpretation of the Treasury amendment. We believe it is wise to give them, and other relevant agencies, a chance to complete these discussions before making a legislative proposal. Therefore, we are writing to Secretary Rubin and Acting Chairman Tull to encourage their agencies to complete their discussions and advise us of their progress. If these conclusions suggest a need to modify the Treasury amendment, we will strongly consider incorporating those modifications into the bill we introduce.

In order for our colleagues to have an opportunity to examine the legislation before this session of Congress ends, we will need to introduce the bill in the first week Congress returns from the August recess, that is the week ending September 6. Therefore, we would like to receive the Administration's counsel before the Labor Day holiday.

It is premature to propose a specific change to the Treasury amendment. However, we can say that we do not intend for the CFTC to become involved in markets where it does not now have any significant role. An example is the "when-issued" market in Treasury securities.

We invite public comment during August on the legislative proposals we will outline in this statement. The bill we introduce in September will be a discussion document. It might subsequently be scaled back, but it also might be expanded to make additional changes to the Act. It will be neither an opening gambit nor a least common denominator. It will represent our best judgment of how the Act should prudently be changed, but our minds remain open to other approaches.

The committee's work on the Commodity Exchange Act has been bipartisan and collegial. Like the 1996 farm bill, the landmark food safety legislation now on the President's desk, and other important laws originated by the committee, this legislative effort is one on which we will work together.

A summary of planned legislative provisions follows.

Considerations required in regulatory actions.—For each significant regulation it imposes (not including enforcement, emergency and similar actions), the CFTC will be directed to take into account both the anticipated costs and the anticipated benefits of the action it contemplates, and to explain publicly its evaluation of the various costs and benefits. In weighing costs and benefits, CFTC will consider whether the proposed action, taken as a whole, will promote customer protection, market integrity and efficiency, fair competition and sound risk management. The provision will apply to actions commenced after the date of enactment, and will require an evaluation, not a cost-benefit analysis in the strict, quantitative sense.

Audit trail.—The bill will clarify the intent of Congress that the audit trail statute does not mandate the development or adoption of any particular technology, but establishes a performance standard. This clarification will be consistent with 1995 Senate testimony by then-Chairman Mary Schapiro.

Contract designation.—The legislation will end the requirement that proposed futures contracts be pre-approved by the CFTC before trading can commence. Instead, the bill will provide that exchanges must submit information about contracts they intend to trade to the CFTC, which will have a reasonable but limited period to examine the proposed contract terms. The CFTC will analyze the information with a presumption in favor of allowing the contract to trade. However, within the examination period, the CFTC may require additional information, or delay the start of trading for a limited time, if it finds reason to believe the contract is susceptible to manipulation, violates the Act or is contrary to the public interest. Ultimately, the CFTC would have the ability to prevent a contract from trading, but only after instituting proceedings to disallow the exchange from commencing trading. Comments are invited on the appropriate length for the periods specified above.

Similar procedures would apply to other proposed exchange rules. Committee report language will direct the CFTC to report, on an ongoing basis, its evaluation of how well exchange governing bodies meet the statutory requirement for meaningful representation of a diversity of interests.

Disciplinary actions and penalties.—The bill will state the sense of Congress that, in deploying enforcement resources, the CFTC should avoid unnecessary duplication of effort in areas where self-regulatory organizations also have enforcement duties, while ensuring a CFTC presence and role sufficient to safeguard market integrity and customer interests. The CFTC will be directed to report to Congress on its enforcement program. The report is to include an analysis of the CFTC's performance in preventing, deterring and disciplining violations of the CEA that involve fraud against individual investors through "bucket shops" and similar abuses. The report will be due a year after enactment, and may follow one or more commission round tables on the subject.

Exemptive authority.—The bill will direct the CFTC to re-evaluate its Part 36 Rules (which allow exchanges to set up less-regulated professionals-only markets in certain limited circumstances) in light of the need to provide equitable competitive conditions among various participants in derivative product markets. Any revisions to the rules would remain within the CFTC's discretion. The bill will also state the sense of Congress that any revisions should ensure the financial integrity of markets and customer protection. The CFTC will be encouraged to convene a round table meeting or meetings to

receive public input on possible improvements in Part 36 Rules.

Swaps exemption.—The statute will be amended to enhance the legal certainty of contracts involving swaps and similar products. Products meeting the requirements of the CFTC's 1993 swaps exemption will be exempt from the Act's provisions to the same extent as at present. The provision will not diminish the CFTC's authority to grant additional exemptions. In addition, the bill will end the current prohibition on granting an exemption from CEA regulation to any transactions subject to the Shad-Johnson accord (which establishes CFTC and SEC jurisdiction on such products as stock index futures). Instead, the bill will allow the CFTC to exempt such products, but only with the concurrence of the Securities and Exchange Commission. Comments are invited on additional or alternative means of enhancing the legal certainty of contracts while assuring market integrity.

Definition of a hedge.—The statute will be amended to clarify that a hedge may be established to reduce risks other than price risks. The bill will make clear that the change does not affect the ability of exchanges and the CFTC to establish speculative limits, require reporting of large trader positions and otherwise discharge their responsibilities.

Delivery by Federally licensed warehouses.—The bill will repeal an outdated provision that allows any federally licensed warehouse to deliver grain against a futures contract, even if it is not a designated delivery point. The current statute could allow market manipulation in some circumstances.

Delivery points for foreign futures contracts.—The CFTC will be directed to commence negotiations with appropriate foreign agencies which regulate exchanges that have established delivery points in the U.S., with the goal of securing adequate assurance (through improvements in the foreign regulatory scheme or other means) that the presence of U.S. delivery points for foreign exchange contracts does not create the potential for market manipulation or other disruptions of U.S. markets. The CFTC will also be granted additional powers, if necessary, to obtain needed information on such delivery points. Comments are invited on the appropriate scope of additional authorities, if any, required by the CFTC to ensure that U.S. markets are not subject to manipulation.

Delegation of authority.—The bill will state the sense of Congress that the CFTC should review its authorities with a view to delegating additional duties to the National Futures Association or other self-regulatory bodies, requiring a report one year after enactment on the results of the review. Report language will state that among the duties the CFTC may consider delegating are the review of disclosure documents and reparations procedures. The statute will further state the sense of Congress that in making any additional delegations, the CFTC should establish a procedure of spot checks, random audits or other means of ensuring adequate performance, and may also make the delegation on a pilot basis.

Treasury amendment.—The bill's provisions to modify the Treasury amendment (an exemption from CEA regulation for the interbank currency markets and some other markets) will be drafted following review of suggestions received by the Administration.

Technical changes.—The bill may also include technical changes to the Act such as those suggested by the National Futures Association in its June 5 testimony.

U.S. SENATE, COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,

Washington, DC, August 1, 1996.

Hon. JOHN TULL,
Acting Chairman, Commodity Futures Trading
Commission, Washington, DC.

DEAR MR. CHAIRMAN: We were heartened to learn that the Commodity Futures Trading Commission and the Treasury Department have been discussing the so-called "Treasury amendment" to the Commodity Exchange Act, with a view toward arriving at a common interpretation of the provision. At a hearing our committee held June 5, the Treasury amendment was cited by several witnesses as a provision of the Act that needed review and clarification.

We intend to introduce legislation that will make a number of changes to the Act, and believe it is appropriate to address the Treasury amendment in that bill. It would be highly desirable to have the benefit of the Treasury and the CFTC's joint advice in this regard.

In order for our colleagues to have adequate opportunity to review the bill this fall, we intend to introduce it in the first week Congress returns from its August recess, that is the week ending September 6, 1996. We would appreciate hearing from relevant federal agencies their views on the Treasury amendment before the Labor Day holiday, if possible. However, we are confident you share our strong hope that agencies will resolve any differences by that time and arrive at a common understanding, so that the statute's provisions and scope can be made clear.

Thank you for your assistance in this matter. A similar letter has been sent to Secretary Rubin.

Sincerely yours,

PATRICK J. LEAHY,
Ranking Democratic
Member.

RICHARD G. LUGAR,
Chairman.●

CONNECTICUT SUPREME COURT JUSTICE T. CLARK HULL

● Mr. DODD. Mr. President, I rise today to pay tribute to one of Connecticut's most colorful and witty politicians, Connecticut State Supreme Court Justice T. Clark Hull. Known for his penetrating intelligence and passion for justice—and perhaps better known for his warmth and good spirit—T. Clark Hull, had the rare distinction of serving at the top levels of all three branches of state government—executive, legislative and judicial.

Born in Danbury, CT in 1921, T. Clark Hull attended many prestigious academic institutions including Philips Exeter Academy, Yale University and Harvard Law School, and yet he always retained the perspective of a common man.

His political career spanned some 33 years, beginning with his election to the Connecticut State Senate in 1962. He was known as a liberal Republican who charmed many conservatives, and his Irish humor and zest for public service eventually earned him the