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Senate

The Senate met at 2 p.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by a Guest Chaplain, the Reverend Dr. Mark E. Dever, pastor of the Capitol Hill Baptist Church, Washington, DC.

PRAYER

The guest chaplain, the Reverend Dr. Mark E. Dever, pastor of the Capitol Hill Baptist Church, offered the following prayer:

Let us pray:

O God of all truth, we begin this day asking for Your help, for those working in this place, for all those in authority in this Capital City, and around this Nation. We come to You out of habit and custom, O Lord, yes, but we—every one of us who come in sincerity—we come to You also out of a sense of our need, and of Your plenty. We confess, Lord, that too often we find in ourselves the darkness of ignorance, the sickness of greed, the loneliness of pride. O Lord, for Your glory, and because we acknowledge that we cannot do it without Your aid, take from us our darkness, our sickness, our loneliness. Replace our pride with Your divine humility. Replace our greed with Your giving. Replace our ignorance with Your truth, we pray.

In this place where so many would seek to bind wills and votes in their knowledge of a part of the truth, we pray that You would, in Your mercy, supply those gathered for business here today with all the truth they need to do the work You have committed into their hands. Teach them how, we pray, in the frustrations of committees and compromises, in the honest uncertainties of ever-changing challenges, teach them how to secure the blessings of liberty to ourselves and to our posterity, and to help to extend those freedoms around Your world.

Give us, as a nation, we pray, the freedom that comes through Your truth, and use even our actions here this day to that end for Jesus' sake. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

Mr. LOTT. I yield such time as he may consume to the distinguished Senator from Oregon from the leader time.

The PRESIDENT pro tempore. The Senator from the State of Oregon [Mr. HATFIELD] is recognized.

TRIBUTE TO REVEREND MARK DEVER

Mr. HATFIELD. I thank the acting majority leader.

Mr. President, I want to use this occasion to give a statement of appreciation to the Reverend Mark Dever, who has opened the Senate today with prayer and will do so each day this week, as our Chaplain Halverson is on a week's vacation.

Mr. President, Reverend Dever is one of the younger breed of ministers that has blessed our spiritual world in providing not only leadership in the pulpit, but he also has an extraordinary educational background, a Ph.D. from Cambridge, and has recently come to the Capitol Hill Baptist Church, which is the church of my membership, to take over as pastor. It is an old church here in the city and one which has, like many cities, found an older population and is in the process of rebuilding that church with younger people. He has already attracted the interest of many people because of his extraordinary, expository preaching.

So I am happy and proud to be able to ask him, on behalf of the majority leader, to fill this role here in the Senate each day for this coming week.

Mr. LOTT addressed the Chair.

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

SCHEDULE

Mr. LOTT. Following the time for the two leaders, there will be a period for the transaction of morning business not to exceed 90 minutes, with Senators permitted to speak for not more than 10 minutes each. Following morning business, the Senate will resume consideration of S. 2, the congressional coverage bill. Under the consent agreement reached on Friday, there is a limited list of amendments in order to the bill, and all amendments must be disposed of by the close of business Tuesday, with the exception of an amendment to be offered by the Senator from Nevada [Mr. BRYAN].

Mr. President, there will be no rollcall votes during today's session of the Senate.

RESERVATION OF LEADER TIME

Mr. LOTT. Mr. President, under a prior agreement, I now reserve the leader time remaining on both sides of the aisle.

Mr. COCHRAN addressed the Chair.

The PRESIDENT pro tempore. The distinguished Senator from Mississippi is recognized.

ATTRACTING GOOD TEACHERS TO OUR CLASSROOMS

Mr. COCHRAN. Mr. President, this past Saturday I read in the New York Times an interesting editorial dealing with the challenge of attracting good teachers into the Nation's classrooms, and the importance of having well-qualified, well-trained, and excellent teachers.

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

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There can be no greater challenge to us today than improving our education system throughout the country. It struck me as I read the editorial that this calls the attention of all of us to the fact that no matter what kind of programs we have, how much money we spend, what kind of national goals we adopt and try to implement, if we do not have good, qualified, conscientious, and committed teachers in the classrooms of the schools of America, we are not going to have a good education system. They are the cornerstone of our education system in America.

Mr. President, I ask unanimous consent that a copy of the New York Times editorial of Saturday to which I refer be printed in the RECORD.

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

[From the New York Times, Jan. 7, 1995]

A NATIONAL REWARD FOR GOOD TEACHERS

Ever since the mid-1980's, when a series of landmark studies called for drastic changes in the nation's schools, American educators have been seeking ways to raise teaching standards. That effort bore its first fruit this week when 81 gifted teachers were awarded national teaching certification at a ceremony in Washington.

The ceremony may turn out to be a pivotal moment in the history of American education. Many educators hope that the 81 recipients will be the first small vanguard of a new generation of highly qualified teachers who, in turn, will nourish better schools and better students.

Until Thursday, no teacher possessed a national certificate. Public school teachers are certified by states and localities. One hope is that recipients will be able to move from state to state without facing recertification. Another is that states and localities will reward certificate-holders with higher pay, thus offering an incentive to other teachers.

But the real value of the certificate may have been identified by Arthur Levine, the president of Teachers College at Columbia University. These first awards, he said, ''provide some sense that around the country there is some agreement on what makes for a good teacher.''

The certificates grew out of a report called ''A Nation Prepared: Teachers for the 21st Century,'' which led to the creation of a National Board for Professional Teaching Standards in 1987. The idea was to raise standards for teachers and elevate their status, treating them more like doctors and other professionals.

The board then set about creating a licensing system. The heart of the system is an exhaustive series of tests aimed at finding out how teachers teach and evaluating their effectiveness.

A group of 539 volunteers has now completed tests for English-language specialists and generalists who teach early adolescents. The 81 winners came from the generally/early adolescent category, and more are scheduled to follow among the English teachers.

The volunteers submitted portfolios of their work—videotapes of classroom techniques, examples of their students' work, references from colleagues and written self-assessments. They were also tested on subject matter and teaching techniques. Participants found that the rigorous assessment process was itself an exercise in professional growth.

Preparing for the test costs money. At least eight states have already taken action to support or reward teachers who seek national board certification. Others should follow suit. If stronger teaching is the most important element in improving schools—and most educators believe it is—then the certification process is certain to give a huge boost to the effort to give American schoolchildren a better deal than they now receive.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to exceed 90 minutes, with Senators permitted to speak therein for not to exceed 10 minutes each.

Mr. THOMAS addressed the Chair.

The PRESIDENT pro tempore. The distinguished Senator from Wyoming [Mr. THOMAS] is recognized.

A HISTORIC OPPORTUNITY FOR CHANGE

Mr. THOMAS. Mr. President, it is with a great deal of pride and humility that I rise today as Wyoming's newest Senator. It is a great honor, of course, to be here. I take the floor to speak about a matter which is of great concern to me and all of us, and that is the future of this country. We have a historic opportunity to make real changes in the way the Federal Government operates and in how the American people perceive their Government. It seems to me that we either move boldly forward with the changes demanded by the electorate last November 8, or we squander the only real, true chance of restoring the American people's confidence in their Government.

The true test of government, it seems to me, is how responsive it is to the will of the voters. Mr. President, as I traveled Wyoming these last few months and talked to the folks from Cheyenne to Cody, I heard a recurring theme from my constituents. Over and over, they told me to get Government out of their lives, to restore fiscal responsibility to Washington, and above all else, to put an end to business as usual.

Judging by the results of the last election, it was a common message throughout the country. There should be no doubt about the message sent to Washington last November, and that was we need less government, less expensive government. People are tired of the status quo, and they want changes in how Government operates.

Unfortunately, as we all know, government in modern times has become increasingly resistant to change. As I read history, it is not unusual for voters to call for change. They did so about every generation in the 1800's up into the 1900's, until about 1930 when the Federal Government began to get much larger. As it has become a more and more pervasive part of our lives, to where it is now, with the size of the Federal Government plus the outside bureaucracies that have been built up through the decades, it becomes more and more difficult to change.

These constituencies and the Government stubbornly fight to protect their piece of the Federal funding pie. Federal programs do not die; they do not even fade away. They grow and grow.

As the Federal Government has grown, the American people have grown increasingly disenfranchised. Not only do Americans distrust their Government, but many do not even bother to vote because they do not believe their vote can help effect change. I suppose that is because in past elections, change has not come about and the direction the country has remained much the same. We cannot repeat that mistake.

The first lesson we must learn is that we cannot continue to do the same things, to follow the same procedures, and expect different results. If we want to change the direction this country is moving, then we have to make procedural changes in the Government.

Many argue that we do not need a balanced budget amendment, that we simply ought to balance the budget. Let me suggest to you that for 40 years that has not worked. Indeed, in my opinion, there does need to be a change in procedure and there does need to be some discipline that causes us to have a balanced budget.

We have made a good start. We will pass a measure that causes Congress to live under the same laws that it mandated for others. Next week, we will move to eliminate unfunded Federal mandates. We need to pass a balanced budget amendment and give the President line-item-veto authority. As we demand a smaller Federal Government, we need to lead by example and reduce the congressional bureaucracy.

The American people support these changes. They will go a long way toward building the base from which to bring fundamental change to every sector of the Government.

Mr. President, there will be many important issues debated on the floor of the Senate over the next 2 years. Some of my priorities include health care reform, tax reduction, welfare reform, and reducing the growth of Federal ownership of public lands, to name just a few. But no issue is as important as the structural changes I mentioned earlier.

Without significant change in the way the Congress and the Federal Government operates, other important changes in policy will be difficult. The American people will be watching closely to see if we respond to their cry for change. I certainly heard that message in Wyoming loud and clear. I hope that this time, Washington is listening, as well.

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

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

The legislative clerk proceeded to call the roll.

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

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

LIFETIME DREAM REALIZED

Mr. JOHNSTON. Mr. President, 40 years ago, when my wife, Mary, and I were students at LSU, we discussed my dream of some day serving in the U.S. Senate.

I am one of those few fortunate human beings who have seen his dreams fulfilled in the fullest and most satisfying sense. This year, 1995, marks my 31st consecutive year in elective office. Over 22 of those years have been in this most noble and hallowed institution.

James MacGregor Burns says that the measure of a man is not the honors he has received, but the difference he has made by his service.

Mr. President, I believe that, working with my colleagues and a wonderful staff, we have made a difference for Louisiana. When I first started working on the North-South Highway for Louisiana, the trip was bumpy, dangerous, and slow. Today, Interstate 49 competes for motor freight shipments with a brand new Red River navigation system. We have improved our ports, dredged our rivers and harbors and built levees to control our flooding. By Federal statute, we have set aside over $600 million in a so-called 8(g) fund for education, and we have built research facilities and secured research funds for all our institutions of higher learning in Louisiana. By Federal law, we have created nine wildlife refuges, with more than 100,000 acres of protected land, and three national parks that now receive over 1 million visitors a year.

I am proud of these accomplishments, but I am most proud of what they will mean for the young people of our State.

Mr. President, it has been my privilege to serve on the Energy Committee for 22 years, 8 of those as chairman, and to have a hand in every major piece of legislation which has been passed from that committee during those years, from deregulation of natural gas to the National Energy Policy Act. We have pushed free markets, free trade and free enterprise. We have fought for the poor, for the disadvantaged, and for our senior citizens.

These 22 years have been successful and satisfying. I have simply loved it. But now, Mr. President, I must decide whether to continue Senate service or to depart in 2 years at the end of this term. Much argues for continued service. I love the Senate and I love to legislate. I am in superb health and have abundant energy, and reelection, though never assured, seems highly likely.

Nevertheless, Mr. President, I am today announcing that I will terminate my Senate service at the end of this term. I will not seek reelection in 1996.

There are rhythms and tides and seasons in life. I have been fortunate in my life to sense the rhythm and sail it full tide, and now I believe that the season for a new beginning approaches. As my colleague Russell Long used to say, ''It is important to retire as a champ and to leave the stage when the crowd still likes your singing.''

I make this announcement now for two reasons. First, to allow me to devote my full time and attention to what will be a very active and, I hope, productive 2 years, and, second, to allow time for my would-be successors to make their plans and to conduct their campaigns.

Who will succeed me? I do not now have a candidate, but I want my successor to share some deeply held views of mine: that politics and public service are synonymous; that the pursuit of public office is a high calling—in our society, it is the best opportunity for helping your State, your country, and your fellow man; that the Senate, with its faults and criticisms, remains a bulwark of our democracy and a hallowed institution. I will stand up for it, will not bash it and will defend it against those who do. Years 1995 and 1996 will be an exciting 2 years, and after that I look forward to a new life and new challenges, doing what I do not know except that it will not be retirement.

Mr. President, I love the State of Louisiana. Its people have bestowed upon me honor and power and a rare privilege. For that, I, my wife, and my family are profoundly grateful.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Louisiana.

SENATOR BENNETT JOHNSTON'S EXEMPLARY SERVICE TO THE SENATE

Mr. BREAUX. Mr. President, we have just heard a very profound and a very significant statement by the senior Senator from my State of Louisiana, very significant in what it means to my State of Louisiana, significant in what it means to this Senate by his announcement—very profound, indeed, because of what it says about an individual and what his priorities are and what he thinks public service is all about.

When our State looks back over the long history of service by my colleague, people will remember a number of tremendous contributions and contributions yet to be made in the last 2 years of his term in the Senate. I look back and remember the David Duke campaign and a BENNETT JOHNSTON who stopped him in his tracks. I look at projects throughout our State of Louisiana: The Red River project, which would clearly not be there except for his strong commitment and never-ending determination to see it started and completed, and it will be because of his effort. I look back and see ideas like risk assessment, which is a very popular idea in 1995, that my colleague championed even before it was an idea in most of our minds. It is now on its way to being the law of the land.

I look back and see a number of universities that today, tomorrow, and in the future will be doing research in science projects which will benefit not only this generation but generations to come because of the wisdom of my senior Senator in seeing that Federal dollars were wisely spent in those areas.

I look back and see the very essence of our State of Louisiana through his efforts in wetlands restoration and wetlands protection that literally future generations will have a State to live in and to enjoy because of his great efforts today and yesterday in devising Federal programs to help those wetlands remain a part of our great State.

Indeed, his services will stand as a monument to all those young men and women who today perhaps are a little turned off by the concept of public service, who think that somehow if you are there, you are not doing the work of the average citizen. BENNETT JOHNSTON's effort has always been to help people in our State to live a better life and to have a better future. So I think that his service will stand as a monument and an incentive to encourage other young people, men and women, to become involved in public service because public service is epitomized by his career, and he still has 2 very important years remaining.

Public service is more than just being a critic. It is more than just being someone who complains about the status quo. Public service, as BENNETT JOHNSTON has carried it out, is public service that means helping to solve problems and helping to construct things that help people and to do things in a very positive sense. In his service in the Senate—and it has been my privilege to be his junior colleague for so long—he will always be remembered as a doer and a person who believed in this institution and who believed in making things happen for the good of all of us. His service will be a shining monument of that type of attitude, of what public service is all about.

I congratulate him and his family for what I know must have been a difficult decision, but I applaud him for having the courage to make it and to serve with all of us over these years in such an exemplary fashion. It gives us a lot after which to pattern our lives and careers.

The PRESIDING OFFICER. The Senator from Oregon.

ANNOUNCEMENT OF RETIREMENT OF BENNETT JOHNSTON

Mr. HATFIELD. Mr. President, on occasions of this kind, we are prone to look back and think historically as well as to absorb the magnitude of the statement of the moment given by my good friend, Senator BENNETT JOHNSTON, from Louisiana.

When I came to the Senate, I had the privilege of serving with Allen Ellender

and Senator Russell Long, who represented the State of Louisiana at that particular time in 1967.

Mr. President, I must say that the strength of those two leaders at that time certainly has been carried on in the tradition of Louisiana voters and the subsequent Senators, including Senator BENNETT JOHNSTON and his colleague today who serves with him from Louisiana, JOHN BREAUX.

Mr. President, I have had the privilege of serving with Senator JOHNSTON on the Energy and Natural Resources Committee now for all the years that he has been in the Senate. It was then called the Interior Committee of the Senate and Insular Affairs, and then its name was changed and, of course, all that time he has been chairman of that committee.

In addition to that, both Senator JOHNSTON and I serve on the Appropriations Committee, and we begin this year the 18th year we have served in partnership either as chairman or the ranking member, as Senator JOHNSTON has occupied that seat, or as I now occupy that seat as chairman of that subcommittee and he the ranking member, as I say, for 18 years.

I think on both the authorizing committee and the appropriating committee, we get a very, very intimate relationship of the total legislative process. I want to say it has not only been an honor and a personal pleasure, but I have marveled at the way Senator JOHNSTON has carried his duties and responsibilities in both of those committees, demonstrating competence, demonstrating brilliance of understanding of the issues. He gets up and starts talking about the nuclear power facilities, and so forth and so on, and I am always happy to defer to him, whether I am chairman or ranking member, any time that subject comes up because there is no one on this floor that has greater intimate knowledge of that complexity of nuclear energy than Senator JOHNSTON.

I also want to say that Senator JOHNSTON's Christmas cards, when he first came here, showed this beautiful family—beautiful Mary, his wife, and his children. I watched that Christmas card expand over the years. I think it is very significant that sitting next to him on the floor of the Senate today is a very distinguished congressman from the State of Indiana, who happens to be his son-in-law, TIM ROEMER. I am very, very pleased to know that he is leaving more than just a legacy of record. He is leaving in the Congress of the United States a legacy of leadership that will continue.

Mr. President, there are so many things that come to my mind. I am flooded with memories of the thousands of miles that he and I have traveled with our spouses and other members of the committee from China, Thailand, Indonesia, throughout the whole Pacific region.

I want to say even though he is noted as perhaps the expert here of energy, among his other expertise, whenever he has chaired a Codel and is called upon to respond to the head of state, to the prime minister or the president or the foreign minister—whoever might be hosting us at the moment—on any foreign policy, he can respond with grace and with, again, a manner in which we all take pride of being Americans and being his associate and colleague on these Codels.

So he is a Renaissance man with great capacity for many, many subjects. He does everything with fairness and with objectivity. I often say some of his problems on the committees have been that he has supported Republican causes that have not always been supported by the majority of his own Democratic Party on that committee. He has been that kind of broad-based, Renaissance person.

This is a decision he has to make. I have regrets in hearing this decision. They are selfish and personal because I have 2 years yet as well and it also causes me to have to reflect on what my future is. But if I should run for reelection and get reelected, I would be very, very much lesser a person because I would miss the expertise and counsel of BENNETT JOHNSTON.

But, BENNETT, being very informal at this moment on the floor, I want to say, as a long-time fan and supporter of yours and personal friend, I greet this news with great mixed emotions. I am happy for you and your family in many ways, yet I am regretful for what you are going to deny the Senate as far as the future.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

A LOT OF MILES YET TO GO

Mr. STEVENS. Mr. President, I am sorry to say to the Senator from Georgia, I left a meeting and I will take about 30 seconds here with my friend.

This is not the time to say goodbye to Senator JOHNSTON. We are saddened to hear the statement of the senior Senator from Louisiana. I think that Senator JOHNSTON spent enough time in my State to be qualified to vote, and I spent almost the same amount of time in his State for other reasons, I might add.

But I am saddened to hear the announcement of my good friend. I understand his reasons, and I really seriously marvel at his capacity to make such a judgment, but I do think that we have a lot of things left undone. We have a lot of miles to go yet, and I will say my farewells when the time comes. Meanwhile, I say to my good friend, we have one big battle, and that is the battle of wetlands. I hope he will be there with us until the end.

The PRESIDING OFFICER. The Senator from Georgia.

TRIBUTE TO SENATOR BENNETT JOHNSTON

Mr. NUNN. Mr. President, I, too, want to say a few words about this man we all think so much of, the Senator from Louisiana, Senator JOHNSTON.

Until a time I can reflect on it at length and really go over some of the historical accomplishments he has been so involved in, I remember very well when he got elected to the U.S. Senate because I got elected the same time.

With one exception, we have seen eye to eye on virtually everything since we have been here, and that one exception was the first day he arrived, he had a news conference saying he was the senior Member of the class of 1972. That was not only erroneous but it was to the detriment of the Senator from Georgia. The next day we had a chance to meet personally. The first thing I informed him was he had to retract that statement because it was not correct. He did that graciously when he found out the accuracy of my remark. Ever since then, he has been on target.

I must say, my colleagues have already enumerated some of his accomplishments. He has been an expert in his own field of energy. He has been an expert in the field of environment. He has also been an expert in the field of foreign policy and national security. He has traveled all over the globe. He knows people all over the globe. He is respected all over the globe. He has a following all over, not only in this country but throughout the world.

On the Appropriations Committee, he has been a stalwart in that area. He has been one of few people, few of us who have been willing to take on the tough subject of entitlements over the years, and if some of those votes he and I and some others made together back in the eighties and even before had passed at that time, we would not have some of the entitlement problems we have today.

So he has had an outstanding legislative record. I will enumerate that at a later date. But the most important thing he has done is what so many people have difficulty doing here in Washington, and that is, while he has done all of this for his State and for his constituents and for the people of this Nation, he has held his family together. That is the toughy. Anyone who works 60, 70 hours a week, travels on weekends, and makes speeches all over is always under pressure, that can maintain the love and relationship with his wonderful wife, Mary, the children, Sally, Mary, Bennett, Hunter, and all of his family, that is truly the exception rather than the rule in this very busy, stressful place.

So he has a family that loves him. He has a wonderful set of children that are doing their own things in their own professions, and he has a son-in-law, as we have already heard, from Indiana who is here on the floor with him as a Member of Congress.

So I list, BENNETT, your accomplishments as keeping your family together and raising a wonderful group of children with, of course, the tremendous help of Mary who is as outstanding as any individual I know, and also maintaining a wonderful relationship with

your staff. You can tell a lot about a Senator by his staff. BENNETT JOHNSTON has an outstanding staff. Some of them are here today. I worked with many of them over a period of time, and I know others of them on the floor have worked with them. You can tell an awful lot.

So I say to my friend, for his own future, I am sure he has reflected long and hard on this decision and, from that point of view, I congratulate him. From the point of view of the Senate, I am remorseful. I think we are going to be a lesser body when he leaves here in 2 years, although for the next 2 years, he will be, I am sure, as energetic, productive, and effective as he has ever been.

But I do understand the decision. I understand it. All of us have to go through this kind of thought process. He made the decision quicker than I thought he would. If I had predicted 2 weeks ago, I would have predicted the other way around. But I know he made it after a great deal of thought, a great deal of prayerful consideration with his family and his staff.

So it is not an announcement that I take lightly, or with any kind of feeling of celebration, because I understand the deficit that is going to be left when this outstanding U.S. Senator does retire in 2 years. So I congratulate him on his service. I do not congratulate him, necessarily, on the decision because I do want to talk to him a little bit about it. But I do commend him on his splendid record of service for the State of Louisiana and the Nation.

I thank the Chair.

The PRESIDING OFFICER. The Senator from California.

BENNETT JOHNSTON, THE MASTER OF THE CLOSE

Mrs. FEINSTEIN. Mr. President, I heard about 2:15 this afternoon that Senator JOHNSTON was going to take the floor, so I picked up the phone and tried to reach him and missed him. I wanted to just say a few words.

I listened, back in my office, to what he had to say. I was thinking, back when this mayor from San Francisco in the mid-1980's came back to see the head of the Energy Committee. I had an opportunity and I walked into his office. I saw the pelicans. I did not even know if he would really listen to me. I found a human being who was open, who was gentle, who was kind, who was listening, and who was interested. Then, of course, in 1992 I came to this Senate and I found a man who was a leader of the U.S. Senate—certainly a leader on the Democratic side and I believe a leader in the Senate—who had worked for 22 years, who had established a reputation in this body.

I might say, many of the Members on our side, when we were discussing the California Desert Protection Act, said toward the close of the session, ''Don't worry. Watch BENNETT. He is a master of the close.''

And as the months went on, the debate and the discussion on this bill, I saw indeed that BENNETT JOHNSTON was not only a master of the close, but was a master of strategy. I saw he is a man who is bright. He is a man who is articulate. But he is also somebody who is always a gentleman, always receptive, always able to say what he thinks in a way that brings the best from everyone around him.

So, BENNETT JOHNSTON, I want to say to you: In the few days we have been back, this is the worst news I have heard. Even worse than the Contract With America, in many respects. I am just so sorry that this is going to happen. But there is one thing I do know: Even if you have made up your mind there are still 2 years, so we will be hearing much more from BENNETT JOHNSTON, the master of the close.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

SENATOR BENNETT JOHNSTON, STATESMAN

Mr. HEFLIN. Mr. President, it is a sad day for the Senate, a sad day for the Nation, when we find out we will be losing a Member of the U.S. Senate who has contributed so much to this body as an institution and to this Nation as a whole.

We do not use the word ''statesman'' very often. I grew up hearing it much more frequently than I hear it today. I think we look at certain areas of expertise and accomplishment and we realize that there are statesmen in those fields, as well as from a generalist viewpoint. I look back over the career of BENNETT JOHNSTON and I remember when I came to the Senate, this Nation was in an energy crisis. We were talking about shortages and what had to be done. I remember President Carter's speech with his sweater.

But BENNETT JOHNSTON stood out in those days as a voice of reason, calling for an energy policy that was really very detailed, but was accompanied by great reasoning. His energy policy prevailed over the years, and we weathered that crisis. As we have gone through the changes relative to energy policy and the relationship of nuclear energy, BENNETT JOHNSTON has always come forward with expertise, with reason, and with a view toward the future and has accomplished tremendous feats in regard to the energy field. He had the unique position of serving as chairman of the Committee on Energy and Natural Resources and the subcommittee dealing with energy and water development of the Appropriations Committee. It is very unusual for a person to occupy those two positions simultaneously, but because of his expertise and seniority and his choice, he selected those. And I think the Nation has been the beneficiary as a result of it.

His State of Louisiana has greatly benefited from his service. I consider BENNETT a conservative, a progressive conservative. He is a southerner. We have pretty well agreed on most issues, as SAM NUNN mentioned a while ago. And he has really taken on a great deal in his political life, in taking on certain tasks that other people would attempt to evade and to avoid.

He has had to fight bigots. He has had to fight those who were intolerant. He has moved forward in the South toward having improved race relations and has been a great voice of reason in pursuing that particular task. And the South today has many benefits that really resulted from his leadership.

He has been a wonderful family man. I think SAM spoke about that, the fact that he has a delightful, wonderful, charming wife, Mary, and four children: Bennett, Hunter, Sally and Mary. They are great examples of a family and to the fact that there are such close ties among them. He has been one of those who have advocated, as we all agree that we should, an improved quality of life in the Senate in order that we spend more time with our families. He and DAVID PRYOR have been voices that have sounded forth many times on the improvement of the quality of life in the Senate. Hopefully, our new minority leader will agree and hopefully he can influence our majority leader a little bit toward following the advice that BENNETT JOHNSTON has given in the past relative to this.

He loves this institution and he has really done a great deal. I stop and think of all he has done. Sometimes you do not belong to the respective committees, but he has been a tremendous spokesman for southern agriculture. I look back upon many of the battles we have had relative to agriculture and know that his voice has been the voice of a champion, pertaining to those issues. Then, in foreign affairs, he would come back from his trips—I can remember him many times talking about the Pacific rim and its great future and the fact that we needed to develop better relationships with the Pacific rim nations because much of the future would lie there, and the progress that has taken place in recent years pertaining to this.

(Mr. SANTORUM assumed the chair.)

So we with great sadness see the announcement of the departure some 2 years from now of a statesman in the field of energy, a statesman in the field of race relations, a statesman who has done much for this Nation. We will have lost a great Senator. We are now losing a great chairman, but nevertheless he will continue as a spokesman in his particular fields. But he has also served in so many other different ways on the budget, in the field of aging, and in the field of intelligence, having served in committees in that capacity.

We salute BENNETT. I think maybe the real reason behind this is that he is feeling that he is getting a little older, that he is not as accomplished a tennis player as he used to be, and that his colleague, JOHN BREAUX, is now beating him more often than he used to. Perhaps that might have affected his decision relative to this matter.

But we look forward to his, as he leaves and when he leaves the Senate, continuing to give us advice, counsel,

and we know he will continue to be a friend.

I say to him, my friend, that this is a sad day for America and for the Senate. But we respect his decision.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I inquire of my colleague, Senator PRYOR. He was waiting to speak before I came in and he requested time to do so.

Mr. PRYOR. Mr. President, I respond to my friend from Wyoming by saying that I have been here for some time and I am enjoying all these speeches so much. I have no preference as to when I speak.

So I would love to listen to the Senator from Wyoming, to hear him talk about our friend, BENNETT JOHNSTON.

Mr. SIMPSON. Mr. President, if I said that my remarks would not exceed 5 minutes, there would be an audible gasp. However, I want you to observe the clock and you will find that they shall not exceed the period of 5 minutes. I, too, will say a lot more later.

I thank my friend from Arkansas, who came here when I did, Senator PRYOR, and Senator HEFLIN, also. We have a special bond in our class which is very strong that crosses party lines. In fact, the other evening we met, the survivors of the class of 1978, and talked about how we might try to make this place work better with bipartisanship. That is an effort that we will pursue with people of the caliber of Senator PRYOR and Senator HEFLIN.

But let me just say a word about my friend. BENNETT JOHNSTON is a special man, a man of remarkable brightness, energy, and a wonderful sense of humor, and a person who could come to this floor in the midst of a debate on nuclear fission and without a note suddenly be totally in the fray or who could come here on issues of energy, Btu's or public lands and without a note debate for an hour or two taking questions, fielding questions thoroughly engaged.

So what I learned from him is a remarkable intellect blended with a wonderful mind and an ability to deal with complex issues, and when everyone else, like in the words of Rudyard Kipling, was ''losing their heads,'' blaming it on you, BENNETT would be right there with that wonderful whimsical smile which is difficult to identify sometimes. You never know quite what is being concocted there with that smile. But I have seen it many times, and it is always with a gentleness.

So I thank him for what he taught me on nuclear issues as I chaired the nuclear regulations subcommittee as a freshman, and how he helped me on all energy issues when I was again chairing that committee. On public lands issues, I watched my colleague from Wyoming, Malcolm Wallop, work with him and watched BENNETT and Malcolm, even though they disagreed strongly, work so well together. They gave us finally an energy bill that was unattainable for decades. I thank him for that.

He is dogged, determined, with a persistence and steadiness which is enviable.

So I thank him. I have been privileged to travel with him. Whatever they have said about Mary is not enough. That is a special woman, and it has been a great honor and privilege to travel with him. Whether it was in Vietnam or China or around the world, dealing with nuclear issues, any time BENNETT rose to give the greetings or receive the acknowledgment from another head of state, we just all sat back and knew it would be done with wonderful compassion, skill, and a completely tactful presentation. He was our spokesman, and whatever side of the aisle you were on, you never even questioned that.

So a gentle, congenial man of very steady demeanor will be greatly missed. It is not easy to find people who will do this kind of work and take what goes with it. We are thin-skinned sometimes. I know I am. But he just smiles and takes it, and can dish it right back in beautiful fashion and always with a gentler, much gentler, recipe than it has been dished out to him.

So to BENNETT and to Mary, and their dear family, and to the son-in-law who will serve us in Congress on the other side of the aisle, I wish them all well.

It has been a rich personal privilege for Ann and for me to come to know BENNETT and Mary JOHNSTON, and we love them. We wish them well in whatever they may wish to do in the future.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, this is indeed a sad day. It is a sad day for the U.S. Senate. It is indeed a sad day for the State of Arkansas to be losing one of our colleagues from this Senate, but of equal importance to be losing, Mr. President, one of our neighbors, the Honorable BENNETT JOHNSTON as our colleague and friend from our neighboring State of Louisiana.

We have often said, DALE BUMPERS and I—and I am sure he will eloquently address this momentarily—Senator BUMPERS and I have often said in our State that we have three Senators, that we are very fortunate, and that the third Senator is the Senator from Louisiana, who on every project, Mr. President, on every issue has stood shoulder to shoulder not only with Senator BUMPERS and myself and our predecessors in this body but also with our State and its people in the projects that we pursued on many occasions.

Senator JOHNSTON in his eloquent, and I must say brief, remarks, talked about two principles, one of honor, that the people had honored him. And all of us know Senator JOHNSTON well. I know that honor was bestowed upon Senator JOHNSTON and that he treated that honor basically as holding that honor in trust for the people of his State and the people of this country. The other characteristic that he addressed was power, that the people of Louisiana had bestowed upon him as a U.S. Senator a great power.

Mr. President, I can say without reservation that of the some 20 years that I have known this fine gentleman, I have never seen nor have I ever heard of this fine man ever once abusing that power or of taking that power for granted.

Mr. President, BENNETT JOHNSTON will go down in the annals of this great U.S. Senate as one of the great doers and one of the great builders that this body has ever produced. The Senate has been a better place because of him. His life and his example and his family all mean so much to all of us.

Mr. President, I notice that the distinguished Presiding Officer, the new Senator from Pennsylvania, is seated today presiding over the U.S. Senate. I know that he faces a middle aisle that some say divides the Republicans from the Democrats. I have a feeling, Mr. President, that Senator BENNETT JOHNSTON, our friend and neighbor from Louisiana, has never seen that middle aisle as a line of demarcation, nor as a line of division, but merely as a line of invitation to join hands and join parties, whether Republican or Democrat, liberal or conservative, on those issues that face this country and those issues that must make us a better people.

BENNETT JOHNSTON, in my opinion, has been able to bridge that gap and to cross that aisle in friendship, in principle, in camaraderie and comity, as well as any Member that I have ever seen in the U.S. Senate. He is a wise and a good man. It has been my extreme pleasure and honor to serve in this body with BENNETT JOHNSTON, my friend and colleague from the great State of Louisiana.

Mr. President, I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

TRIBUTE TO SENATOR BENNETT JOHNSTON

Mr. DASCHLE. Mr. President, I rise to associate myself with the remarks made by so many of my colleagues on both sides of the aisle in tribute to our friend and colleague, BENNETT JOHNSTON.

A couple of days ago, I read some words written by George Bernard Shaw that I think probably as closely epitomized how I view BENNETT JOHNSTON as any I have read in my time in the Senate. I would like to begin what I hope to be very brief remarks, keeping to the approach used by our distinguished colleague from Wyoming in being brief this afternoon.

George Bernard Shaw wrote:

> This is the true joy in life: Being used for a purpose recognized by yourself as a mighty one, being a force of nature instead of a feverish, selfish little clod of ailments and grievances, complaining that the world will not devote itself to making you happy. I am of the opinion that my life belongs to the whole community, and as I live, it is my

privilege to do for it whatever I can. I want to be thoroughly used up when I finish, for the harder I work, the more I love. I rejoice in life for its own sake. Life is no brief candle for me. It is a sort of splendid torch which I have got ahold of for the moment. I want to make it burn as brightly as possible before handing it on to future generations.

Mr. President, that describes our friend, BENNETT JOHNSTON. For 22 years, the people of Louisiana and the people of the United States have been blessed with the leadership of this outstanding U.S. Senator. BENNETT JOHNSTON epitomizes the best in public service through his thoughtfulness, his fairness, his determination, his sense of humor, and his belief in love for his family. In this period of cynicism and ugliness in politics, BENNETT JOHNSTON has stood as a pillar of integrity, of hard work, of dedication, of devotion to public service.

I have had the good fortune to know him now for over 8 years. I am proud to call him my friend. I am proud that I will have the ability to work closely with him for at least 2 more years. I respect his decision and know how deeply he feels about his family and his time spent on those occasions walking with his wife, Mary. There will be other days, as others have said, to talk about the many accomplishments of Senator BENNETT JOHNSTON, but today let me join with others in wishing him a future of good health and much happiness, recognizing that we do enjoy his company, his work, his partnership, and the future that we hold with him together.

I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho [Mr. CRAIG] is recognized.

TRIBUTE TO SENATOR BENNETT JOHNSTON

Mr. CRAIG. Mr. President, a few moments ago, my staff came into the office and said, ''Quick, turn on the television. Senator BENNETT JOHNSTON is announcing that he will retire after this term.'' I did, and I caught the remaining words that the Senator spoke.

I came immediately to the floor to express, on the part of the Idaho Senators who are serving and who have previously served in this body, the respect we have for Senator BENNETT JOHNSTON of Louisiana. Other than you, Mr. President, I am, at this moment in time, as I scan the floor, one of the more junior Senators serving, although I am privileged to be the senior Senator from Idaho. I say that in context to having arrived here 4 years ago, and to have asked the advice of the then retiring senior Senator from Idaho, Jim McClure, ''From whom might I seek counsel as it relates to certain issues that are near and dear to our State of Idaho and to the Nation?'' —I served on the Energy and Natural Resources Committee that BENNETT JOHNSTON was chairing at that time and continued to chair through the 103d session of Congress—and without ever thinking of anything else, Jim McClure said, ''Chairman BENNETT JOHNSTON.''

I had just served 10 years in the House, and I was used to the dynamics of the House. I thought to myself immediately: But he is a Democrat; therefore, he is partisan. That was quite typical of the style of the House. There was not the comity nor the bipartisan nature of the Senate existing at that time in the House. I remember at that time Senator McClure said, ''On the issues that you will be dealing with, Larry, BENNETT JOHNSTON should always be your counsel. And when he cannot be bipartisan—and there were times when he could not be—he will be very straightforward because you will always know where he is.'' For those 4 years, following that advice, BENNETT JOHNSTON was true to the description of Jim McClure.

Let me also speak briefly for Steve Symms, recently retired from the U.S. Senate who, again, spoke similar words. My exposure in working with Chairman JOHNSTON over the last 4 years has certainly paid honor to both of those gentlemen and their respect for BENNETT JOHNSTON of Louisiana.

BENNETT, personally, I will miss you. I will miss you because of your talent and your energy and your willingness to be bipartisan and cooperative in the name of good public policy. And I oftentimes, Mr. President, marveled at the sharpness of mind and the detail with which BENNETT JOHNSTON engaged the issues of energy. Whether it was electrical energy generated by nuclear or hydro or coal power, he knew the details. He knew the phenomenal maze of law that is bound around all of that, whether it was with the utility companies, or whether it was with the Federal regulatory agencies. I was always amazed because I suggest that never in my service in the U.S. Senate would I expect to command that kind of knowledge or understanding as does Chairman JOHNSTON.

I will miss you, BENNETT JOHNSTON, because of these things and because you have become a friend, and I appreciate that. At the same time, let me say how much I respect your willingness to recognize that there was a time to say, ''I will do something different.'' I think that is important for all of us, because I have the privilege of serving in the U.S. Senate because a senior Senator, at the peak of his senatorial ability, announced his retirement, choosing to do something in the private sector of our country.

So I do respect those kinds of decisions, recognizing that there is life after the Senate, and that expertise and talent and service can go on to serve in other ways and in other capacities.

But for the coming 2 years, BENNETT, you will remain a valuable and contributive member of the Energy and Natural Resources Committee and the Appropriation Committees on which you serve. While you now serve in the minority, that will never stop me from seeking your counsel and your advice because, while the title has changed, the respect has not. In 2 years time, I will miss you, as will in body.

I yield back the remainder of my time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I defer to the Senator from Arkansas, who I overlooked, who has been waiting for some time. I would like to be recognized following his remarks in tribute to BENNETT JOHNSTON.

Mr. BUMPERS. I thank the Senator from Alaska very much.

TRIBUTE TO SENATOR BENNETT JOHNSTON

Mr. BUMPERS. Mr. President, this is indeed a sad day for me personally and, though Americans may not realize it, it is a sad day for them, too.

The other morning, I read where former Secretary Cheney said he was not going to run for President and, in a spate of candor customary to Dick Cheney, said the price was ''too high.'' I toyed with a Presidential race one time and came to the same conclusion. I never did say it, though.

But the truth of the matter is, public service, which I was taught by my father was the noblest of all callings, has come to demand an almost impossible price.

I have no idea what went into Senator JOHNSTON's thinking in arriving at the decision not to seek reelection. I know he is a family man. He is one of the few people I would defer to, maybe slightly, in his devotion to his family over me. So maybe that was it. But I am not here to wonder aloud what all went into his decision.

The first time I heard of BENNETT JOHNSTON was when he ran for Governor of Louisiana and he was using the same media consultant I had used a year earlier in running for Governor of Arkansas, Deloss Walker. And while BENNETT barely lost that election, he was elected handily for the U.S. Senate 2 years later.

I might say to the Senator that that was probably the most fortuitous thing that ever happened to him. As a former Governor and Senator, I can tell you it was the most fortuitous thing that ever happened.

But Deloss Walker had told me what a good candidate Senator JOHNSTON was. And so he came to the Senate 2 years before I did. I was put on the Energy Committee, which was a widely sought committee assignment at that time because the Arab oil embargo of 1973 had everybody frightened to death. We were going to become energy independent. We were going to develop alternative fuels, and you name it.

Senator JOHNSTON had the seat just in front of me, and later of course became chairman of the committee. I forget the year. But I became ranking Democrat on that committee.

There are perhaps people in the Senate who have been closer to Senator

JOHNSTON than I have been, though I do not see how. I have traveled with him abroad. I have sat at his right hand in that committee, all these years. I have found him to be an ardent opponent on occasion. It took me forever to kill the super collider because he was on the other side. And I did not really kill it. The House of Representatives deserve the credit for killing the super collider. But I can tell you, as long as Senator JOHNSTON was in the Senate, it was not going to happen over here.

But in good times and bad, in battles together and battles against each other, I found him always to be brilliant and tenacious, but eminently fair. Last year, he took on another battle on the side of the angels that I had been fighting sort of a lonely battle for about 5 years, and that was reform of the mining laws of this country. Senator JOHNSTON got involved in that debate last year. He was tenacious. But I promise you some of his most ardent opponents, including the Senator from Alaska and the Senator from Idaho, will tell you they always found him to be eminently fair. He held hearing after hearing, private hearings with them to see if there was any accommodation that could be made that would satisfy them.

And on the California desert bill, another battle that I had been involved in for 6 years here, he took that battle on last year and won it and we passed the California desert bill. Some day the people of America will look back and say we owe BENNETT JOHNSTON a big one for that.

His announcement today follows the same announcement by two other fine men in this body, HANK BROWN and PAUL SIMON. And my guess is there are going to be others.

We could sit here and I guess make partisan speeches or philosophical speeches about whether or not the price of public service has become too high, and that would serve absolutely no useful purpose at this point.

BENNETT will have another career and he will have more time in that career. I do not know what it will be, but I promise you whatever he takes up, whether he decides to become a professor in some law school or maybe teach political science or some contemporary course on politics at LSU or someplace else, I do not care what it is, he will have more time for his family than he has had in the past 22 years.

So, Mr. President, today is a sad time for me. It is going to be a personal loss to me for BENNETT to leave the Senate, but more importantly it is a loss for America.

I have never favored term limits. It is not easy to go before an audience when you know 70 to 75 percent of that audience favors term limits, and say you do not favor it, but I do not; never have. One reason is because it would arbitrarily cause us to lose good men and women with good minds, but, above all, a wealth of experience which we cherish in every single profession in America except here in politics.

Well, Mr. President, I will probably be here to say this a few more times over the next 2 years for good friends of mine who decide not to run, but I can tell you I will not say with any more fervor or conviction at any point in the next 2 years, no matter who leaves here, that this is truly a great loss to this Nation and especially to the State of Louisiana.

Mr. President, I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

TRIBUTE TO SENATOR BENNETT JOHNSTON

Mr. MURKOWSKI. Mr. President, I join with my colleagues acknowledging the remarks of the senior Senator from Louisiana earlier on the floor today.

You know, it has been said you really never know a person until you have walked in his footsteps. As the incoming chairman of the Energy Committee, I take my first steps, BENNETT JOHNSTON, with great humility.

I have observed, as a member of the minority, the manner in which you have conducted the affairs of the Energy Committee. You have always been an extraordinary legislator. You have been a consensus builder. You have had the capability to tackle the tough jobs and get the job done. You have always had the energy and the commitment to move ahead, yet somehow you genuinely accorded each member an opportunity to be heard and most of us an opportunity to exhaust our thoughts on the subject, and then you moved ahead with an agenda as you saw it. I know every Member who has worked with the Senator from Louisiana respects him. The Senator from Louisiana has tackled the national issues. As the Senator from Arkansas indicated, occasionally the Senator has been partisan, but the Senator has been partisan in a way that I think represented the reality that the Senator's party was in the majority. Yet the Senator from Louisiana was always willing to listen to the input from the minority.

The Senator was a fighter for the State of Louisiana. I do not think that anyone can observe the career of the Senator in the last 22 years and suggest that the Senator has not served the State of Louisiana well. The Senator has left an example for other Members to follow.

I came into the Senate 14 years ago. At that time, Senator ''Scoop'' Jackson of Washington was chairman of the committee. Jack McClure followed that tenure. I think one of the extraordinary things that we all wonder about during our careers in the Senate is knowing when it is time to go, when to have the wisdom and the honesty, because as we all know, in this business an awful lot of our everyday activities are associated with our own individual egos.

The Senator from Louisiana has chosen to go out at the very top of his career. The Senator has ahead of him, obviously, some unknowns but some very exciting unknowns as the Senator looks to his future and the contribution that he will make to his State and America as a whole.

The Senator has given me the honor and the pleasure of working with him, but he has also given me the wisdom and an insight that I will respect and learn from. The Senator has always been very fair in accommodating the interest of the junior Senator from Alaska.

The Senator has gone up to Alaska on numerous occasions. The Senator has visited the North Slope, the Senator has visited ANWR, the Senator has listened to Alaskans, and the Senator has listened with a genuine interest to our problems and with a commitment to try to assist as we attempt to develop in our State what was done throughout the United States, perhaps 100 years ago. And that is a sound resource policy using science and technology available today that was not available, perhaps, 50 or 75 years ago.

We will miss you, BENNETT. I am looking forward to having the pleasure of working together these next 2 years. I look forward to assisting in completing the agenda of the Senator, as well as exploring new agendas. I look to the Senator for advice, consent, and counsel.

Finally, in conclusion, let me just comment on a reflection I had when the Senator and his wife, Mary, were kind enough to include us in the Christmas card list. I saw, this time, grandchildren. Not just one, but several. Somebody mentioned to me some years ago when we had our first grandchild that, truly, that was the ticket to eternity.

I do not know whether there is any reflection on this decision in the grandchildren, but I, personally, would not be surprised if the Senator has decided to try to spend a little more time with the grandchildren. Obviously, when you are around your grandchildren, you generate a reflection on perhaps some of the qualities of life rather than the quantity.

So let me commend the Senator for the service that the Senator has given to this body, the State of Louisiana, and my State of Alaska, and the friendship which I have enjoyed and that I am looking forward, as we spend the next 2 years together, to working on behalf of the many interests that are before our committee.

Again, my sincere best wishes on the Senator's new future. We look forward again, those Senators who are at least going to be around here for the balance of our term, to observing the patterns and the footsteps as the Senator from Louisiana moves out and pursues some of the exciting opportunities and challenges outside the U.S. Senate. It has

been a pleasure, my friend. I wish you well.

EXTENSION OF MORNING BUSINESS

The PRESIDING OFFICER. The Chair advises the Senator from Utah there are 2 minutes remaining in morning business.

Mr. BENNETT. Mr. President, I ask unanimous consent that morning business be extended for an additional 5 minutes beyond the 2 minutes already allocated.

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

REFLECTIONS ON TENURE OF SENATOR JOHNSTON

Mr. BENNETT. Mr. President, I was sitting in my office catching up on paperwork when I was literally caught by the announcement that the distinguished former chairman of the Energy and Natural Resources Committee would not seek reelection.

I had to come over and add my voice to those that have already been raised in tribute to this fine man, this outstanding Senator and, for me, close friend.

As I came to the Chamber, I was reminded of his words to the former ranking member on that committee, Malcolm Wallop, who made a similar announcement. As Senator Wallop came into the committee, Senator JOHNSTON looked at him and said, ''You did not ask my permission.'' I had the same feeling here. He did not ask my permission. Not that he would have or should have.

This is, obviously, a personal decision. I am sure from seeing how well he makes decisions, that it is the right decision. I wanted him to know, and the country to know, that I will feel a sense of personal loss. I am not saying goodbye as some have said, because I am looking forward to the next 2 years.

I was sorry that, in the reorganization of the committees, I missed going back on that committee by exactly one slot. If there had been one more slot, I would have been there as I have been there the last 2 years. And I look forward to going back there when the next 2 years are gone.

It will not be the same without BENNETT JOHNSTON. A year ago, just about this time, we were in China, Vietnam, Indonesia, and Thailand together. I said to him, after one of the meetings we had had with the head of state on that trip, ''Mr. Chairman, if you want to run for Secretary of State, I will be happy to handle your campaign.'' He is an outstanding diplomat, an outstanding servant of the citizens of the United States. He has 2 years left to go. We will not turn this into his funeral eulogy because I know he will spend the next 2 years in the same kind of service that he has rendered in the past 22.

I am one who believes in term limits. I think we need to open up the process to get new blood in. When people say to me ''Yes, but won't you lose some people that are precious to the United States?'' I always say, ''Yes, we will. That is the down side of term limits.'' Then I go on to list, privately, of course, some people that I think term limits would be good for. BENNETT JOHNSTON is in the first group. That is, those who would be precious to the United States who would be lost, and for whom, if I could, I would waive the term-limit requirement.

He is a fine gentleman, a fine friend, a fine Senator. I look forward to 2 more years at his side and, indeed, at his feet, for he has taught this junior Senator a very great deal. I look forward to learning a very great deal more. Mr. President, this is a time of pride for the United States that we can look back on the career of one of our finest. I did not want to let the occasion pass without adding my voice to those that have been raised in tribute to this fine public servant. I yield the floor.

TRIBUTE TO SENATOR JOHNSTON

Mr. PELL. Mr. President, I rise to pay tribute to our distinguished colleague, the senior Senator from Louisiana [BENNETT JOHNSTON], on his announced intention to retire from the Senate at the end of his current term. His departure will be a loss to this body.

Senator JOHNSTON has served here ably and well for over 20 years, most notably as chairman of the Committee on Energy and Natural Resources and of the Appropriations subcommittee having jurisdiction in the same area. He has mastered the intricacies of much difficult legislation in this capacity, and the Nation has benefited from the perspective and wisdom which he brought to the task.

I am privileged to have had a long friendship with BENNETT JOHNSTON and I admire him for the manner in which he conducts himself as a Senator and as a person. And, particularly, as a tennis player. In the best sense of the word, he can be called a straight shooter.

I regret, honor, and sympathize with his decision to end his distinguished political career and I wish him and his lovely wife Mary all the best for the future after he leaves the Senate in 1997. In the meantime, we are fortunate to have the benefit of his talents for at least 2 more years.

TRIBUTE TO BENNETT JOHNSTON

Mr. HATCH. Mr. President, I rise to pay tribute to my good friend, BENNETT JOHNSTON, who announced his decision yesterday to retire from the Senate.

Senator JOHNSTON has been a terrific friend and ally for me on a myriad of issues during his service in the Senate. I have always found him fair in all his dealings as chairman and ranking member on the Energy and Natural Resources Committee, where a public lands State like Utah is always tremendously affected by the committee's activities.

For example, last year, Senator JOHNSTON's help was essential in getting a bill through the Senate that will allow Utah's public school system to receive from revenues generated from Federal lands and royalties. He recognized the importance of this piece of legislation to education in my State and did everything he could to help it through the committee. I am convinced the bill would not have been signed into law by President Clinton last year without his support, and Utah's school children will be indebted to him for many years.

He has a keen sense on issues related to the energy security of this Nation. It was his leadership that led to the development and passage of the Energy Security Act of 1992, which should allow us to meet the energy demands of our growing population for many years to come. His expertise in this area will be sorely missed by the Senate.

He also recognizes that many States are financially dependent on the appropriate development of their natural resources, especially when these resources are located on Federal lands. Of course, Louisiana is as rich in these resources as my own State of Utah. And, by recognizing this dependence, Senator JOHNSTON has been willing to work with Senators on resource issues that are unique to that particular State, whether the subject matter was precious metals, coal, petroleum, natural gas, or, in the case of Utah, tar sands and oil shale. He has provided tremendous leadership in showcasing and supporting our national parks, forests, and recreation areas. While we have not always agreed on every single issue, I will miss his manner of doing business.

In addition, he has been successful in focusing this body on the important issue of risk assessment related to environmental regulations. With the total cost for all 54 Federal environmental regulatory agencies totaling $14.3 billion last year, it is critical that Congress determine the benefit associated with the cost of each and every environmental regulation we pass. Senator JOHNSTON has provided leadership on this matter, and I hope that this body will again pass his amendment during this session to require a risk assessment on new regulations.

Obviously, the Senator from Louisiana has been a leader in many areas during his tenure in the Senate. For this, I thank and applaud him. We are losing a true expert on these issues, and I am losing a true friend in every sense of the word. I understand why he has made this decision to leave the Senate; and, while 2 years remain for us to collaborate on important issues, I want to express my thanks to him and wish him well in all his future plans. He has been a great asset to his State and to the Senate.

AMENDMENT TO BE OFFERED

Mr. WELLSTONE. Mr. President, I hereby give notice in writing that it is my intention to offer an amendment during the Senate's consideration of the Congressional Accountability Act of 1995, and that provisions of my amendment would require that: First, whenever a committee reports legislation, that committee must publish a detailed analysis of the impact such legislation might have on children; and second, it will not be in order for the Senate to consider such legislation if the committee has not published such an analysis.

THE DECISION TO LICENSE THE MANUFACTURE OF RHINO AMMO

Mr. MOYNIHAN. Mr. President, according to the Associated Press, the Bureau of Alcohol, Tobacco and Firearms has decided to issue a license for the manufacture of Rhino Ammo by the Signature Products Corp. of Huntsville, AL. Rhino Ammo, according to its manufacturer, is designed to fragment upon impact with human tissue in order to inflict maximum injury, Mr. David Keen, the chief executive of Signature Corp., has said of this ammunition:

> The beauty behind it is that it makes an incredible wound. * * * That's not by accident. It's engineered by design. The round disintegrates as it hits. There's no way to stop the bleeding. * * * I don't care where it hits. They're going down for good.

The application for this license should be denied. There is something sick about a chief executive officer of an American corporation making such a statement to sell ammunition specifically designed to cause, in Mr. Keen's own words, ''horrific'' wounds.

There is a history here. The St. Petersburg Declaration of 1868 was the first effort to ban certain types of ammunition which caused unnecessary suffering. The United States was not a party to the declaration, but we did ratify the Hague Conventions of 1899 and 1907, both of which banned the use of dum-dum bullets.

Dum-dum bullets were invented in the late 19th century at the British arsenal in the town of Dum Dum, which was located 6 miles northeast of the Calcutta city center at the time. The rounds expand upon impact, thereby causing much larger wounds than ordinary bullets.

The Hague Conference of 1899 met in May 1899. It was attended by 26 nations and produced three conventions, the second of which was the ''Convention with respect to the Laws and Customs of War on Land.'' The Conference also produced three declarations. Here is the text of the third declaration:

> III. On Expanding Bullets—The Contracting Parties agree to abstain from the use of bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core, or is pierced with incisions.

It was ''especially prohibited'' by article 23(e) of the Hague Convention of 1899,

> To employ arms, projectiles, or material of a nature to cause superfluous injury.

And it was ''especially forbidden'' article 23(e) of the Hague Convention of 1907,

> To employ arms, projectiles, or material calculated to cause unnecessary suffering.

The Treasury Department has apparently decided that Americans may arm themselves and use rounds of ammunition which would be forbidden by treaty—the supreme law of the land—to the U.S. Armed Forces. This borders on contempt of the law.

It borders further on contempt of Congress. On Thursday, January 5, in the Washington Post I reported on efforts in the statutes and other means that Congress has adopted in recent years banning rounds of ammunition of particular threat to police officers. Any number of police officials have stated that once this round is manufactured and sold, it will end up being used against policemen. Evidently, this does not in any way trouble the Treasury Department.

Clearly, there has to be a complete review in the executive branch of this issue. Just as clearly no license should be issued until that review has been made and submitted to Congress.

TRIBUTE TO BEN RICH

Mr. INOUYE. Mr. President, it is my sad duty to inform the Senate that one of the giants of American aviation history, Mr. Ben Rich, the long-time director and spirit of the famed Lockheed Skunk Works, passed away on January 5, 1995, in Ventura, CA. Ben Rich was the driving creative force behind the most potent and successful aircraft created by man, including the U–2 and the SR–71 reconnaissance aircraft, the workhorses of the cold war, and the F–117, or Stealth fighter, the backbone of our air campaign in the Desert Storm operation.

Ben Rich's life was synonymous with the great achievements of post-World War II advanced military American aviation. He joined Lockheed in 1950, and participated in the aerodynamic, propulsion, and design aspects of the F–104, U–2, A–12, SR–71 Blackbird and numerous other programs that have earned the Lockheed Skunk Works unparalleled international recognition. In 1975, he was named Lockheed vice president in charge of this talented advanced development projects organization, and from 1975 until his retirement in 1991, he led the Skunk Works through an intense period, including the U–2 production restart, the Stealth fighter development and production and the F–22 advanced tactical fighter prototype development, among other programs. Following his retirement, he continued in aviation as a consultant for the Rand Corp., Lockheed, and other defense contractors and organizations.

Anyone who was privileged even to briefly meet with Ben Rich personally could not help but be affected by his infectious enthusiasm, boundless energy, and persistent can do attitude. It was an attitude which carried the greatest aircraft developments in the world through daunting engineering challenges at the very edge of the envelope of engineering design and system development.

Unquestionably, his most notable recent achievement during his years as the Chief Skunk was the creation of the Stealth F–117 fighter program. He organized a research and development program to respond to the Nation's need for new fighter aircraft featuring low observable technologies. These included a revolutionary faceted external design, new inlet and exhaust nozzle concepts, advanced radar absorbing materials and structures, and unique antennas and apertures. Even with this range of new technologies, they were all put together in a winning system to achieve initial operational capability in just 5 years.

Furthermore, his team was able to keep the existence of the aircraft totally secret, in the black, until its existence was formally acknowledged by the Air Force, from 1970 until 1988.

The great value of the Stealth fighter was amply demonstrated during Desert Storm when a small force of some 42 aircraft had a major impact on the war. The F–117, according to unofficial sources, destroyed 40 percent of all strategic targets with only 2 percent of the total of all Allied Forces tactical aircraft. It was the only aircraft to attack heavily defended Baghdad, unescorted, delivering laser-guided weapons with unprecedented accuracy, with minimum collateral damage and civilian casualties.

Ben Rich's many achievements have been recognized repeatedly in the aerospace industry. In May 1994, Secretary of Defense William J. Perry presented him with the Distinguished Public Service Award. Among his other awards, he and his team were awarded the 1989 Collier Trophy by the National Aeronautic Association for the Stealth fighter. This award is given annually for the most outstanding achievement in aeronautics and or astronautics.

With Ben's passing, we as a nation are poorer for out loss, but I am certain his spirit and achievements will continue to inspire a new generation of aerospace designers and engineers to new heights in one of America's premier industries.

On behalf of myself and, I know, all my colleagues, I wish to convey our sincere condolences to his wife, Hilda, his son, Michael, and daughter, Karen.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS SAID YES

Mr. HELMS. Mr. President, the incredibly enormous Federal debt is like

the weather—everybody talks about it but nobody ever does anything about it.

A lot of politicians talk a good game—when they are back home—about bringing Federal deficits and the Federal debt under control. But just look at how so many of these same politicians so regularly voted in support of bloated spending bills that roll through the Senate. The American people took note of that on November 8.

As of Friday, January 8, at the close of business, the Federal debt stood—down to the penny—at exactly $4,802,133,808,513.71. This debt, remember, was run up by the Congress of the United States.

The Founding Fathers decreed that the big-spending bureaucrats in the executive branch of the U.S. Government should never be able to spend even a dime unless and until the spending had been authorized and appropriated by the U.S. Congress.

The U.S. Constitution is quite specific about that, as every school boy is supposed to know.

And do not be misled by declarations by politicians that the Federal debt was run up by some previous President or another, depending on party affiliation. Sometimes you hear false claims that Ronald Reagan ran it up; sometimes they play hit-and-run with George Bush.

These buck-passing declarations are false, as I said earlier, because the Congress of the United States is the culprit. The Senate and the House of Representatives are the big spenders.

Mr. President, most citizens cannot conceive of a billion of anything, let alone a trillion. It may provide a bit of perspective to bear in mind that a billion seconds ago, Mr. President, the Cuban missile crisis was in progress. A billion minutes ago, the crucifixion of Jesus Christ had occurred not long before.

Which sort of puts it in perspective, does it not, that Congress has run up this incredible Federal debt totaling 4,802 of those billions—of dollars. In other words, the Federal debt, as I said earlier, stood this morning at four trillion, 802 billion, 133 million, 808 thousand, 513 dollars, and 71 cents. It'll be even greater at closing time today.

ANNUAL MEETING OF THE AMERICAN FARM BUREAU FEDERATION

Mr. DOLE. Mr. President, this morning I had the privilege of attending the 76th annual meeting of the American Farm Bureau Federation in St. Louis, MO.

As my colleagues know, the American Farm Bureau is the largest farm organization in America, with over 4.4 million members nationwide. While in St. Louis, I met with both Kansas and American Farm Bureau members as they discussed issues of importance to agriculture and to all Americans.

The theme of this year's meeting is ''The Spirit Grows.'' I believe that their theme reflects the spirit we have seen in American during the last few months. A growing spirit to change America and to bring common sense back to Government. Like most Americans, members of the American Farm Bureau want change.

In his opening remarks, Farm Bureau President Dean Kleckner listed seven Farm Bureau goals—goals which many of us here in the Senate share. These include adopting a balanced budget amendment, passing a line-item veto, reducing the capital gains tax, increasing the estate tax exemption, implementing legislation requiring risk assessment and cost-benefit analysis, limiting unfunded mandates, and strengthening private property rights.

Mr. President, I would encourage my colleagues to read the full text of Mr. Kleckner's speech and to take to heart some of the points he makes. I ask unanimous consent that the text of Mr. Kleckner's speech be included in the RECORD.

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

ANNUAL ADDRESS, AFBF PRESIDENT DEAN KLECKNER

Good morning fellow Farm Bureau members. Welcome to this 76th gathering of the world's largest, greatest, most powerful, most influential farm organization.

Your American Farm Bureau Federation. Once again, your actions, your deeds, your policies benefitted agriculture, America's most important industry.

Through Farm Bureau, 4.4 million families speak with a unified voice. United in Farm Bureau, we implement the policies and get the results that we could not accomplish individually.

As a direct result of your work—our work—U.S. agriculture today is more oriented toward the marketplace. World trade is less subsidized. The sanctity of property rights is more recognized and appreciated. And there is a growing belief that government must lessen its impact on people and their livelihoods.

We are completing a philosophical cycle.

Our nation was founded on a belief in the integrity and common sense of the individual. Yet, over the years, this rock-solid philosophy eroded, evolving to the thought of: ''Let government do it.'' Then to: ''Government, do it.'' The cycle moved a few years ago to: ''Should government do it?''

Now, people of all walks of life, all segments of society are answering: ''Government should not do it. It is my responsibility.''

President Andrew Jackson once said, ''When a democracy is in trouble, the remedy is more democracy.''

Our democracy may not have been in trouble, but the way voters voiced their demand for positive change by reducing government's presence was encouraging.

Farm Bureau has long championed the worth of the individual. We've stood firm on our philosophies, our policies. We've altered our policies when we recognize that change is needed, * * * But our philosophies? Never.

The basics, the fundamentals, the traditional values that are still rock-solid across the country, Farm Bureau has not wavered. I know sometimes it felt like we were talking to ourselves. The lack of external response sometimes led us to question ourselves, but we never questioned our values. Now it can be seen that others were listening.

Others harbored the same quiet, solid beliefs—beliefs that never left rural America.

For decades, Farm Bureau was one of a very few organizations that stood up and spoke out for the ideals we believe in, no matter where our position rated in the latest public opinion poll.

Great political change occurred last November. But we saw the bell cow in 1992 when the public clamored for change. At this point, it looks like no more country-club or good-old-boy politics as usual. Public dissatisfaction—really disgust—with the political system and the politicians won't allow it.

People want a return to basic American principles—individual responsibility, common sense, fairness, faith, firmness not forms, a hand up * * * Not a hand out.

Where's the sense in spending billions of Superfund dollars to pay lawyers to talk about cleaning up dirt at a contaminated site? Why spend billions on a welfare system that does not foster an incentive to get off the public dole?

People have told government that a reordering of priorities and spending habits is definitely in order. And that is an order—an order that will be enforced, come next election, if changes—acceptable changes—don't come quickly.

More regulations, more taxation, more restrictions aren't the answer. We don't need consensus, we need conquerors. When will the deep thinkers, but shallow doers, learn? Free enterprise, coupled with religious compassion, works. Government making rules doesn't make change.

Princeton University economists did a study that showed environmental quality quickly starts to improve when individuals' income and investment returns top $10,000 a year.

That's the exact opposite conclusion of some think-tank talkers who believe economic growth does unavoidable harm to the environment.

In reality, Mexico, Chile, Venezuela and many Pacific Rim countries have surpassed that threshold number and are moving to improve their environments. To see environmental degradation, look to those that were centrally planned—Russia, Poland, the Balkan states. Yet, some scholars still think that progress is a dirty word. Progress is good if we make it good.

Farm Bureau policies depend on the collective wisdom, experience and values of working people throughout this land.

1994 was quite a year for Farm Bureau. It was a year of accomplishments and yet-to-be-finished accomplishments. I want to tell you of a few, to illustrate the great breadth of your farm organization's interests and activities.

All of the efforts, all of the work, all of the strategies are aimed at our two over-riding goals. They are the same two that Farm Bureau has aimed for since we started over 75 years ago. We're working to improve net farm income. And we strive to improve the quality of rural living.

1994 saw the successful completion to two important trade negotiations. Farm Bureau was intensely involved with both. Our Congress passage of the General Agreement on Tariffs and Trade is a major relief for U.S. agriculture. I was never more proud, more aware of Farm Bureau's influence, than I was last month as I was led down to sit in the front of that big room in Washington, D.C., to watch President Clinton sign the GATT legislation into law.

By signing on to GATT, other countries will have to follow the same trade rules we

do, opening their markets to our commodities. They must begin to reduce tariffs and subsidies. And they must have a sound, scientific reason to restrict imports for health or sanitation reasons.

Ever since the talks began in Uruguay in 1986, Farm Bureau monitored the negotiations, often speaking directly to foreign negotiators, political leaders and farmers.

Farm Bureau has long recognized that one way to improve our income was to increase the markets for our products. America's farmers and ranchers are just too good at what we do. There aren't enough people here in the U.S. to buy all that we can produce. 95 percent of the world's stomachs are outside our borders. New technologies and new products come on stream daily. Clearly, we have to have access to world markets.

Now, with GATT, that access has improved. Not as much as we would have liked, but enough to offer promise of future improvement. The new international trade regulations are clearly a vote of confidence for the American farmer.

1994 saw the signing of the North American Free Trade Agreement which provides freer trade faster than GATT. Initial trade reports bear out the estimates made by supporters that sales would increase and that export-related employment would increase. There is a great sound in the land, but it's not the predicted great sucking sound of lost jobs. It's more of a chomping sound as fanatics are forced to eat their words.

Now, there is talk of expanding NAFTA to include more South American countries, with some people envisioning a Western Hemisphere trade bloc eventually * * * From the Arctic to the Antarctic. Farm Bureau supports continued elimination of trade barriers. We will observe future negotiations as closely as we did the previous ones. They will certainly offer new and different challenges.

We will also continue to promote international understanding and goodwill among farmers the world over. Thirteen state Farm Bureau presidents and I visited China in 1994. What a market * * * One-and-a-quarter billion people, not all as poor as church mice.

They have a middle class of 100 million consumers with money to spend. China is already a major customer of ours, purchasing an average 500 million dollars a year of wheat and 200 million dollars a year of cotton.

The U.S. Ambassador to China stressed to us that China's economic progress must be encouraged. They are the only country that has successfully managed a substantial transformation of its economy from centrally planned to one largely responsive to market forces. And they're doing it under conditions of growing prosperity and rapid economic growth. I believe that these economic changes will hasten political and civic changes, as well. It is an exciting era for trade expansion and Farm Bureau is well situated to continue to work for your interests.

Another major area demanding our time and talents in 1994 was the defense of property rights. Significant gains were made. Much more needs to be done. Throughout our years of struggle, we have pointed out that farmers and ranchers are environmentalists. We have continued to advance our conservation and stewardship practices.

Last year, more than 100 million acres—over one-third of all U.S. cropland, was farmed using residue management or conservation tillage practices. Why? It's environmentally sound. It's economically sensible. Residue decreases soil erosion and water runoff.

Despite the profusion of unplowed lands, we are using less herbicides. We practice integrated pest management, using natural methods to supplement chemical pesticides. We plant winter crops to replenish the soil naturally and we leave legume or grass strips in the fields and along fence lines to shelter wildlife. We do this even though we end up providing room and board for the animals we attract as they eat our crops. We do this voluntarily, without government threats or public thanks.

Our conservation compliance plans are complete. It is evident, very evident, that the environment has nothing to fear from farmers. We do care for the land because it cares for us. We don't care for environmental elitists—their rhetoric aimed at fund-raising and membership growth more than reason and rational progress. Let them rant, we'll plant. Let them accuse, we'll conserve and use—responsibly use—our God-given resources to benefit people. We'll continue to stand for conservation and challenge preservation.

And it appears the weather vane of public opinion is changing. Elitists fear that public support for three issues will gut their movement. One is the weighing of costs of risk prevention against the benefits, in any federal regulations. Another is a severe restriction on unfunded mandates imposed at the federal level on state and country governments, with these costs being passed on to us. And the third fear is compensation to landowners when their property values are lessened.

Elitists call these three issues the ''Unholy Trinity.'' I call the three common sense for the common good. These issues go to the heart of many of the specific actions we took last year in the environmental area.

We worked for a law that strengthens trespass restraints against government agents involved with biological surveys. We also supported President Clinton's creation of an office of risk assessment and cost-benefit analysis and an independent national appeals division.

Farm Bureau and its leaders were instrumental in defeating attempts to hike grazing fees to unrealistic, unprofitable levels. We stalled consideration of a global biodiversity treaty until our specific concerns and complaints were addressed. We defeated an energy tax last year that would have cost farmers an average of 2,500 dollars each. We didn't want to be BTU'd.

We worked for sensible clean water rules, a common-sense wetlands definition. We sued to keep ethanol an important component of the EPA's clean air pollution reduction program. Despite significant progress in Congress and in public opinion, it was still necessary to go to court to protect farmers' and ranchers' interests.

One of our most recent and on-going lawsuits involves the federal government's scheme to put wolves into the Yellowstone Park area. The surrounding area is immense—half the state of Montana, 95 percent of Idaho and all of Wyoming would be considered wolf range. Federal efforts to protect the wolf under the Endangered Species Act would amount to a giant federal land-use plan for most of the residents of the three states.

First off, the wolf the government wants to put in the area isn't even endangered. There are thousands in Alaska and Minnesota and 70,000 of them in Canada. Second, the wolf they want to introduce is the Canadian gray wolf, not the Northern Rocky Mountain wolf that once roamed the area. Third, we object to the plan because the government didn't follow its own rules.

Fish and Wildlife ignored them. While they were supposed to be talking with area residents about the general idea, federal agents were instead building holding pens in the park to house the wolves.

Throughout the sham, government workers used questionable biological science to implement their own political decisions.

There are provisions allowing ranchers to protect livestock. As a New York Times article concluded a few days ago, ''Ranchers will still be able to kill or harass wolves if they threaten livestock.'' That makes everybody feel really good, doesn't it?

But the official rules are composed in typical governmentese—Beltway babble—by people who don't have the slightest idea of real-world living. You could kill a wolf, but you've got to do it by the book.

First, you must catch the wolf in the act of killing, wounding or biting livestock. Killing one that you see working over a carcass isn't good enough because you couldn't prove that that wolf killed your animal. So you've got to see the wolf in action, killing.

There's a second restriction. If you kill a wolf, a fresh domesticated animal carcass must be on hand for the government to inspect. If it takes more than a day for you to ride in, report the taking, get the agent to your place and ride out to the attack site, forget it, you're in trouble.

Now those rules apply only if you kill a wolf on your own land. For those grazing federal land, it's even more contrived, more ridiculous.

Just like so many of our wetlands examples, so many of our endangered species examples, the stories are absurd. They're funny—until they happen to you or your neighbors or your fellow Farm Bureau members. Farm Bureau is working for you, right now, to put an end to such tales.

We've been involved in many more issues and activities. We developed a book to review farm program legislation options. We worked to strengthen the crop insurance program.

Whether it was in Congress or the courts, Farm Bureau was there representing agriculture's interests. But that is all old news.

What is Farm Bureau going to do next? What are you doing now? Ladies and gentlemen, Farm Bureau is poised for our greatest accomplishments ever. Farmers and ranchers have never had the opportunities we have now.

With the convening of the 104th Congress, Farm Bureau is ready to push for the acceptance of many of our most basic, our most fundamental principles. The first 100 days of this new Congress are extremely crucial. We must be prepared to act. We must work to create acceptance of our efforts by the politicians and opinion-makers. Farm Bureau members must push for the legislative implementation of our policies.

One item we've sought for a long time is a balanced budget amendment. We've had some successes. Many now in Congress said they would push for it. Let's push them.

Another crucial goal is granting the president a line-item veto. The Republicans supported it when they were in the minority and there were Republican presidents. Now that they're in control of Congress, Farm Bureau must work to make sure they are still so eager for it.

A third major goal would be a reduced capital gains tax, better yet a total elimination, the same as citizens of many developed countries enjoy. Do you know what Germans are taxed on capital gains? Zero. What about people in Hong Kong? Zero. Italians? Zero. South Koreans? Zero. Taiwanese? Zero.

Some countries do have a capital gains tax. Japan? Five percent. France? 16 percent. Even our social service-happy neighbors to the north only pay a maximum 17-and-a-half percent capital gains tax.

We'll work with Congress to cut the tax, cut it big-time. I'm convinced a significant cut will result in more tax revenues to the

government through the increased sales of appreciated assets. 10 or 15 percent of something is a lot more than 28 percent of nothing.

Another of our opportunities is an increased estate tax exemption. The 600,000 dollar exemption currently in the law hasn't been changed for a decade. We must work to obtain an exemption that will allow farm operations to pass from generation to generation with minimal disruption and dislocation.

A fifth area of opportunity would be obtaining legislation requiring risk assessment and cost/benefit analysis. A sixth is legislation limiting the creation of unfunded mandates.

And a seventh is granting compensation for victims of takings. That's the key in our private property battle. Make government pay for what they take and they'll take less or, better yet, they'll stop taking. Or, if they take, we get fair market value.

That's seven goals for us to shoot for, by Easter. And we'll work to get a 100 percent income tax deduction for health insurance premiums paid by the self-employed and adequate funding for new farm programs.

That will be enough on our plate for now, for these 100 days. Challenge and change. Opportunity and good fortune. The future is exciting. We are creating our own breaks. Better prosperity beckons. But there's more, much more.

Innovations overtake us with dizzying speed. And we accept and adapt them to our advantage. About the only thing old-fashioned about farmers today is our adherence to our traditional values.

I recently came across a paragraph from the Durants' 11-volume ''Story of Civilization.'' I'll quote the paragraph, not the 11 volumes. ''Civilization is a stream with banks. The stream is sometimes filled with blood from people killing, stealing, shouting and doing things historians usually record * * * While on the banks, unnoticed, people build homes, make love, raise children, sing songs, write poetry and even whittle statues. The story of civilization is the story of what happened on the banks. Historians are pessimists because they ignore the banks for the river.''

Sometimes, we get awfully close to being like those historians. Still, even though agriculture is so enmeshed in executive orders, legislation, regulations and court rulings, we know there's a lot more to life than making a living.

It's seeing seedlings push through the crust * * * to unfold in a burst * * * Green rows stretching to the horizon. It's seeing a cow nuzzle and nudge her calf, to stand on its own. It's going to Saturday night church service so on Sunday morning we can see dawn break and contemplate God from our deer stand. It's hurrying to finish chores so we can go to another Farm Bureau meeting. It's seeing the kids beam with pride as they see their hog take a fourth-place ribbon, even if there was only a class of four.

There's more to life than making a living.

Winston Churchill said we make a living by what we get, but we make a life by what we give. We know life and we call it farming. And it's what Farm Bureau is all about. We work to preserve the ideals we cherish, the life that others only dream about.

You and I, working together, can keep this nation the country we want, the country we fought for, the country we will always fight for. Our future is bright because of our faith, our families and Farm Bureau.

As the country prepares for the 21st century, let us keep our principles in place for the 22nd. We face a different world, and you, working through Farm Bureau, can make a difference.

Thank you for the wonderful opportunity, the gift, of serving you. God bless you. God bless America. God bless Farm Bureau.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

CONGRESSIONAL ACCOUNTABILITY ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 2, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2) to make certain laws applicable to the legislative branch of the Federal Government.

The Senate resumed consideration of the bill.

Pending:

Ford/Feingold amendment No. 4, to prohibit the personal use of accrued frequent flyer miles by Members and employees of the Congress.

The PRESIDING OFFICER. Now pending before the Senate is amendment No. 4.

Mr. GLENN. Mr. President, we had this legislation on the floor last week, of course, and continue it today. We will continue it tomorrow. The time is limited on this.

I wanted to rise and let all the people watching in the offices, all the different staffs, as well as the individual Senators, know that it is my understanding—and I ask my distinguished colleague from Iowa to comment on this, too—it is my understanding that the majority leader has indicated that he wished to end this bill, if at all possible, by 7 o'clock tomorrow evening, Tuesday evening.

Now, I presume that is correct. I know we will try to end by a certain time. I was just told a few moments ago that the time expressed is 7 tomorrow evening.

That being the case, there are no amendments on the Republican side. They are all on the Democratic. If we are to meet that deadline, it means that people had better get their amendments together and get them over here. We have no time agreements at this point, so anyone can take up as much time as they want on the floor.

But we do have a number of amendments still pending, and if people expect to make certain of not getting frozen out with their proposals, then they better get over here this afternoon. We will have some tomorrow morning. But people should be cognizant of the fact that tomorrow is conference day also where we will be out of session temporarily, or in recess, from about 12:30 to 2:15, so we lose a block of time in the middle of the day.

As I see it right now, with the number of amendments still left, there is not going to be time for getting them all in right now even if people started coming to the floor now. I hope people are not going to wait until late tomorrow afternoon and then bump up against the 7 o'clock deadline and then want the floor managers, Senator GRASSLEY and myself, to try to make some special arrangement for them, because that is not likely to be possible. I encourage people who have amendments to get them together, get them over here and consider them this afternoon while we have time. We have quite a bit of time. It is 20 minutes to 4. We can consider several amendments. We have nothing pending at the moment. I urge my Democratic colleagues to get them together and get over here. Thank you.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, let us take a look at the amendments that might be brought up. I hope they will not all be brought up:

One by Senator BRYAN dealing with pensions. One by Senator BYRD that is described as a relevant amendment. We have four by Senator FEINSTEIN dealing with campaign finance reform. We have one by Senator FORD that is an amendment pending dealing with frequent flier miles. Also, another one described as a relevant amendment. We have a manager's amendment by our friend Senator GLENN. Senator GRAHAM, of Florida, has an amendment that is in the process of being drafted of which we have no description. Senator KERRY has an amendment dealing with leadership PAC's and campaign fund conversion for personal use. Senator LAUTENBERG has an amendment that is described as a relevant amendment. Senator LEAHY dealing with employment rights. Senator LEVIN, another one described as relevant. Senator REID, described as relevant. And Senator WELLSTONE has several, two that deal with gift ban, three that deal with campaign finance reform, one with health care, and two described as relevant.

I think that anybody in this body or anybody listening throughout the country would probably realize that each of these amendments, at least those that we have a description of, are legitimate subjects for discussion within this body. Most of them—not all of them—but most of them have already been alluded to by the Senate majority leader by his saying that before just a few short months are up, all of these issues will be discussed. The issue of gifts and the issue of lobbying reform have all been described by Senator DOLE, the majority leader, as issues that he intends to give any Member of this body an opportunity to go as in-depth as they want to on any of these issues.

So there is not any issue on this set of pending amendments that will not have an opportunity to be discussed; in other words, it will have an opportunity to be discussed the first half of this year, for sure.

So I urge my colleagues who are very sincere about what they are trying to accomplish through these amendments to maybe not offer these amendments on the bill that is before us.

Then that brings me to further discussion of the bill that is before us, because this is a bill that the people of this country have been demanding that we pass for quite a few years now, to correct a situation where in this country there are two sets of laws: One for Capitol Hill and one for the rest of the country; one for Pennsylvania Avenue, DC, and the other for Main Street, USA; where there is one set of laws for the Congress as an employer, or we individual Senators and Congressmen and women as employers because we hire staff, and another set of laws for every other employer in America. There is one set of protections for people in the private sector whose employees are protected by the employment, safety and civil rights laws, but no protection, or very little protection, for employees on Capitol Hill.

We have a situation of one set of laws applying to one part of the country and those laws not applying to Capitol Hill. Under the laws that apply outside Capitol Hill, employers of America can be intimidated and harassed and fined and maybe even put out of business by regulators and inspectors and various employees of Federal enforcement agencies coming around to their place of business to enforce those laws; whereas we, as an institution of Congress and an employer and we as individual Senators—and we happen to be employers of staff—we do not have to worry about that sort of intimidation and harassment and fined by regulators coming around and inspecting our offices and looking into our employment practices because we are not covered by those laws.

We have a situation where the private-sector employers understand that intimidation and they understand the egregiousness and the cost of legislation on their operation. We on Capitol Hill, because we have exempted ourselves from this series of legislation since the 1930's, do not know about that cost, do not know about the paying a fine, do not know about the intimidation that the private sector feels.

So for a long period of time—and I have been involved in sponsoring this legislation for 7 or 8 years—but for a long period of time, people in the private sector, understanding the unfairness of the situation, the American people have asked Congress to end that situation of dual statutes. They have asked Congress to end the unfair situation where we have exempted ourselves from this legislation.

The legislation that passed the House of Representatives did that. It passed unanimously in the other body. Senator DOLE made a commitment a long time ago, after the Republicans had become the majority again as a result of the last election, that this bill would be No. 1 up on the floor of this body.

So we have the Congressional Accountability Act, a bipartisan bill sponsored by myself and by Senator LIEBERMAN of Connecticut, to carry on from where the House left off, to end this situation. We discussed this bill all day Thursday, all day Friday and today is the third day. We are going to be on it, as Senator DOLE said, until about 7 o'clock tomorrow night when we hope to pass it. Four days to pass legislation that unanimously has passed the House of Representatives and which everyone agrees is a situation that should be rectified.

But we have not spent much time in debate on the floor of this body discussing the merits of the legislation. We have had speeches by the Democratic manager, Senator GLENN, myself, Senator LIEBERMAN, the main cosponsor, Members on both sides of the aisle gave some opening statements about why they support the legislation but no amendments to change the basic legislation.

We had 6 or 7 amendments last week, all of them tabled, unrelated amendments to the Congressional Accountability Act that we had to deal with because under the rules of the Senate those amendments can be offered even if they do not concern the subject matter of the basic underlying legislation.

Again, I would say, as I said about the amendments that are pending, that might be offered yet today and tomorrow, there was not a single issue that has been offered by my colleagues that is not a legitimate subject for discussion on the floor of this body. But again, whether those amendments were Thursday or Friday or today and tomorrow, they all fit into the category of issues that Senator DOLE is going to give everybody an opportunity to participate in the debate and bills where those amendments are more germane to the subject.

So I think, since there is not opposition to the underlying legislation, we ought to be able to just get this behind us and move on and respond to what the people said in the election on November 8; that they no longer wanted business as usual in Washington, DC. And there is no better example of business as usual than for Congress to continue its exemption from employment and safety and civil rights laws that apply to the rest of the Nation but have not applied to us.

The House has demonstrated, for sure, it is not business as usual because they passed the bill with just a few minutes of discussion and unanimously. I wish we could do as well in the Senate. It looks as if the legislation will pass and we will end this dual system of lawmaking, and end our exemptions, but it is just taking a little bit longer than it should.

It is also important that we move on to other important pieces of legislation that are in the contract that we have with America: Unfunded mandates, the next bill that will be coming up on the floor of this body, so that we do not make policy here in Washington and then make Governors and legislators and mayors and councils raise their local taxes to pay for a policy we will not pay for here in Washington. Then we move on to a constitutional amendment requiring a balanced budget, and then move on to a line-item veto, welfare reform, then moving term limits for Members of Congress, tort reform, and two or three other things such as tax relief and crime that we have a contract with America to pass within the first few months.

Then we have still the part of the year, the spring, the summer and the fall, when most of the work around here gets done in the late night hours. Maybe we will not have to work so late at night so long as we are working early in the year.

So I appreciate that scheduling and that better management of the calendar. But there will be plenty of opportunities to deal with all these very important amendments that my colleagues want to offer to this bill even though they are not relevant to the bill. I hope we will see some of these amendments not actually offered, and I hope that we can get agreement to time limits on these amendments when they will be offered.

I wish, as my good friend, Senator GLENN, has already stated, Senators would come over here and offer these amendments.

I am going to yield the floor, but before I do, Mr. President, I would like to have a section-by-section analysis of the legislation that Senator LIEBERMAN and I have introduced submitted and printed in the CONGRESSIONAL RECORD.

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

SECTION-BY-SECTION ANALYSIS

SECTION 1—SHORT TITLE

This act may be cited as the ''Congressional Accountability Act of 1995''.

Title I—General

Section 101—Definitions

This section defines terms used throughout this act, as follows:

(1) The term ''Board'' means the Board of Directors of the Office of Compliance, which has authority under this act to promulgate regulations for the implementation of the laws made applicable by this act and to review decisions of hearing officers in cases brought under the dispute resolution process created by this act.

(2) The term ''Chair'' means the Chair of the Board of Directors of the Office of Compliance.

(3) The term ''covered employee'' means any employee of the House of Representatives, the Senate, the Office of the Architect of the Capitol, the Congressional Budget Office, the Office of Technology Assessment, the Office of Compliance, the Capitol Police, the Capitol Guide Service, or the Office of the Attending Physician. It does not include employees of the General Accounting Office, Library of Congress, or Government Printing Office.

(4) The term ''employee'' includes an applicant for employment and a former employee.

(5) The term ''employee of the Office of the Architect of the Capitol'' means employees of the Office of the Architect, the Botanic Garden, or the Senate restaurants.

(6) The term ''employee of the Capitol Police'' includes any member or officer of the Capitol Police.

(7) The term ''employee of the House of Representatives'' means an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or other official designated by the House of Representatives, or any employment position in an entity that is paid through funds derived from the Clerk-hire allowance of the House of Representatives, but not any such individual employed by the Capitol Police Board, the Capitol Guide Board, the Office of the Attending Physician, the Congressional Budget Office, Office of Technology Assessment, or the Office of the Architect of the Capitol.

(8) The term ''employee of the Senate'' means, any individual whose pay is disbursed by the Secretary of the Senate, excluding such individuals employed by the Capitol Police Board, the Capitol Guide Board, the Office of the Attending Physician, Office of Technology Assessment, Office of Compliance, or the Office is of the Architect of the Capitol.

(9) The term ''employing office'' means a personal office of the Member of the House of Representatives or the Senate, or joint office, or any office under the authority of an individual who has final authority to appoint, hire, discharge, or set the terms of employment of an employee, as well as contractors and consultants. The office of compliance created by this act will issue rules concerning the ''employing office'' of minority staff of committees.

(10) The term ''Executive Director'' means the Executive Director of the Office of Compliance.

(11) The term ''general counsel'' means the general counsel of the Office of Congressional Fair Employment Practices.

(12) The term ''Office'' means the office of compliance.

Section 102—Application of Laws

Section 102(a) enumerates the statutes, as prescribed by this act, that are made applicable to the legislative branch. These are (1) the Fair Labor Standards Act of 1938; (2) Title VII of the Civil Rights Act of 1964; (3) the Americans with Disabilities Act of 1990; (4) Age Discrimination in Employment Act of 1967; (5) Family and Medical Leave Act of 1993; (6) Occupational Safety and Health Act of 1970; (7) Federal Service Labor Management Relations Act; (8) Employee Polygraph Protection Act of 1988; (9) Worker Adjustment and Retraining Notification Act; (10) Rehabilitation Act of 1973; (11) Veterans Reemployment Act.

Section 102(b) requires the Board of review statutes and regulations relating to the terms and conditions of employment and access to public services and accommodations. Beginning on December 31, 1996, and every 2 years thereafter, the Board is to report on whether these provisions apply to the legislative branch, and to what degree, and whether provisions inapplicable or less than fully applicable should be changed to govern Congress. Thus, the Board will review laws already in existence at the time of enactment that are not addressed or fully addressed by this act, and will, in the future consider as well legislation enacted after the enactment of this act. Each report will be printed in the CONGRESSIONAL RECORD and referred to the House of Representatives and Senate committees of appropriate jurisdiction.

Section 102(b) requires each committee report accompanying a bill or joint resolution relating to terms and conditions of employment or access to public services or accommodations to describe the manner in which the bill applies to Congress. In the event the provision is not applicable to Congress, the report will contain a statement of reasons for its inapplicability. If such requirement is not followed, it shall not be in order for either House to consider the bill. On a majority vote of that House, this point of order can be waived.

Title II—Extension of Rights and Protections

Section 201—Rights and Protections Under Laws Against Employment Procedures

Civil Rights. Section 201(a) sets forth the basic rights to freedom from employment discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or disability, that are extended to all employees covered under this act. By defining the rights guaranteed under this act by reference to existing statutes, the Act incorporates the interpretations of those rights as developed in case law.

Applicable remedies. In addition to setting forth the rights to freedom from employment discrimination, this section (in subsection (b)) sets forth the remedies available to employees who prove a violation of those rights in proceedings before hearing officer, or in Federal district court. With respect to claims of discrimination on the basis of race, color, religion, sex, or national origin, the remedies are those that would be available to private employees under sections 706(g) and 706(k) of title VII (42 U.S.C. §2000e–5(G), 2000e–5(k)), including reinstatement, back pay, and attorney's fees. For these claims, the Act incorporates the waiver of sovereign immunity from interest for delay in payment that applies to the executive branch under section 717(d) of title VII (42 U.S.C. §2000E–16(d)), as provided in section 225(b). Employees are also entitled to compensatory damages available under section 1977 and sections 1977(A)(a) and (b)(2) of the revised statutes (42 U.S.C. §1981, 1981A(a), (b)(2)). Damages under title VII may not exceed, for each employee, and without regard to the size of the employing office, $300,000, the same maximum figure that applies to large private employers.

With respect to age discrimination claims, employees are entitled to the same remedies as are available under section 15(c) of the Age Discrimination in Employment Act (29 U.S.C. §633a(C)) available to Federal employees who prove age discrimination. The waiver provisions of section 7(f) of that Act also apply to covered employees. 29 U.S.C. 626(f). In regard to claims of discrimination on the basis of handicap within the meaning of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. §791), employees are entitled to the same remedies as are available to Federal employees under section 505(a)(1) of that act (29 U.S.C. §794a(a)(1)), as well as the compensatory damages provisions described above under Title VII. For claims of discrimination on the basis of disability within the meaning of sections 102–104 of the Americans With Disabilities Act of 1990, employees are entitled to the remedies as are available under section 107 of that Act (42 U.S.C. §12117(a)), as well as the title VII compensatory damages.

As under current law with respect to Federal employees, punitive damages are not available for any claims under this section.

Section 201 is also made applicable to instrumentalities of Congress.

Effective date. This section is effective one year after enactment.

Section 202—Rights and Protections Under the Family and Medical Leave Act

Family and medical leave. This section provides employees with the rights to family and medical leave provided to private employees under sections 101 through 105 of the Family and Medical Leave Act of 1993. For purposes of applying those sections, the term ''eligible employee'' as used in the Family and Medical Leave Act is defined so that a covered employee within the Senate, the House of Representatives, or of the Congressional instrumentalities covered by this act, earns his or her entitlement to family and medical leave without respect to transfers between employing offices. For example, once an employee has been a covered employee for at least twelve months, and works for at least 1250 hours during the previous twelve months, he or she is an eligible employee for purposes of family and medical leave, irrespective of whether he or she changes employing offices.

This section makes title I of the Family and Medical Leave Act, rather than title II, applicable to the General Accounting Office and the Library of Congress, beginning one year after the date of completion of the study referred to in section 230.

Applicable remedies. The remedies for a violation of the rights conferred by this section are the same remedies that would be available to a private employee under section 107(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. §2617(a)(1), which includes damages, liquidated damages and interest, attorney's fees, and costs. The remedies and protections under this act provide rights over a one year period. Accordingly, the Board is to ensure that the six month statute of limitations that applies under this act is applied in such a way as to ensure the possibility that employees will have six months to seek to redress violations of any rights conferred by the Family and Medical Leave Act.

Under this section, and various other sections of the bill, the Board is given authority to issue regulations to enforce the Family and Medical Leave Act. Such regulations shall be the same as the substantive regulations issued by the Secretary of Labor to implement the statutory provisions referred to in subsection (a), except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

''Good cause'' is a term of art in the Administrative Procedures Act. This is a narrow phrase. It does not provide an escape hatch for the Board to deviate from executive branch regulations except for substantial justification. I expect courts to interpret the term ''good cause'' narrowly here, just as they have done with respect to the equivalent term in the Administrative Procedures Act.

Effective date. This section is effective one year after the enactment of this act.

Section 203—Rights and Protections Under the Fair Labor Standards Act

Minimum wage, maximum hours, and equal pay. This section provides employees with rights to minimum wage, equal pay, maximum hours, afforded private and other public employees under sections 6(a)(1), 6(d), 7 and 12(c) of the Fair Labor Standards Act (29 U.S.C. §§206(a)(1), 206(d), 207, 212(c). As in the private sector, employees may not be provided compensatory leave in lieu of overtime compensation. For the purposes of this section, the term ''covered employee'' does not include an intern as defined by regulation.

The exemptions for certain employees, set forth in section 13(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. §213(a)(1)), also apply under this act. Employees who are employed in a ''bona fide executive, administrative, or professional capacity'' are not covered by the minimum wage and maximum hours provisions. Volunteers are also excluded from coverage if they receive no compensation or are paid expenses, reasonable benefits, or a nominal fee for their services, and such services are not the same type of services for which the individual is employed.

Applicable remedies. The remedies for a violation of the rights conferred by this section shall be the remedies that would be available to other employees under section 16(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. §216(b)), which includes unpaid minimum or overtime wages, liquidated damages, attorney's fees, and costs.

Regulations issued by the Board. This section also directs the Board to promulgate rules, pursuant to section 304 of this act, that are necessary to implement the rights and protections under this section. This would include rules on what employees are exempt from the minimum wage and maximum hours requirements, the definition of an intern, and which employees' work depends directly on the schedule of the House of Representatives and Senate. ''Directly'' is to be strictly limited to those employees who are essentially floor staff. Regulations issued by the Board are to be the same as substantive regulations issued under the Fair labor Standards Act by the Secretary of Labor, unless the Board determines that a different rule would be more effective for implementation of the rights and protections of this act.

Effective date. Subsections (a) and (b) of this section are effective one year after enactment of this act.

Section 204—Rights and Protections Under the Employee Polygraph Protection Act of 1988

Under this section, no employing Office, irrespective of whether a covered employee works in that Office may require a covered employee to take a lie detector test where such a test would be prohibited if required under paragraphs (1), (2), or (3) of section 3 of the Employee Protection Act of 1988 (29 U.S.C. 2002 (1), (2), (3). For purposes of this section, the term ''covered employee'' includes the employees of the General Accounting Office and Library of Congress. The term ''employing Office'' includes the General Accounting Office and Library of Congress. However, nothing in this section precludes the Capitol Police from using lie detectors in accordance with regulations issued under subsection (c).

The remedies available for a violation of this section are the appropriate remedies under section 6(c)(1) of the Employee Polygraph Protection Act of 1988 (29 U.S.C. 20005(c)(1). In addition, the waiver provisions of section 6(d) of the act (29 U.S.C. 2005(d)) shall apply.

The Board is empowered to issue regulations to implement this section under section 304 of this act. These regulations shall be the same as substantive regulations issued by the Secretary of Labor to implement the underlying statute, except insofar as the Board may determine, for good cause, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

The effective date for this section is one year after the date of enactment of this act, except with respect to the General Accounting Office and Library of Congress, for which the effective date shall be one year after the transmission to Congress of the study authorized in section 230.

Section 205—Rights and Protections Under the Worker Adjustment and Retraining Notification Act

This section provides that no employing office shall be closed or a mass layoff ordered within the meaning of section 3 of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 1202) until the end of a 60-day period after the employing office serves written notice of such prospective closing or layoff to representatives of covered employees or, if there are no representatives, to covered employees. For purposes of this section, the term ''covered employee'' includes employees of the General Accounting Office and Library of Congress and the term ''employing office'' includes the General Accounting Office and Library of Congress.

The remedies available for a violation of the rights conferred by this section shall be such remedy as would be appropriate under paragraphs (1), (2), and (4) of section 5 of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2104(a) (1), (2), (4)). Under this statute, a specific rule affecting coverage is contained in section 225(f)(2).

The Board shall issue regulations pursuant to section 304 to issue regulations to implement this section. These regulations shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except insofar as the Board may determine, for good cause shown, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

This section is effective one year after the date of enactment of this act, except in the case of the General Accounting Office and Library of Congress, where the effective date will be one year after transmission to the Congress of the study provided for in section 230.

Section 206—Rights and Protections Relating to Veterans' Employment and Reemployment

This section prohibits an employing office from (1) discriminating, within the meaning of subsections (a) and (b) of section 4311 of title 38, United States Code, against an eligible employee; (2) denying an eligible employee reemployment rights within the meaning of sections 4312 and 4313 of title 38, United States Code; or (3) denying an eligible employee benefits within the meaning of sections 4316, 4317, and 4318 of title 38, United States Code. For purposes of this section, the term ''eligible employee'' means a covered employee performing service in the uniformed services, within the meaning of section 4303(13) of title 38, United States Code, whose service has not been terminated upon occurrence of any of the events enumerated in section 4304 of title 38, United States Code. For purposes of this section, the term ''covered employee'' includes employees of the General Accounting Office and Library of Congress, and the term ''employing office'' includes the General Accounting Office and the Library of Congress.

The remedy available for violation of this section shall be the remedies available under paragraphs (1), (2)(A), and (3) of section 4323(c) of chapter 43 of title 38, United States Code. These remedies shall be in addition to, and not substitutes for, any existing remedies available to covered employees under chapter 43 of title 38, United States Code.

The Board, pursuant to section 304, shall issue regulations to implement this section. These regulations shall be the same as substantive regulations issued by the Secretary of Labor to implement the underlying statutory provisions except to the extent that the Board may determine, for good cause shown, that a modification of such regulations would be more effective for the implementation of the rights and provisions under this section.

The effective date of this section is one year after enactment of this act, except as to the General Accounting Office and Library of Congress, where the effective date shall be one year after transmittal to Congress of the study authorized under section 230.

Section 207—Prohibition of Intimidation of Reprisal

This section provides one uniform remedy for intimidation or reprisal taken against covered employees for exercising rights and pursuing remedies of violations for the violation of rights conferred by this act. Under this section, it is unlawful for an employing office to take reprisal against, or otherwise discriminate against, any covered employee because the covered employee has opposed any practice made unlawful by this act, or because the covered employee has initiated proceedings, made a charge, or testified, assisted, or participated in any manner in a hearing or other proceeding under this act. The remedy available for a violation of this subsection shall be such legal or equitable remedy as would be appropriate.

Section 210—Rights and Protections Under the Americans With Disabilities Act

This section applies the protections of title II and III of the Americans With Disabilities Act, which concern rights other than employment discrimination, to each office of the Senate, each office of the House of Representatives, each Joint Committee, the Office of the Architect, the Capitol Guide Board, Capitol Police Board, Congressional Budget Office, Office of Technology Assessment, Office of Compliance, and Office of the Attending Physician. It prohibits discrimination in the provision of public services on the basis of disability, within the meaning of sections 201 through 230, 302, 303, and 309 of the Americans With Disabilities Act of 1990 (42 U.S.C. §12131–12150, 12182–83 and 12189). For purposes of the application of the Americans With Disabilities Act under this section, the covered congressional entities are deemed to be public entities.

The protection afforded by this section applies to any individual with a disability as defined in section 201(s) of the Americans With Disabilities Act of 1990 (42 U.S.C. §12131(2)). However, with respect to any claim of employment discrimination on the basis of disability made by any employee covered under this act, the exclusive remedy shall be under section 201 of this act.

Applicable remedies. The remedies for discrimination in public services prohibited by this section shall be the remedies that would be available under section 203 or 308(a) of the Americans With Disabilities Act of 1990 (42 U.S.C. §§12133, 12188(a)). Section 203 and 308(a) of the ADA incorporates the remedies under section 505 of the Rehabilitation Act of 1973 (29 U.S.C. 794A). This includes equitable relief, attorneys fees, and costs. It does not include the remedial procedures described in section 717 that involves the Equal Employment Opportunity Commission, which is not provided any enforcement authority under this act. Nor does it include the provisions in title III of the Americans With Disabilities Act that enable the Attorney General to seek monetary damages in particular cases.

Procedures for enforcement. Under this section, a qualified individual with a disability who alleges a violation under this section may file a charge with the general counsel of the office of compliance. The general counsel shall investigate any such charge and, if the general counsel believes that a violation

may have occurred and that mediation may aid in resolving the dispute, the general counsel may request mediation with the Office under section 403 of this act between the complaining individual and the entity alleged to have committed the violation. The general counsel does not participate in the mediation.

If the dispute is not resolved through mediation, and the general counsel believes that a violation has occurred, the general counsel may, in his or her discretion, file a complaint against the entity with the Office. Ordinarily, once the general counsel concludes that a violation has occurred, a complaint should be filed; however, in a particular case, circumstances, such as the de minimis nature of the violation, may warrant a decision not to file a complaint.

The Office shall submit the complaint to a hearing officer for decision under section 405. Any person who has filed a charge under this section may intervene as of right, with the full rights of a party. This procedure is established so that this individual may participate in developing the record for appeal in the event that the general counsel does not participate in the judicial appeal.

Any party (including the complaining party who has intervened) aggrieved by a final decision of a hearing officer under this section may seek review of the decision by the Board. Any party aggrieved by a final decision of the Board may file a petition for review with the United States Court of Appeals for the Federal Circuit, pursuant to section 407 of this act. This section authorizes judicial review only of a final decision of the Board. Decisions of the general counsel not to file a request for mediation or a complaint, or not to appeal a hearing officer's decision to the Board, are not subject to judicial review under this section or under any other provision of this Act.

Regulations to be issued by the Board. This section directs the Board to issue rules pursuant to Section 304 of this Act, to implement the rights and protections under this section. Any such rules are to be consistent with the regulations issued by the Attorney General and the Secretary of Transportation to implement the provisions of the Americans with Disabilities Act of 1990 referenced in section 210(b) of this Act. The Board may promulgate rules that differ from those of the Attorney General and the Secretary of Transportation only if the Board determines for good cause shown that a modification would be more effective for the implementation of the rights and protections under this section.

Inspections, reporting, and detailees. This section also provides for regular inspections by the General Counsel of the covered entities to ensure that they are in compliance with the requirements of this section. The general counsel is directed to report at least once each Congress to the Speaker of the House of Representatives and the President pro tempore of the Senate on the results of the inspections and to describe any steps necessary to ensure full compliance with this section.

Under this section, the Attorney General, the Secretary of Transportation, and the Architectural and Transportation Barriers Compliance Board may, upon the request of the general counsel, detail such personnel as may be necessary to advise and assist the Office in carrying out its duties under this Section.

A private right of action is provided to any qualified person under the Americans with Disabilities Act against the General Accounting Office, the Government Printing Office, and Library of Congress. However, the enforcement authority of the Equal Employment Opportunity Commission shall be exercised by the Chief Official of the Instrumentality.

Effective date. This section is effective on January 1, 1997, except as to the private right of action against the instrumentalities, which is effective one year after transmittal to Congress of the study provided for in section 230.

Section 215—Rights and Protections Under the Occupational Safety and Health Act; Procedures for Remedy of Violations

Protections from workplace hazards. This section requires employees and employing offices to comply with the provisions of section 5 of the Occupational Safety and Health Act of 1970 (29 U.S.C. §654). Section 5 requires each employer to furnish employees a workplace free from recognized hazards that are causing or likely to cause death or serious physical harm and requires both employers and employees to comply with the Occupational Safety and Health Standards promulgated by the Secretary of Labor under section 6 of that act (29 U.S.C. §655). The requirement that employers and employees comply with the Secretary of Labor's standards is subject to variance granted under subsections (c)(4) and any regulations promulgated by the Board under subsection (d).

For purposes of this section, the term ''employer'' as used in the Occupational Safety and Health Act means an employing office and the term ''employee'' means a covered employee. For purposes of this section, the term ''employing office'' includes the General Accounting Office and Library of Congress, and the term ''employee'' includes employees of the General Accounting Office and Library of Congress.

Applicable remedies. The remedy available for violations under this section are an order to correct the violation, including such an order as would be appropriate under section 11 of the Occupational Safety and Health Act of 1970 (29 U.S.C. §662), which include citations issued by the general counsel.

Procedures for enforcement. The responsibilities for enforcement of this section are vested in the general counsel rather than the Secretary of Labor. The Board is given the responsibility to conduct hearings and review orders that is vested in the Occupational Safety and Health Review Commission under section 10(c) of OSHA (29 U.S.C. §659(c)) and to the Secretary of Labor with respect to affirming or modifying abatement requirements, to hear objections and requests with respect to citations and notifications. The remedy available under this act for a violation of OSHA is an order to correct the violation, including such order as would be appropriate if ordered under section 13(2) of the Occupational Safety and Health Act of 1970.

Inspections. With respect to inspections, the authorities granted to the Secretary of Labor in sections 8(a) and 8(f) of OSHA (29 U.S.C. §§657(a), (f)) to inspect and investigate places of employment are to be exercised by the general counsel. Under this section, there are two possible scenarios under which inspections will occur: through employee-initiated requests that the general counsel inspect particular offices and periodic inspections of all congressional facilities. The general counsel exercises OSHA authority with respect to both employee requested and periodic inspections. Periodic inspections are random. Each facility is to be inspected each Congress. However, the act does not provide that employing offices are to receive notice of the inspections.

Citations. With respect to citations, the authorities granted to the Secretary of Labor in sections 9 and 10 of OSHA (29 U.S.C. §658, 659) to issue citations for violations or notices of failure to correct violations for which citations have been issued are vested in the general counsel. The citation would normally state a date by which corrective action is to be completed. The citation is to be issued only against the employing office that is responsible for the particular violation as determined by regulations issued by the Board. The general counsel may also issue a notification to any employing office that the general counsel believes has failed to correct a violation for which a citation has been issued within the period permitted for its correction.

If after issuing a citation or notification, the general counsel determines that a violation has not been corrected, the general counsel may file with the Office of Compliance a complaint against the employing office named in the citation or notification. Under OSHA, 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 that 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. The Office shall submit the complaint to a hearing officer subject to Board review under the general provisions of the Act outlining those procedures.

Variances. The Board shall exercise the authorities granted the Secretary of Labor in sections 6(b)(6) and 6(d) of OSHA (29 U.S.C. §655(b)(6) and (d)) to act on any request by an employer for a temporary order granting a variance from a standard made applicable by subsection (a). The Board may refer such a request to a hearing officer for a hearing conducted in accordance with section 405 of this act and subject to review under section 406 of this act. The general counsel or employing office aggrieved by a final decision of the Board regarding a citation, notification, or variance, may file a petition for review with the United States Court of Appeals for the Federal Circuit pursuant to section 407.

Compliance date. If a citation of a violation under OSHA is received, and appropriated funds are necessary to abate the violation, abatement shall take place as soon as possible, but no later than the fiscal year following the fiscal year in which the citations are issued. This permits the Congress to appropriate funds to remedy OSHA violations during the standard appropriations timetable where the abatement amount is large, and avoids disruptions to other functions of the employing office caused by the unanticipated need for additional expenditures.

Regulations issued by the Board. The Board shall promulgate regulations to implement this section. Such regulations shall be the same as the standards and regulations promulgated by the Secretary of Labor to implement OSHA with the same standard for deviation contained elsewhere in the act.

Periodic inspections. At least once each Congress, the general counsel shall conduct periodic inspections of all facilities of the Congress for compliance with the Occupational Safety and Health Act. Based on the result of each periodic inspection, the general counsel will prepare and submit a report to the House Speaker, Senate President pro tempore, and the employing office responsible for correcting the violation. The report will also contain the results of the periodic

inspection, identify the responsible employing office, describe the actions necessary to correct any violation, and assess the risks to employee health and safety associated with any violation. If a report identifies any violation, the general counsel shall issue a citation or notice. The general counsel may be assisted by personnel detailed from the Secretary of Labor, upon request of the executive director for such assistance.

The bill uses the terms ''employing office'' as a designative term referring to an office. There is no requirement that the employing office responsible for the violation actually be the employing office of the employee that makes the complaint, for instance.

Effective date. The period from the date of enactment until December 31, 1996 shall be available to the Office of the Architect of the Capitol to identify any OSHA violations, determine costs of compliance, and to take any necessary abatement actions. The general counsel shall conduct a thorough inspection prior to July 1, 1996, and report the results to the Congress. Except as to GAO and Library of Congress, this section will become effective on January 1, 1997. As to these instrumentalities, this section will take effect 1 year after transmission to Congress of the study provided for in section 230.

Section 220—Application of Federal Service Labor-Management Relations Statute; Procedures for Implementation and Enforcement

Labor-management relations. This section applies to employees and employing offices the rights, protections, and responsibilities relating to collective bargaining established for other Federal employees and employers under 5 U.S.C. §§7102, 7106, 7111 through 7117, 7119 through 7122, and 7131. For purposes of applying those provisions under this section, the term ''agency'' shall be deemed to mean an employing office.

The remedy for a violation of subsection (a) shall be a remedy under section 7118(a)(7) of title 5 of the United States Code as would be appropriate if awarded by the Federal Labor Relations Authority to remedy a violation of any provision made applicable by subsection (a).

In applying the Federal service labor-management relations provisions to employees and employing offices, the Board shall exercise the authorities of the Federal Labor Relations Authority under 5 U.S.C. §§7105, 7111 to 7113, 7115, 7117, 7118, and 7122 and of the President under 5 U.S.C. §7103(b). Any petition or other submission that would be submitted to the Federal Labor Relations Authority shall, under this section be submitted to the Board.

The Board may refer any matter submitted to it under subparagraph (c)(1) of this section to a hearing officer for decision pursuant to section 405 of this act. The Board may direct that the general counsel carry out the Board's investigative authorities.

Procedures. Under this section, the general counsel shall exercise the authorities of the general counsel of the Federal Labor Relations Authority under 5 U.S.C. §§7104 and 7118. Any charge or other submission that, if submitted under chapter 71 of title 5 would be submitted to the general counsel of the Federal Labor Relations Authority shall, if brought under this section, be submitted to the general counsel. If any person charges an employing office or a labor organization representing employees with having engaged in an unfair labor practice in violation of this section within 180 days of the occurrence of the alleged unfair labor practice, the general counsel shall investigate the charge, and may issue a complaint. A complaint issued by the general counsel under this section shall be submitted to a hearing officer for decision under section 405 of this act.

For purposes of applying the Federal service labor-management relations provisions under this section, the Board shall exercise the authority of the Federal service impasses panel under 5 U.S.C. §7119. Any request that under those provisions would be presented to the Federal service impasses panel shall, if made under this section, be presented to the Board. At the request of the Board, the director shall appoint a mediator or mediators to perform the functions of the Federal service impasses panel under 5 U.S.C. §7119. Ordinarily, the Board should request the appointment of a mediator and should avoid participating in the mediation of disputes for which it may have adjudicatory responsibilities.

Regulations to be issued by the Board. The Board shall promulgate regulations to implement this section. The rules promulgated under this section shall be the same as the rules promulgated by the Federal labor relations authority to implement 5 U.S.C. §§7102, 7106, 7111 through 7117, 7119 through 7122, and 7131. The Board may promulgate rules that are not the same as the rules of the Federal labor relations authority only under the standard provided as elsewhere in the act, except as provided in subsection (e).

The Board shall issue rules pursuant to the rulemaking provisions of section 304 of this act on the manner and extent to which the rights conferred by this section should apply to employees who are employed in positions in offices with a direct connection to the legislative process, including the personal office of any Member of the House or the Senate, a standing, select, special, permanent, temporary, or other committee of the Senate or the House, a joint committee of Congress, and the offices of various party officers, including the Office of the Majority and Minority Leaders of the Senate and the House of Representatives. These rules should be the same as the regulations of the Federal labor relations authority except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; and that the Board shall exclude from coverage any covered employees who are employed in the offices listed in paragraph 2 of subsection (e) if the Board determines that such exclusion is required because of a conflict or appearance of a conflict of interest, or Congress' constitutional responsibilities. Paragraph (h) of subsection (e) should be construed narrowly. However, one portion of one office that might fall within this paragraph would be the employees of the Office of the Sergeant at Arms who engage in doorkeeping and maintaining order in the legislative Chamber and who compel the presence of absent Senators.

A conflict of interest would include, for example, whether certain classes of employees should be precluded from being represented by unions affiliated with noncongressional or non-Federal unions. This separate standard from deviation from regulations is not a standardless license to roam far afield from such executive branch regulations. The Board cannot determine unilaterally that an insupportably broad view of Congress' constitutional responsibilities means that no unions of any kind can work in Congress. Without abdicating its review responsibilities, however, courts should give more deference to congressional determinations under this particular regulatory area than to all other deviations from executive branch regulations made by the Board.

Effective date. Subsections (a) and (b) of this section shall be effective on October 1, 1996, except with respect to the offices listed in subsection (e)(2), to the covered employees of such offices, and to representatives of such employees, for which subsections (a) and (b) shall be effective on the effective date of regulations issued under subsection (e).

PART E—GENERAL

Section 225—Generally Applicable Remedies and Limitations

Under subsection 225(a), if a complainant is a prevailing party under section 405, 406, 407, or 408, the hearing officer, Board, or court, as the case may be, may award attorney's fees, expert witness fees, and other costs as would be appropriate if awarded under section 706(k) of the Civil Rights Act of 1964. Although the Board has no authority to issue regulations under section 201, it does have the ability under section 303 to issue procedural rules. Such rules could govern the availability of fees and costs under section 706(k), so long as the rules were consistent with court cases interpreting the Civil Rights Act. For example, some courts have held that the amount of compensatory damages a prevailing party recovers is relevant to determine a reasonable fee award, and that recovery of only a portion of the compensatory damages request can form the basis for reducing the fee award. Other courts have held that proportionality cannot be considered in awarding attorney's fees. Given the conflict among the cases, the Board could decide which set of cases to follow when it issues its regulations.

Subsection (b) provides that in any proceeding under section 405, 406, 407, or 408, the same interest to compensate for delay in payment shall be made available as would be appropriate in actions involving the executive branch under section 717(d) of the Civil Rights Act of 1964. This is an explicit waiver of sovereign immunity as to these interest payments. Subsection (c) provides, in keeping with longstanding rules applicable to the Federal Government, that no civil penalty or punitive damages may be awarded with respect to any claim under this act.

Subsection (d) provides that except in cases under the Veterans Reemployment Act, no person may commence an administrative or judicial proceeding to seek a remedy for the rights and protections afforded by this act except as provided in this act.

Subsection (e) provides that only a covered employee who has undergone and completed the procedures described in section 402 and 403 may pursue a civil action in court. Counseling and mediation with the office are preconditions to bringing any civil action under this act.

Subsection (f) states that except where contrary exemptions and exemptions appear in this act, the definitions and exemptions in the laws made applicable by this act shall apply under this act. This means that although the various 11 laws are made applicable to Congress, the exemptions and definitions that limit its application in the private sector limit its applicability to Congress as well and that regulations of the executive branchinterpreting those definitions and exemptions should ordinarily apply.

Subsection (g) states that the act shall not be construed to authorize enforcement by the executive branch of this act, but this does not override the provision that executive branch employees may be detailed to the Office of Compliance at the request of the executive director.

Section 230—Study and Recommendations Regarding General Accounting Office, Government Printing Office, and the Library of Congress

This section directs the Administrative Conference of the United States to study the

extent to which the legislative branch employees not covered under this act are or are not covered by the employment laws made applicable by this act. This primarily includes employees in the General Accounting Office, the Government Printing Office, and the Library of Congress The Administrative Conference should study the manner and extent to which these employees are covered under existing laws, and should also study the regulations and procedures implemented by these congressional instrumentalities to provide for the enforcement of these rights and protections.

This study should evaluate not only the extent to which employees are provided the rights and protections of the laws made applicable to Congress in this act. But also whether they are as comprehensive and effective as those provided under this act. The study should include recommendations for legislation to extend or improve coverage as well as recommended improvements in regulations or procedures. Recommendations for legislation may include recommendations on clarifying existing legislation where coverage of legislative branch employees is ambiguous, or can be determined only by unduly complex parsing of a number of laws.

The Administrative Office shall submit the study and recommendations required under this section to the Board within 2 years after enactment of this act. The Board shall transmit the study and recommendations head of each instrumentality or other entity considered in this study and to the Speaker of the House of Representatives and President pro tempore for referral to the appropriate committees of the House of Representatives and of the Senate.

Title III—Office of Compliance

Section 301—Establishment of Office of Compliance

This section creates the Office of Congressional Fair Employment Practices as an independent office in the legislative branch of the Government to administer the dispute resolution process created by this act.

The Office shall be overseen by a board of directors, which shall be composed of 5 members. A five member board is the best size to discourage deadlock and to facilitate effective decisionmaking.[1]

It is extremely important that the Board function in a nonpartisan manner. For this reason, the act requires that all members of the Board be appointed without regard to political affiliation and solely on the basis of fitness to perform the duties of office. Board members shall be appointed solely on the basis of fitness to perform their duties under the act, and shall have background and experience in application of the rights, protections, and remedies under the laws made applicable to section 102. There is no assumption that any particular kind of training or experience is necessary, but a variety of experiences would qualify an individual for a position on the Board. The act does not require that any individual member have training or experience under all of the statutes made applicable by this act, but members should be selected with a view to providing the Board as a whole with some expertise in each field of law within the Board's jurisdiction.

On the other hand, the committee also recognizes that, in order for the Board to function in Congress's political environment, and to insulate the Board against claims of partisanship that will inevitably be raised by persons dissatisfied with a particular decision, the process for the selection of the Board members must be fully bipartisan. To accomplish this, the appointment of members is jointly made between the Houses and between the parties. Accordingly, the members shall be appointed jointly by the Speaker of the House, majority leader of the Senate, and the minority leader of both Houses. The chair of the Board shall also be appointed jointly. Appointment of the first 5 members of the Board shall be completed not later than 90 days after the date of enactment.

There are certain disqualifications from service as a Board member. No lobbyist may serve. No Board member may be a Member of Congress or a former Member. Nor may a Board member be an officer or employee of the House, Senate, an instrumentality of Congress, except an officer or employee of the GAO Personnel Appeals Board, House Office of Fair Employment Practices, or the Senate Office of Fair Employment Practices, or a former holder of one of these positions within 4 years of the date of appointment. These requirements are critical because the office must, in both appearance and reality, be independent in order to gain and keep the confidence of the employees and employers who will utilize the dispute resolution process created by this act.

Vacancies on the Board are to be filed in the same manner as the original appointment for the vacant position. Because the Board is small in number, it will be important to fill vacancies as quickly as possible, consistent with selecting the best qualified individuals for these positions.

Terms. The terms of office of the members are staggered so that, after the first appointments, there will not be complete turnover of the Board. The appointment is for 5 years and cannot be renewed, except for someone who serves three years or less. Of the first five members, one shall serve three years, two for four years, and two for five years, one of whom shall be chair.

Removal. Members may be removed from office by a majority vote of the appointing authority. To further ensure the independence of the Board, members may only be removed for specific causes including a disability that substantially prevents the member from carrying out the member's duties, incompetence, neglect of duty, malfeasance in office, a felony or conduct involving moral turpitude, or holding an office or employment or engaging in an activity that disqualifies the individual from service as a member of the Board. The reason for removal of any member must be stated, in writing, to the member being removed by the Speaker of the House of Representatives and the President pro tempore of the Senate.

Compensation and travel expenses. Members may be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under 5 U.S.C. sec. 5316 for each day during which the member is engaged in the performance of board duties. Travel time should be included in the computation of the time a member has spent engaged in the performance of board duties.

Members of the Board are entitled to reimbursement for travel expenses for each day that the member is engaged in the performance of Board duties away from home or the regular place of business of the member. The rates for travel expenses, including per diem in lieu of subsistence, shall be at rates authorized for employees of agencies under 5 U.S.C. sec. 5751.

Subsection (h) describes the duties of the office, which include educating members and other employing authorities of their duties and employees of their rights under this act. It is also to provide educational materials on the statutes made applicable to Congress by this act to employing offices for new employees. The office shall also compile and publish statistics on the use of the office by covered employees, including the number and types of contacts made with the office, on the number of covered employees who initiated proceedings under the act, as well as the number of employees who filed a complaint, the basis for the complaint, and its disposition. In light of the confidentiality of the proceedings in the administrative process, this information should be compiled in a manner that does not reveal the identity of particular employees or employing offices.

The Board and office shall be subject to oversight by the Committee of rules and Administration and the Committee on Governmental Affairs of the Senate and the Committee on House Oversight of the House of Representatives. Oversight authority of these committees does not extend to the processing, consideration, or disposition of individual cases or the unwillingness of the general counsel to file a complaint regarding particular charges within his or her responsibility.

The office is to open within 1 year after enactment of this act. This will provide sufficient time for the Board members to be selected, the regulations to be issued, and the office to be staffed.

Financial disclosure reports. Members of the Board will be required to file financial disclosure reports under the Ethics in Government Act of 1978, Pub. L. No. 95–521, title I (5 U.S.C. appendix sections 103(H)(A)(II)II)).

Section 302—Officers, Staff, and Other Personnel

This section provides for the appointment of staff of the new office.

Executive director. The position of executive director is modeled after the Director of the Office of Senate Fair Employment Practices (OSFEP), who administers the Senate's internal resolution process. Like the Senate's Director of OSFEP, the Director of the Congressional Office will have the responsibility of the daily administration of the disputes resolution system created by this act. This includes assisting in the development and implementation of rules of procedures for the dispute resolution process, selecting hearing officers, counselors, and mediators, and maintaining the dockets of cases filed with the office.

The Chair, subject to the approval of the Board, shall appoint, and has the power to remove, the director. As is the case of members of the Board, selection of a director should be made solely on the basis of ability to perform the functions of the job and without regard to political affiliation. To ensure the appearance of independence and impartiality of the Director, certain individuals are precluded from service as Director. These are the same persons who are ineligible to serve as Directors.

The Chair may set the compensation of the Executive Director, but the rate of pay may not exceed the annual rate of basic pay prescribed for level V of the executive schedule under 5 U.S.C. sec 5316. The Executive Director will serve anonrenewable 5-year term, except that the first Executive Director may serve a nonrenewable 7-year term.

Additionally the office will have two Deputy Directors, one for each House of Congress. The Deputy Executive Directors are appointed and removed by the Chair, subject to the approval of the Board. The appointment shall be made without regard to political affiliation and with the same disqualifications that apply to service as Executive Director. The Deputy Executive Director

[1] Some management researchers have concluded that policymaking bodies of five members are preferable to both larger and small groups. *See*, U.S. Senate Committee on Governmental Affairs, Study on Federal Regulation, Vol. IV, Doc. No. 95–72, July 1977, p. 115.

shall serve a 5-year term, except that the first Deputy Executive Director shall serve for 6 years. This will mean that the Deputy Executive Director will serve terms that do not expire concurrently with the Executive Director.

The Deputy Executive Director shall recommend the regulations to the Board under section 304(a)(2)(B)(i), maintain the regulations and all records pertaining to the regulations, and shall assume such other responsibilities as may be delegated to the Executive Director.

The Executive Director may appoint, terminate, and fix the compensation of such staff, including hearing officers, necessary to enable the office to carry out its functions. The Executive Director does not have authority to appoint attorneys to assist the general counsel, which authority is provided directly to the general counsel. The Executive Director may request other Government departments or agencies to detail on a reimbursable or nonreimbursable basis the services of the personnel of the department or agency. In addition, the Executive Director is authorized to procure the temporary or intermittent services of consultants.

General Counsel. The Chair, subject to the approval of the board, may appoint and remove a general counsel. This position does not have an analogy in the Senate fair employment process. This position and its duties, however, are modeled on the role of the general counsel in bodies such as the General Accounting Office Personnel Appeals Board or the Federal Labor Relations Authority. Under this act, the general counsel may receive complaints of violations of the provisions of titles II and III of the Americans With Disabilities Act made applicable by this act and file and prosecute complaints in the name of parties making charges of violations. The general counsel will also conduct workplace inspections and issue citations of violations of the requirements of OSHA made applicable by this act. The general counsel exercises authority comparable to that of the Federal Labor Relations Authority's General Counsel. The general counsel also provides representation to the office when it is named as a respondent in proceedings brought in the Federal Circuit under this act.

To ensure that the general counsel is, and appears to be, independent and impartial, certain individuals are precluded from service as general counsel. These are the same as apply to the Board of Directors.

The Chair may fix the compensation of the general counsel, which shall not exceed the annual rate of basic pay prescribed for level V of the executive schedule under 5 U.S.C. sec. 5316. The general counsel may appoint, terminate, and fix the compensation of such additional counsel as may be necessary to carry out the duties of the general counsel. The term of office of the general counsel is for a single term of 5 years. The general counsel may only be removed for cause. The act carefully prescribes which officials may be removed only for cause and which may not.

Section 303—procedural rules

This section sets forth the procedure for the adoption and amendment of rules governing the procedures of the Office of Compliance, including rules concerning hearing officers. The rules and amendments thereto shall be submitted for publication in the CONGRESSIONAL RECORD.

Under subsection (b), the Executive Director shall adopt the rules referred to in subsection (a) in accordance with the principles and procedures of the Administrative Procedures Act. The Executive Director shall publish a notice of proposed rulemaking in accordance with the APA, but with publication occurring in the CONGRESSIONAL RECORD rather than the Federal Register. Before issuing rules, the Executive Director shall provide a comment period of at least 30 days after publication of the notice of rulemaking. Upon adopting rules, the Executive Director shall transmit notice of such action along with the rules to the Speaker of the House and the President pro tempore of the Senate for publication in the CONGRESSIONAL RECORD. Rules are considered to be issued on the date on which they are so published.

Section 304—substantive regulations

This section sets forth the procedures of issuing regulations to implement this Act, including regulations the board is required to issue under title II, including appropriate application of exemptions under the laws made applicable in title II. There shall be three sets of substantive rules, one for each House, and one for other employing offices.

The authority conferred by this section is authority only to issue rules that will aid in understanding how the laws apply to the Congress and does not include the authority to limit the substantive rights conferred under this act. Thus, for example, such rules might set forth guidance to Senate offices as to how the board would interpret the family and medical leave act's entitlement to unpaid family or medical leave, in light of the fact that the Senate payroll system does not have a leave without pay status.

Under subsection (b), the Board shall adopt the regulations in accordance with the principles and procedures of the Administrative Procedures Act. Instead of publishing a general notice of proposed rulemaking in the Federal Register, the Board shall transmit such notice to the Speaker of the House and President pro tempore of the Senate for publication in the Congressional Record. Such notice shall set forth the recommendations of the Deputy Director in regard to regulations of the House and Senate and of the executive director for the other employing offices. In this way, the members of the approving body will know how the board's proposed regulations differ from the recommendations of the Deputy Director for their respective house.

Before adopting regulations, the Board shall provide a comment period of at least 30 days after publication of a general notice of proposed rulemaking. After considering comments, the Board shall adopt regulations and transmit notice of such action together with the regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record. The Board shall include a recommendation in the general notice of proposed rulemaking as to whether the regulations should be approved by resolution of the Senate, by resolution of the House of Representatives, by concurrent resolution, or by joint resolution.

Regulations referred to in paragraph (2)(B)(i) of subsection (a) may be approved by the Senate by resolution or by the Congress by joint or concurrent resolution. Regulations referred to in paragraph (2)(B)(ii) of subsection (a) may be approved by the House of Representatives by resolution or by the Congress by concurrent or joint resolution. Regulations referred to in paragraph (2)(B)(iii) may be approved by Congress by concurrent resolution or by joint resolution. Upon receipt of a notice of adoption of regulations, the presiding officers shall refer such notice and the proposed regulation to the committee or committees of jurisdiction in that House. The referral is designed to let the committee determine whether the regulations should be approved and by which method.

Following approval of regulations by the Congress or one of its Houses, the Board shall submit the regulations for publication in the Congressional Record. The date of issuance of the regulations is the date on which they were published in the Congressional Record as a result of this procedure. Regulations shall become effective not less than 60 days after the regulations are issued, except that an earlier effective date may be specified for good cause found within the meaning of section 553(d) of title 5 of the United States Code.

Amendment to the rules. The Board's rules may be amended in the same manner as they are initially adopted under this section. The Board may, in its discretion, dispense with the publication of a general notice of proposed rulemaking of minor, technical, or urgent amendments when the Board finds that notices are ''impractical, unnecessary, or contrary to the public interest'' within the meaning of 5 U.S.C. sec. 553(B).

Right to petition for rulemaking.—Any person may petition the Board for the issuance, amendment, or repeal of a rule. However, nothing in this section confers upon any individual a right to seek judicial review of any action or inaction of the Board under this section.

In formulating regulations, the Executive Director, Deputy Directors, and Board shall consult with the chair of the administrative conference, the Secretary of Labor, the Federal Labor Relations Authority, and may consult with any other persons of their choosing.

Section 305—Expenses

Authorization of Appropriations. In fiscal year 1995, and each fiscal year thereafter, the Congress authorizes to be appropriated necessary funds for the expenses of the office in carrying out its duties. Until money is first appropriated under this section, but not for a period exceeding 12 months after the date of enactment of this act, the expenses of the office shall be paid one-half from the contingent fund of the Senate and one-half from the contingent fund of the House, upon vouchers approved by the director.

Witness fees and allowances. Except for employees, witnesses before a hearing officer or the Board in any proceeding other than rulemaking are entitled to be paid the same fee and mileage allowances as are paid to subpoenaed witnesses in the courts of the United States. It is intended that, as in the courts, these costs will be borne by the parties. Employees who are summoned, or assigned by the employers to testify in their official capacity or to produce official records before a mediator, hearing officer, or the Board, shall be entitled to travel expenses under 5 U.S.C. §5751. The committee intends for the office to bear these costs.

Title IV—Administrative and Judicial Dispute—Resolution Procedures

Much of title IV builds on the dispute resolution process created for the Senate in title III of the Civil Rights Act of 1991. The most significant changes in this title from the existing Senate procedures are the addition of the option of initiating an action in Federal district court following the initial two stages of dispute resolution and the deletion of review of each decision by the Senate Ethics Committee. An opportunity to appeal to the Board is available in the place of Ethics Committee review.

Section 401—Procedure for consideration of alleged violations

Section 401 lists the procedure for consideration of alleged violations of the statutes made applicable to congressional employing offices under part A of title II. They are

counseling as provided in section 402, mediation as provided in section 403, and an election as provided in section 404 of either (1) a formal complaint and hearing as provided in section 405, subject to board review in section 406, and judicial review in the United States Court of Appeals for the Federal Circuit as provided in section 407, or (2) a civil action in a district court of the United States as provided in section 408. However, in the case of an employee of the Architect of the Capitol or of the Capitol Police, the Executive Director, after receiving a request for counseling under section 402, may recommend that an employee use the grievance procedures of the Architect of the Capitol or the Capitol Police. The decision to make the recommendation to the employee is entirely discretionary on the part of the Executive Director. The decision to follow the recommendation is entirely discretionary on the employee. The purpose is to permit employees to use another administrative remedy that may function well in the eyes of the employee, without prejudice for further opportunity to utilize the procedures available through the Office of Compliance, as the time limitations available for counseling or mediation shall not apply when during the specific period that the Executive Director recommends that the employee use for using the grievance procedures.

Section 402—Counseling

Initiation. A covered employee shall request counseling with the Office as a condition for commencing a proceeding alleging a violation of a law made applicable under part A of title II of this act. For claims under any of these statutes, the request for counseling must be made within 180 days after the date of the alleged violation. A failure to request counseling within the time required bars an employee from proceeding under this act to redress violations under these sections.

Purpose. The purpose of counseling is to provide an employee with the opportunity to discuss and evaluate the employee's claims. Under the current Senate system, employees meet with a counselor who assists them in preparing a statement of their claims, reviews what other information might aid in making a determination about whether to proceed with a claim, and may assist the employee in contacting the employing office to determine if a dispute can be resolved. The type of counseling may vary, depending upon the nature of the problem, the sophistication of the employee, and the willingness of parties to resolve issues. The purpose of counseling is neither to discourage nor to encourage further adversarial proceedings, but rather to assist in identifying issues at an early stage, so that they can be addressed appropriately.

Period for counseling. Counseling commences on the date the request for counseling is received in the Office and continues for 30 days, unless the employee and the Office agree to reduce the period. The 30 days begins on the date the request for counseling is received.

Notification of the end of the counseling period. The Office is required to notify the employee in writing of the end of the counseling period.

Section 403—Mediation

Initiation. A covered employee must request mediation with the Office no later than 15 days after the date on which the employee receives notification of the end of the counseling period. Mediation under section 403 is a precondition for making the election of procedures provided in section 404.

Mediation process. The Director shall specify one or more individuals to mediate a dispute, depending upon the Director's view of what would be most beneficial in a particular case. In selecting mediators, the Director is required to consider individuals recommended by organizations with expertise in mediating or arbitrating personnel matters. The Director may also consider other individuals with expertise in this field.

The purpose of the mediation is to resolve disputes at an early stage in a manner that serves the interests of all parties. To this end, it is important that both sides participate in the process. Although parties cannot be forced to mediate, it is expected that employees and employing offices will take seriously this opportunity by carefully assessing the claims of the other party and responding to reasonable requests for information. The parties to mediation under section 403(b) may include the Office, the covered employee, and the employing office. Mediation may occur through meetings with the parties separately or jointly for the purpose of resolving the dispute.

Mediation period. Mediation shall occur for 30 days beginning on the date the request for mediation is received. The 30-day period may be extended at the joint request of the covered employee and the employing office. The Office shall in writing notify the parties to the mediation of the end of the mediation period.

Independence of the mediation process. In order to protect the integrity of the mediation process and ensure that parties have confidence in it, no individual who conducts mediation may conduct or aid in the hearing conducted under section 405 with respect to the same matter. In addition, no individual who participates as a mediator may testify about, or produce records relating to, that mediation, either voluntarily or by compulsion, in any proceeding under this act or before any other investigative or adjudicative entity.

Section 404—Election of Proceeding

Not later than 90 days after a covered employee receives notice of the end of the period of mediation, but no sooner than 30 days after receipt of such notification, such covered employee may either (1) file a complaint with the Office in accordance with section 405, or (2) file a civil action in accordance with section 408 in the United States District Court for the district in which the employee is employed or for the District of Columbia.

Section 405—Complaint and hearing

Complaint. An individual who has made a timely request for counseling and mediation, has completed those processes, and has not elected to file a complaint in Federal District Court under section 408, may file a complaint with the Office. The complaint must be filed no later than 90 days after receiving the notice of the end of mediation, but no sooner than 30 days after receiving such notice. The respondent to the complaint shall be the employing office involved in the violation or in which the violation is alleged to have occurred, and about which mediation was conducted.

Appointment of a hearing officer. Upon the filing of a complaint, the Director shall appoint a hearing officer to the case. The hearing officer may dismiss any claim that the hearing officer finds to be frivolous or that fails to state a claim upon which relief can be granted. When the Executive Director issues rules under section 303, he or she may consider whether the procedures of title VII can be applied to these proceedings. For instance, whether employing offices can be awarded fees when the hearing officer determines that the complaint is frivolous, groundless, and brought in bad faith.

No member of the House of Representatives, Senator, officer of either House, head of an employing office, member of the board, or covered employee, may be appointed to be a hearing officer.

The Executive Director is required to develop lists of individuals experienced in arbitrating or adjudicating the kinds of personnel and other matters for which hearings may be conducted under this act. The lists can be composed of categories of individuals with expertise in particular fields, or possessing particular skills. In developing the lists, the Executive Director shall consider candidates recommended to the Director of the Federal Mediation and Conciliation Service, the Administrative Conference of the United States, or other organizations composed of individuals with expertise in adjudicating or arbitrating the kinds of matters for which hearings may be conducted under this act, such as technical matters relating to occupational safety and health.

In requiring the Executive Director to select individuals randomly or by rotation from these lists, the act does notprevent the Executive Director from hiring hearing officers as full-time employees of the Office or from selecting hearing officers on the basis of specialized expertise required for a particular case.

Hearing. Unless a hearing officer dismisses a complaint on a threshold legal issue, the hearing officer shall conduct a hearing on the record. The hearing should be conducted as expeditiously as practical, but in any event must be commenced no later than 60 days after the filing of the complaint. The hearing officer should, to the greatest extent practical, conduct the hearing in accordance with the principles of 5 U.S.C. §§554–57.

Discovery. The hearing officer may, in his or her discretion, permit reasonable prehearing discovery. In exercising this discretion, hearing officers should be mindful of the requirement that the hearing is to be conducted expeditiously and should seek to prevent repetitious, overly burdensome, and unnecessary discovery.

Subpoenas. In general. At the request of a party, a hearing officer may issue a subpoena for the attendance of witnesses and the production of records. Hearing officers should not issue subpoenas in blank, but rather only issue subpoenas for specific witnesses or document requests. Ordinarily, subpoenas should not be required for the production of testimony or records in this process. Employees and employing offices have a responsibility to respond to reasonable discovery requests, without the requirement of compulsory process.

Where appropriate, the attendance of witnesses and the production or records may be required from any place within the United States. Subpoenas shall be served in the manner provided under rule 45(b) of the Federal Rules of Civil Procedure.

Objections. If a person refuses, on the basis of relevance, privilege, or other objection, to testify or produce records in response to a question or to produce records in connection with a proceeding before a hearing officer, the hearing officer shall rule on the objection and, if the objection is overruled, order compliance. The hearing officer shall, at the request of the witness or any party, and may on the hearing officer's own initiative, refer the ruling to the board for review.

Enforcement. If a person fails to comply with a subpoena, the Board may authorize the General Counsel to apply to an appropriate United States District Court for an order requiring that the person appear before the hearing officer to testify and-or to produce records. The application shall be made in the judicial district where the hearing is conducted or where the person refusing to comply is found, resides, or transacts business. Any failure to obey a lawful order

of the district court issued pursuant to this section may be held by such court to be a civil contempt thereof.

Service of process. In an action brought in district court to enforce a subpoena under this section, or in a civil contempt action under this section, process may be served in any judicial district in which the individual or entity refusing or failing to comply resides, transacts business, or may be found, and subpoenas for witnesses who are required to attend such proceedings may run into any other district.

Decision. Following any hearing under this section, the hearing officer shall issue a written decision as expeditiously as possible, but in no event more than 90 days after the conclusion of the hearing. Each decision shall state the issues raised in the complaint, describe the evidence in the record, contain findings of fact and conclusions of law, and contain a determination of whether a violation has occurred, and, where appropriate, order remedies authorized under title II of this act. The decision shall be entered in the records of the Office as the final decision of the hearing officer, and of the Office if such decision is not appealed under section 406 to the Board. The Office shall transmit a copy of the decision to each of the parties.

Precedents. In conducting hearings and deciding cases, hearing officers are to be guided by judicial decisions under the statutes made applicable by section 102 and by Board decisions under this act.

Section 406—Appeal to the Board

In general. Any party aggrieved by the decision of a hearing officer under section 405(g) may seek review by filing a petition for review in the Office not later than 30 days after notice by the Office of the entry in the Office records of the final decision of the hearing officer.

Opportunity for argument. The Board shall provide the parties with a reasonable opportunity to be heard on their appeal through written submissions. In the discretion of the Board, the parties may be heard through oral argument.

Standard of review. The standard of review to be applied by the Board is the same standard that will be applied by the Federal Circuit sitting in review of the Board's decisions. The Board shall set aside a decision of a hearing officer only if the Board determines that the decision is arbitrary, capricious, an abuse of discretion, or otherwise not consistent with the law, not made consistent with required procedures, or unsupported by substantial evidence.

Record. In making determinations under this section, the Board shall review the whole record, or those parts cited by a party. The record on review shall include the record before the hearing officer and the decision of the hearing officer. Due account shall be taken of the rule of prejudicial error.

Decision. The Board shall issue a written decision setting forth the reasons for its decision. The decision may affirm, reverse, or remand to the hearing officer for further proceedings. A decision of the Board that does not require further proceedings before a hearing officer shall be entered in the records of the offices as a final decision.

Section 407—Judicial Review of Board Decisions and Enforcement

In general. The United States Court of Appeals for the Federal Circuit shall have exclusive jurisdiction over any proceeding commenced by a petition of a party aggrieved by a final decision of the Board under section 406(e) in cases arising under part A of title II, a charging individual or respondent before the Board who files a petition under section 210(d)4, the general counsel or a respondent before the Board who files a petition under section 215(c)(5), or the general counsel or a respondent who files a petition under section 220(c)(3). The same court shall also have exclusive 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.

Procedures. The rules governing the naming of respondents reflects the different procedural postures under which appeals may arise. The goal is to make sure that the Office is not a respondent in a petition filed by its employee, the general counsel. Any party before the Board may be named respondent if not so named if the party so elects within 30 days after service of the petition. The section also provides for a right of intervention for participants before the Board who were not made respondents.

Law applicable. Proceedings under this section shall be governed by chapter 158 of title 28, of the United States Code, which applies to appellate court review of agency orders. In order to tailor chapter 158 to review of congressional adjudicatory processes, some changes are made in that chapter's requirements. Under 28 U.S.C. §2344, the clerk is to serve a copy of the petition on the general counsel; the authority of the Attorney General under 28 U.S.C. §2348 shall not apply, and a petition for review shall be filed in the Office not later than 90 days after the entry in the Office of the final decision under section 406(e) for which review is sought. The Office shall be an agency as that term is used in chapter 158 of title 28, and any reference to the Attorney General shall be deemed to refer to the general counsel. The Office shall be named as the respondent in any such action in order to defend the decision of the congressional process.

Standard of review. The Standard of review in proceedings under this section is the standard that applies under the administrative procedures act, namely, that the court shall set aside a final decision of the Board only if it determines that the decision was arbitrary, capricious, and abuse of discretion, or otherwise not consistent with law; not made consistent with required procedures; or unsupported by substantial evidence.

Record. In making determinations under this section, the court shall review the whole record, or those parts cited by a party. The record on review shall include the record before the hearing officer, the decision of the hearing officer, the record before the Board, and the decision of the Board. Due account shall be taken of the rule of procedural error.

Section 408—Civil Action

Jurisdiction. An individual who has made a timely request for counseling and mediation, has completed those procedures, and has elected not to file a complaint with the Office, may file a complaint in the United States district court for the district in which the employee is employed or for the District of Columbia. The time period for filing such a complaint is set forth in section 404. The defendant shall be the employing office alleged to have committed the violation, or in which the violation is alleged to have occurred.

Jury trial. In a proceeding under this section, any party may demand a jury trial in circumstances where a jury trial would be available in an action against a private defendant under the relevant law made applicable by this act. In any case in which a violation of section 201 is alleged, the court shall not inform the jury of the maximum amount of compensatory damages available under section 201(b)(1) or 201(b)(3).

Section 409—Judicial Review of Regulations

This section provides that in any proceeding brought under Section 407 or 408 in which the application of a regulation issued under this act is at issue, the court may review the validity of the regulation in accordance with the provisions of subparagraphs (A) through (D) of section 706(2) of title 5, United States Code, except that with respect to regulations approved by a joint resolution under section 304(c), only the provisions of section 706(2)(B) of title 5, United States Code shall apply. This simply means that if the regulation has the force of law, the regulation cannot be challenged as being inconsistent with the underlying statute applied to Congress under this bill, but may only be challenged on constitutional grounds. All other regulations could be challenged as not complying with the statutory provisions forming the substantive and procedural basis for issuing the regulation.

The only means for challenging the validity of theregulation is through a proceeding brought under section 407 or 408 of this act. Thus, there is no ability to challenge a regulation when issued, as would be available under the Administrative Procedures Act, but only through collateral challenge. If the court determines that the regulation is invalid, the court shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provisions with respect to which the invalid regulation was issued.

In determining whether to hold the regulations invalid, the court should give equivalent deference to the Board as to an executive branch agency with statutory authority and expertise in issuing the regulation only if the regulation in question is identical to a regulation of an executive branch agency. To the extent the Board modifies the executive branch agency in issuing the regulation whose validity is challenged under this section, the court of appeals is to provide no deference to the Board's reading of the underlying statute when it issued the regulation unless the regulation was adopted by joint resolution, or in connection with the regulations issued under section 220(e).

Section 411—Effect of Failure To Issue Regulations

In any proceeding under section 405, 406, 407, or 408, except a proceeding to enforce section 220 with respect to offices listed under section 220(e)(2), if the Board has not issued a regulation on a matter for which this act requires a regulation to be issued, the hearing officer, board, or court, as the case may be, shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding.

Section 412—Expedited Review of Certain Appeals

This section authorizes a direct appeal to the Supreme Court from any interlocutory or final judgment, decree, or order of a court upon the constitutionality of any provision of this act. In such a case, only the constitutional issue would be before the court.

Section 413—Privileges and Immunities

Under section 413, the authorization to bring judicial proceedings under sections 407 and 408 shall not constitute a waiver of sovereign immunity for any other purpose, or of the privileges of any Member of Congress under the speech and debate clause, or a waiver of wither the Senate or the House of Representatives, including under article I, section 5, clause 3, or under the rules of either House relating to records and information within its jurisdiction.

Section 414—Settlement of Complaints

Under section 414, any settlement entered into by the parties to a proceeding described in sections 210, 215, 220, or 401 shall be in writing and not effective until approved by the Executive Director. Nothing in this act shall affect the power of the Senate and the House of Representatives, respectively, to establish rules governing the process by which a settlement may be entered into by such House or by any employing office of such House.

Section 415—Payments

Except as provided in subsection (c) of section 415, only funds which are appropriated to an account of the Office of the Treasury for the payment of awards and settlements may be used for the payment of awards and settlements under this act. A prevailing party may recover exclusive compensation for his or her claims from such appropriated funds. Funds in the account are not available for awards and settlements involving the General Accounting Office, the Government Printing Office, or the Library of Congress.

Awards and settlements may not be paid from the Claims and Judgment Fund of the Treasury. Nothing in this act authorizes the Board, the Office, the Director, or a hearing officer, without further authorization, to direct that amounts paid for settlements or awards be paid from official accounts of the employing office. This act does not affect the power of each House to determine how settlements or awards shall be paid.

Subsection (b) provides that except as provided in subsection (c), there are authorized appropriations of such sums as may be necessary for administrative, personnel, and similar expenses of employing offices which are needed to comply with this act. These expenses could be such items as funding management side labor negotiations under section 220. These expenses are costs of adhering to the act, but not costs of complying with adjudicative decisions remediating violations, which are addressed in section 415.

Under subsection (c), funds to correct violations of the Americans With Disabilities Act and the Occupational Safety and Health Act may be paid only from funds appropriated to the employing office or entity responsible for correcting such violations.

Section 416—Confidentiality

A principal distinction between the administrative dispute resolution proceedings conducted under this act and the proceedings in district court authorized under section 408 is the confidentiality of the administrative proceedings. Under this section, all counseling, mediation, and hearings are confidential. The record developed in the hearing and the decisions of hearing officers and the board may be made public only for purposes of judicial review under section 407. This Requirement of confidentiality does not preclude the Executive Director from disclosing to committees of Congress information sought; however, such information shall remain subject to the confidentiality requirements of this section.

Final decisions entered under section 405(g) or 406(e) shall be made public if it is in favor of the complaining covered employee, or in favor of the charging party under section 210, or if the decision reverses a decision of a hearing officer which had been in favor of a covered employee or a charging party. The Board may make public any other decision at its discretion. Nothing in the act prohibits the employing office from making public a final decision in its favor.

Title V—Miscellaneous Provisions

Section 501—Exercise of Rulemaking Power

This section provides that sections 204 and 401 and the rules issued pursuant to them are an exercise of the rulemaking power of the House of Representatives and the Senate and shall be considered part of the rules of each House. These rules shall supersede other rules of each House only to the extent that they are inconsistent with them. The House and the Senate each retain their constitutional rights to change these rules (insofar as they relate to such House) at any time, in the same manner, and to the same extent as each House may change its other rules.

Section 502—Political Affiliation and Place of Residence

This section permits employing offices to consider the party affiliation, domicile, or political compatibility with the employing office of an employee as referred to in subsection (b) of this section with respect to employment decisions. The term employee here means an employee on the staff of leadership offices, committees and subcommittees, employees of the staff of a member, an officer of either House or a congressional employee elected or appointed by the House or Senate and applicant for these positions.

Section 503—Nondiscrimiantion Rules of the House of Representatives and Senate

This section provides that the Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives retain full power, in accordance with the authority provided to them by the Senate and the House of Representatives, with respect to the discipline of members, officers, and employees for violating rules of the Senate and the House of Representatives on nondiscrimination in employment.

Section 504—Technical and Conforming Amendments

This section amends the Government Employee Rights Act so that it remains in effect for certain Presidential appointees and for certain State employees, and repeals the remaining sections of the act as of the date this act takes effect.

Section 505—Judicial Branch Coverage Study

This section requires the judicial conference of the United States to prepare a report by the Chief Justice to Congress on the application to the judicial branch of the 11 laws made applicable to Congress by this act. The report is to be submitted by December 31, 1996, and shall include any recommendations the Judicial Conference may have for legislation to provide to employees of the judicial branch, protections, and procedures under these laws, including administrative and judicial relief, that are comparable to that provided to congressional employees under this act.

Section 506—Savings Provisions

This section provides a method for the transition from the previous dispute resolution processes under which congressional employees were covered to the process established by this act. The purpose of this section is to ensure that claims that are in the process of being resolved are not extinguished, and that they will be adjudicated under current law.

Section 507—Severability

This section provides that if any provision of this act is held to be invalid, the remainder of this act shall not be affected.

Mr. GRASSLEY. I yield the floor.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER (Mr. CRAIG). The Senator from Ohio.

Mr. GLENN. Mr. President, I stated a few moments ago I hope that our colleagues who are watching in their offices or staffs working in the offices will get interested Senators who have amendments to propose—and I would add that they are all on the Democratic side—let us get them over here because we are going to be time limited on consideration of this bill as far as time for amendments. The majority leadership has indicated, as I understand it, a desire to close out this bill at 7 o'clock tomorrow evening if at all possible.

Now, granted, considering that we also have our respective parity caucuses tomorrow which takes us out of the Senate Chamber here from about 12:30 to 2:15, we lose that time. It means that we are going to be very hard pressed to consider all the amendments we have on the list by that time. So I would urge my colleagues to get their amendments over here and let us get debating on them and so we can get them all considered. I would hate to see anyone get closed out tomorrow night with not enough time on the Senate floor to consider their amendments.

Mr. President, in the opening days of the 104th Congress I think we can accomplish a reform that is long, long overdue. We can finally eliminate the congressional double standard under which we have enacted laws that apply to everyone but ourselves.

Now, by enacting laws for others and then exempting ourselves, we have done great damage to the public perception of Congress.

When I go back home and make speeches in Ohio and open it up for questions or you remark about the fact that you would like to see Congress covered by the same laws that cover everyone else in this country, laws that address individual concerns, organizational concerns, Government concerns, and so on, but that we want to make those same laws apply to them apply here on Capitol Hill where we have exempted ourselves for many years, I can tell you from personal experience there is nothing guaranteed to get you a rousing ovation any faster than bringing that up as something you want to correct. This has been true for a number of years.

We in Congress I sometimes think do not really understand the real impact of these laws because we do not have to follow them here. And that is an irritant to other people around the country.

Our efforts to apply the law on Capitol Hill go back many years. I stated in my opening statement the other day that back in 1978, just a few years after I came to the Senate, I proposed a resolution to assure that all Senate employees would be protected against employment discrimination. I referred then to Capitol Hill being the last plantation and incurred the ire of some of my colleagues for that remark at that time. The resolution did not pass. It is only in just the last few years that we have finally enacted some substantial legal protection for Senate employees. So we are not quite as bad off as we were back then in 1978. Our employees

are now covered under the civil rights laws and certain other employment laws, and they can take their cases to the U.S. Court of Appeals.But despite this progress, what we still have is a unacceptable. It is a patchwork quilt of coverage and exemptions here on Capitol Hill. And it has not been easy to solve this problem.

As I have often said, we should apply the same laws to ourselves as we apply to the private sector. But there is a difference here on Capitol Hill compared to businesses in the rest of the country. That is, we have the concerns of our Members—and they are legitimate concerns—who believe that the Constitution requires us to preserve substantial independence of the Senate and the House of Representatives. That is not just because it is a personal preference or an ego matter with those particular Members. In the private sector these laws are normally implemented by the executive branch and the judicial branch. But there are many Senators—and this is not the prerogative of one side or the other—there are many Senators, both Democrats and Republicans, who have expressed genuine concern through the years about politically motivated prosecutions that might result if we ignore the principle of separation of powers as we apply these laws to the Congress.

I think everyone should understand that concern about separation of powers has probably been at the heart of the delay, of why legislation in this regard has not been considered more seriously through the years. I think we have taken care of it in this bill. The separation of powers is very, very real. It is in the Constitution. When one branch of government gains ascendancy over another, or authority over another branch of government, it is a very serious matter. Many of our Members through the years have been very concerned about this.

Last year, in a meeting with our then majority leader, Senator Mitchell, he asked me to work on a bipartisan solution for this. In the Governmental Affairs Committee we had as a starting place the very excellent bill introduced by Senators GRASSLEY and LIEBERMAN. Then, together with those two Senators and other Senators from both sides of the aisle, we worked hard to reach a solution. I think we succeeded with this bill. We included even stronger applications of the laws to Congress and we also included the text of that constitutional independence, that separation of powers that I just mentioned. Our legislation won broad bipartisan support, but unfortunately it was blocked on the Senate floor in the closing days of the 103d Congress.

So I am particularly gratified that the Congressional Accountability Act of 1995 is modeled closely on that proposed legislation from last year. Also, our new minority leader, Senator DASCHLE, introduced our congressional accountability legislation from last year. He did that the other day. But that is not the vehicle that we are on here today. That proposed legislation by Senator DASCHLE included the gift ban and lobbying reform, which we dealt with to some extent on the floor the other day, as additional amendments to this bill that just covers congressional coverage.

So, I am pleased our solution to congressional coverage was introduced as a separate bill as part of Senator DASCHLE's comprehensive congressional reform proposal. But regardless of that, we have strong bipartisan support, I believe, for this bill.

Let me urge once again—I will break in the middle of my comments here to urge any of my colleagues who have amendments to this bill to come to the floor. Tomorrow we are going to be very short of time to consider all of the amendments. I urge any of the staff or any of the Senators who are watching these proceedings in their offices to, if at all possible, get their amendments over here to the floor so we do not find ourselves in a time shortage tomorrow afternoon, because it is my understanding the majority leader has indicated it is his intent to end consideration of this bill by about 7 o'clock tomorrow evening.

Let me give a little more background on this legislation. Though Congress has taken strides in recent years to apply antidiscrimination and employee protection laws to its employees, there is a patchwork of coverage that remains that allows certain exemptions to these laws and permits different applications to different employees. This has helped create the impression among many citizens that Congress exempts itself from the same employment and antidiscrimination laws that it applies to the general public and to other entities of government.

There have been a number of statements. People have commented on the fact that on November 8 the people of this country sent a message they did not want business as usual anymore. I think that was a generally accepted message that was received here on Capitol Hill. But there is another aspect of this, too. We apply laws to the rest of the country and the citizens of this country in their places of employment or their businesses or their organizations and we say, in all fairness, here is what you have to do. Here is what the Federal Government says. Whether it is civil rights or whatever, we say this is the way it is going to be because it is right for our people. Repeat, ''right for our people.'' We base our legislation on that, what is right for our people. Are our people out there being dealt with fairly by their employers? By their Government? By their local governments? By whatever we are passing legislation on here? But at the same time we say what is right for workers out there, what is right for employees out there, what is right for people working in communities, is not necessarily right for those working on Capitol Hill. So we do not cover them. We exempt them.

What kind of possible justification can there be for exempting what is right for everybody else in this country? Regardless of whether we are treating ourselves differently, is it right for our employees that they have the same protections of employment rights? Of organizational rights? Of whatever other rights we insist on giving to everybody else in this country and yet we say we do not want to give our own people that same coverage? We do not want to deal that fairly with our own employees here on Capitol Hill? That is just flat not right.

So I bring this down not just to the perception of what other people say around the country, or the perception that Congress exempts itself and so we are somehow above the law, but let us bring it down to this. Is it right for our people or is it not right for our people who work for us right here on Capitol Hill to have the same protections that everybody else here in this country has? Is it right? To me that is the most powerful argument for passing congressional coverage.

We can say the perceptions are out there that we are dealing differently and so the people do not like that—but is it right that our people here on Capitol Hill, the people who man the elevators and the Government Printing Office and everything else around here that goes to support congressional action—is it right that they get the same protections as other people around this country? The answer to that has to be that it is right. And that is the reason why I think we have a lot of bipartisan support for this legislation.

Congress has responded in the last few years to the call for a uniform application of employment and antidiscrimination protections to our employees. We made some moves. A Bipartisan Task Force on Senate Coverage, which was established in 1992 in the 102d Congress, and the Joint Committee on the Organization of Congress, which was also created in 1992, both proposed recommendations for congressional compliance with employment laws. Numerous witnesses before the joint committee and in hearings of the Senate Governmental Affairs Committee expressed the sentiment that exemptions for congressional coverage had to end. The time had finally come.

There were several significant pieces of legislation introduced in the 103d Congress that drew from the work of the joint committee and the Task Force on Senate Coverage. I had a bill in. It was a Glenn substitute to H.R. 4822, which followed action taken by the Senate Rules Committee on a substitute version of S. 1824, which contained sections on congressional coverage. There was other action by the Governmental Affairs Committee on S. 2071, which is substantially similar to the substitute to H.R. 4822 plus overwhelming passage by the House of its version of H.R. 4822.

Senator Mitchell sought unanimous consent that the Senate proceed to the consideration of my substitute to H.R. 4822, as modified by a managers' amendment, on October 6, 1994. But there was objection to proceeding. Senator LOTT objected to the motion to move to consideration of the bill and this Republican objection prevented any further consideration of the measure in the 103d Congress.

S. 2, the Congressional Accountability Act, is substantially—almost identical. It is very similar to the managers' amendment to the substitute to H.R. 4822 that was brought before the Senate at the end of the 103d Congress, as well as the congressional coverage language that is part of the current leadership congressional reform package, which was S. 10, that we have already dealt with a couple of days ago.

Just a little short summary statement of what is provided in the legislation today. S. 2, the Congressional Accountability Act, would apply a number of Federal workplace safety and labor laws to the operations of Congress. The bill also provides a new administrative process for handling complaints and violations of these laws. I had not mentioned that in any detail before, but that is a very key part of this legislation and addresses the difficulties that Members have had dealing with this separation of powers through all of these years, which has been the basic reason why legislation has been held up.

I do not quarrel with those concerns. They are very real concerns. In other words, if you had an administration so inclined and they wished to go into a super enforcement of OSHA or clean air or whatever the bill was, and you wish to apply some sanctions to Congress in return for getting something else that a President wanted sometime, would they do that? I think those of us who have been around here for a while have seen some pretty politically motivated executive branch officials who just might take such action against the legislative branch. I do not think that would be commonplace, but should we even set up in law the possibility that that might happen?

So the second part of what I just read, as a summary: The bill also provides a new administrative process for handling complaints and violations of these laws, which is a key toward dealing with this problem of separation of powers. We set up a separate process by which people can bring complaints about how they are being dealt with. That is a very key part of this legislation, and something that is different from most of the proposals that occurred back through all of these years. I may run through some of the major provisions.

First, in the application of workplace protection and antidiscrimination laws, S. 2 would apply to several Federal laws regarding employment and the operation of legislative branch offices and provide an administrative process for handling complaints and violations—provide an administrative process for handling complaints and violations—a key part of this legislation.

The following laws would be applied to legislative branch employees. First, under antidiscrimination laws, title VII of the Civil Rights Act of 1964 would apply; the Age Discrimination in Employment Act of 1967, title I; Americans With Disabilities Act of 1990; Rehabilitation Act of 1973; and under public services and accommodations under Americans with Disabilities Act, title II of the Americans with Disabilities Act of 1990, which prohibits discrimination in Government services provided to the public; and title III of the Americans with Disabilities Act of 1990.

Workplace protection laws are very important. Why should we exempt our people in those areas of workplace protection laws? Are we a factory? No, we are not. But should we protect those people here on Capitol Hill who work and have some concerns about their safety? Workplace protection laws and fair labor standards: Should they be protected? How can we say that they should not be protected? So under workplace protection laws, we have the Fair Labor Standards Act of 1938, concerning the minimum wage, equal pay, maximum hours, and protection against retaliation, regulations which will be promulgated to track the executive branch regulations.

These regulations will take into account those employees who work irregular schedules or whose schedules depend directly on the Senate which, as we all know, is an irregularly scheduled body at best. Also, under workplace protection laws; OSHA, the Occupational Safety and Health Act of 1970; the Family and Medical Leave Act of 1993; the Employee Polygraph Protection Act; and Worker Adjustment and Retraining Act, which requires a 60-day notice of office closings or mass layoffs—you might say we are not a factory, that we do not have to give 60-day notice. But we do have people working for us here on Capitol Hill, such as the Government Printing Office and some others, that should have the same protections that people out there in industry have because they are performing at least a semi-industrialized function for us here on Capitol Hill.

The Occupational Safety and Health Act of 1970, Family and Medical Leave Act—I read these before—Employee Polygraph Protection Act, Worker Adjustment and Retraining Act, the 60-day notice that I just mentioned; and another one, the Veterans Re-Employment Act, which grants veterans the right to return to their previous employment with certain qualifications if reactivated or if they are drafted.

Under labor-management relations, the Federal Service Labor-Management Relations Statute of 1978, which applies to personal staff, committees, or other political offices, would be deferred unless rules are issued by the new Office of Compliance. We expect that Office of Compliance to get into operation just as quickly as possible after this legislation is passed.

Who are covered employees? The compliance provisions for the preceding laws would apply to staff and employees of the House, of the Senate, the Architect of the Capitol, the Congressional Budget Office, the Office of Technology Assessment, and the newly created Office of Compliance itself. Congressional instrumentalities, as they are called under that title—instrumentalities are such organizations as the General Accounting Office, the Library of Congress, and the Government Printing Office—will be covered under some of these laws. But a study will be ordered to discern current application of these laws to the instrumentalities and to recommend ways to improve procedures.

This was necessary, at least in part, because some of these instrumentalities had already taken action some years ago to make some of these laws apply to their own operations. So the General Accounting Office has taken certain actions that the Library of Congress or the Government Printing Office has not taken. And so, rather than just saying we set down in concrete mandates for all of these different organizations, we felt it was better to make a transition period where we would have a study to discern current application of these laws to the instrumentalities and to recommend ways to improve procedures.

What are the protections and the procedures for which people might seek remedy? The bill provides the following five- step process, which is similar to some current Senate procedures for employees with claims of violations of the Civil Rights and Americans with Disabilities Act and employment discrimination laws, for violation of family and medical leave protections, for violations of fair labor standards, violations of laws regarding polygraph protection, plant closing, and veterans reemployment violations. If there are concerns in those areas and an individual or individuals wish to file a complaint, they would go through a several-step procedure.

The first step will be they would be required to go through counseling, which could last up to 30 days and must be requested within a 6-month statute of limitations.

If that does not take care of things, if you cannot counsel people out of this into an acceptable solution, then you go into step two, which is a mediation service. That, too, can last for 30 days, and must be pursued within 15 days.

Let us say that the aggrieved party, or the person who feels they have been aggrieved, feels at that point they have not been dealt with fairly. They have been through counseling and mediation. Step No. 3 they could take, if the

claim cannot be resolved, is then a formal complaint and trial before an administrative hearing officer. That would be the next step.

At that point, if the person still says, ''I don't feel I've gotten justice here, so I want to go ahead with this thing,'' there would be another step. After the hearing, any aggrieved party may still appeal to the Office of Compliance's board of directors.

So at that point we are up to a four-step process—counseling, mediation, and the administrative hearing officer can still request that this go before the board, the Office of Compliance's board of directors. Even at that point, after all these four steps, if a person feels, no, I feel I still have not received my due or have not received a fair shake, then they can take it outside to the U.S. Court of Appeals for judicial review.

I think that gives the employees here on Capitol Hill tremendously increased protection. The bill would allow employees to bring suit in Federal district court. Let me explain this a little bit. I mentioned that five-step process. Another option is that if the employee did not wish to go through that whole process of counseling, mediation, the hearing officer, the board, and so on, the person could say, OK, after that mediation step—just the mediation step now, counseling and mediation—at that point the aggrieved employee could start up a separate track and go directly outside to the U.S. Federal district court, rather than proceeding to an administrative hearing. The district court remedy would include the right to a jury trial. The option to seek district court redress could occur only after an employee went through the counseling and mediation process. That is required, whichever track you want to go through—the counseling and mediation process.

Then you can decide whether you want to go up the first track I went through, the five-step process. Or you might say: I want to go outside, I am going directly to district court. That is in there because that is what any businessman or organization across this country can do. If they have a problem and they do not get satisfaction from the agency or the Government entity involved, they could go directly to district court and file suit. So we give our own employees here the right to do the same thing if they feel they are not being dealt with fairly or they prefer not to go up that more lengthy in-house procedure before they could, as a last step, go to the U.S. Court of Appeals. So there is a dual track they can go through, and it is up to whoever would be filing the charge.

With respect to discrimination based on race, color, religion, sex, or national origin, remedies include reinstatement, back pay, attorneys' fees, and even other compensatory damages. That matches what happens out in the world, the business world or organization world, out there across the country.

For claims under the ADA, title II and title III relating to discrimination in Government services, we provide the following steps: A member of the public may submit a charge to the general counsel of this Office of Compliance. The general counsel could call for mediation. The general counsel may file a complaint, which would go before a hearing officer for a decision. There could be an appeal to the board and, once again, there could be an appeal to the U.S. Court of Appeals.

For violations of OSHA, the bill provides the following procedures: Employees would make a written request to the general counsel, again, to conduct an inspection. The general counsel will not only conduct the inspection but will also inspect all facilities at least once each Congress as a normal course of events. We may not have the expertise to do that, so they would most likely use detailees from the Labor Department, who are familiar with OSHA regulations and in administering OSHA law out in the civil sector. They could give advice in this area and even conduct inspections at the request of the general counsel.

Pursuant to that, citations may be issued by the general counsel and disputes regarding citations could be referred to a hearing officer once again.

Appeal of hearing officer decisions could go to the board. The board may also approve requests for temporary variances. And, finally, an appellate court review of decisions of the board would be in order.

There would be a 2-year phase-in period for the OSHA procedures, to allow inspection and corrective action. A survey also would be conducted to identify problems and to prepare for unforeseen budget impact. Some of these corrective actions might be expensive. So you cannot just say that we will put something in without considering the budget impact here on Capitol Hill. Penalties would not apply under the OSHA provisions, because this would result only in shifting among accounts in the Treasury. In other words, you are going to find somebody on Capitol Hill on OSHA violations and the money would go from there to Treasury, transferring it from one pocket to the other in the Treasury accounts.

The following process applies to violations of collective bargaining law. First, petitions will be considered by the board and could be referred by the board to a hearing officer. Charges of violations would be submitted to the general counsel. Once again, they will investigate and may file a complaint. The complaint would be referred to a hearing officer for a decision, subject to appeal to the board. Negotiation impasses would be submitted then to mediators, and next a court of appeals review of board decisions will be available, except where appellate review is not allowed under the Federal service labor-management relations statute.

''Employees who are employed in a bona fide executive, administrative, or professional capacity'' are not covered by the minimum wage and maximum hours provision. Interns are also exempted. In addition, compensatory time may not be offered in lieu of overtime. That does not apply to those I just mentioned—executive, administrative, or professional capacity people. Otherwise, we have to abide by the same laws that apply to everybody else across this country.

Otherwise, remedies for violations of rights of all other employees under the FLSA will include unpaid minimum or overtime wages, liquidated damages, attorneys' fees and costs.

Let me briefly address the Office of Compliance, because they have a great deal of authority and would be a very important part of this whole operation. S. 2 will establish an independent, nonpartisan Office of Compliance to implement and oversee the application of antidiscrimination worker protection laws. Under rulemaking, the office will promulgate rules to implement these statutes. In other words, normally we pass legislation here on the Hill, and it goes over into a branch or agency of Government, and that branch or agency then writes the rules and regulations that apply all across the country. That has been one of the hangups, because of this separation of powers through all these years. So we basically gave that authority for rulemaking to this Office of Compliance. The office will promulgate rules to implement the statutes. Congress may approve and change, by joint resolution, rules issued by the office. But if Congress fails to approve rules by the effective date within the legislation, then applicable executive branch rules would be applied.

Rules would be issued in three separate sets of regulations: One, those that apply to the House of Representatives; two, those that apply to the Senate; and, three, those that apply to joint offices and the instrumentalities of the Congress that I mentioned a moment ago. Rules for each Chamber would be subject to approval by that body. Rules for the Senate would be approved by the Senate. Rules for the House would be approved by the House. I would presume that most of those will be the same. I do not think there would be much difference from one body to the other, or to grant the force and effective law by joint resolution of the Congress, if that was required.

Rules for joint offices and instrumentalities would be subject to approval by concurrent resolution. This Office of Compliance will be a very important office for Capitol Hill. It will be something new and different.

Membership of this Office of Compliance: The office will be headed by a five-member board that will be appointed to fixed, staggered terms of office. The board will be appointed jointly by the Senate majority leader, the Senate minority leader, the Speaker of

the House, and the House minority leader. Membership may not include lobbyists, Members, or staff except for Compliance Office employees. Its chair will be chosen by the four appointing authorities from within the membership of the board.

Under settlement and award reserves: Payment for awards of House and Senate employees will be made in a new single contingent appropriation account. All settlements and judgments must be paid from funds appropriated to the legislative branch, not from a Government-wide judgment account. In other words, it will be solely administered here on Capitol Hill. Once again, concern about the separation of powers dictates that. There will be no personal liability on the part of Members.

Mr. President, that is a thumbnail sketch in some detail here, a rundown of what this bill provides and how it will be administered and how it would take care of some of these problems of separation of powers that have plagued consideration of this bill for all these years.

So, Mr. President, I would only close by saying we do not plan to make more lengthy speeches this afternoon. We have gone through some of these things before. I thought it was worthwhile going through them again, since we have gone through the weekend.

But I urge my colleagues in their offices, or their staffs, if you have an amendment, let us get it over to the floor because the majority leader has indicated a desire to have action wound up on this, terminated by Tuesday evening, by tomorrow evening, at around 7 o'clock.

And I say to my Democratic colleagues, we are the ones that have the proposed amendments to this bill. There are none pending on the Republican side. They were able to convince all their Members to put off their concerns to a later time. That does not mean that I am joining them in that. I think we have every right on the floor here to address whatever concerns Members have and whatever amendments they wish to put on this bill.

I can understand the majority's desire that there be no amendments to the bill, but it has been a rare occasion in the history of the Senate when that has occurred.

But I urge my colleagues on the Democratic side who still have amendments on this to get over here and get them presented, because we are going to fast run out of time tomorrow. If we do not consider some of these this afternoon, then we have a limited time tomorrow morning. We go out for our respective party conferences tomorrow between 12:30 and 2:15, as is our custom. So that means we have a considerable block of time taken out right in the middle of the day and we will be coming back on the floor tomorrow with just a little bit of time left until we reach 7 o'clock tomorrow night. If everyone waits until that time to bring their amendments over, I am afraid some of them will get left out before we wrap this thing up tomorrow night. So I urge my colleagues to get their amendments over here to the floor so that they can have them considered today.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER. The absence of a quorum has been noted. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

Mr. President, after careful consideration of the issues involved, I have determined that I must vote against the Congressional Accountability Act of 1995. I do not expect to persuade others, and there may be no others who will vote against this act. I may be alone.

There should be no mistake about my intentions. I support the goal of this legislation. It is the means for implementing the provisions in the bill to which I largely object. I support holding all Senators accountable for the treatment of their employees. We should and we must evaluate our employees' job performance on the basis of merit, not with respect to race or gender or age or national origin or religion or disability. We should and we must pay our employees fair wages for the work they do. We should and we must provide our employees with a safe environment in which to work. I have been in Congress now going on my 43d year. I have always held to these principles. We should and we must accommodate the disabled and allow employees to take leave when they are blessed with the birth of a child or a family member becomes seriously ill.

Over the past several years the Senate has made considerable progress in this area. Most of the employment laws addressed in the bill before us already apply to the Senate: discrimination laws apply, the Rehabilitation Act applies, the Family and Medical Leave Act applies, the Americans With Disabilities Act applies. I believe I am correct in all of this. This is probably one of the best kept secrets around here and across the country. It will no doubt come as a surprise to the media so many of whom seem much more interested in our institutional failings than in our many achievements.

Furthermore, contrary to popular misimpression, Members are subject to the laws they make in their capacities as private citizens. Members who own businesses or act in any private capacity, must comply with all Federal, State, and local laws applicable to any business owner or citizen. In addition, Members are subject to many laws not applicable to other citizens or private businesses, such as public financial disclosure, including reporting assets and liabilities of themselves, their spouses, and their dependent children. In fact, the requirements and constraints under which Members of Congress live would be considered a outrageous intrusion on individual liberty and privacy in most other contexts. I have no quarrel with any of those requirements.

This bill raises serious constitutional issues with respect to the status and functions of the Senate and of individual Senators.

The bill leaves unresolved a whole array of practical and administrative issues that inevitably will impinge on the Senate's capacity to perform its legislative and other functions. It delegates these issues to a board having a broad and, in fact, unique combination of executive, legislative, and judicial authority encompassing a large number of legal issues in a way that is unprecedented in the Federal Government. As a result, we have in this bill an unknown and unknowable potential for serious dislocation and disruption of the Senate's constitutionally ordained role.

Now, Mr. President, I want to take a few moments to explain these problems in greater detail.

CONSTITUTIONAL ISSUES

THE BICAMERAL PROBLEM

This legislation establishes a bicameral office and a bicameral board with plenary powers over all of the employment laws made applicable to the Congress and to other legislative branch entities. This structure, I believe, is fundamentally inconsistent with the bicameral nature of the Congress ordained in the Constitution. Proponents will be quick to point out that the legislation provides for separate sets of rules for the House, Senate, and the remainder of the legislative branch. But this is no real solution to the basic problem. If this legislation is enacted, we will have a single bureaucracy making policy for the entire legislative branch, however that policy may be packaged.

The Constitution indisputably establishes a bicameral legislature. The Framers intended to create two separate and independent Houses of the Congress as integral components of their overall plan of shared and divided power. The Senate and House, by design and precedent, have unique and distinct roles within the constitutional structure. The discharge of the Senate's unique responsibilities requires independence. The intent of the Framers in this regard is obvious in the plain words of the Constitution.

Article I, Section 5 of our Constitution provides that each House may determine the rules of its proceedings. Two principles are expressed in this provision. First, each House is accorded the constitutional right of self-governance with respect to its internal operations. Second, neither House has the authority to govern the other House or to determine the rules of the

other House. The bill before the Senate today is an affront to those constitutional principles. If this bill is enacted, the Senate's constitutional power of self-governance will be seriously impaired. And the Senate's protection from interference by the House of Representatives will begin to erode. Conversely, the same is true with respect to the House. This is a slippery path we must not travel.

SEPARATION OF POWERS

Articles I, II, and III of the Constitution establish a government consisting of three independent branches. The Framers of the Constitution separated the judicial, executive, and legislative functions for the purpose of limiting the power of any one branch, while providing distinct duties to each branch. This arrangement of distinct branches, with different but interdependent powers, is the keystone of the constitutional system for checking arbitrary power. As The Federalist, No. 48, states, no branch of government may ''possess, directly or indirectly, an overruling influence over the others, in the administration of their powers.'' This constitutional principle is trampled in the bill before the Senate today. It permits the judicial branch to intrude on and thereby directly interfere with the Senate's administration of its powers. We should not so lightly allow the erosion of the very concepts that are at the core of our Constitution.

The last judicial statement to address this issue directly, firmly holds against diluting the principle of Separation of Powers. In 1986, the U.S. Court of Appeals for the District of Columbia Circuit held that Members of Congress had absolute immunity under the speech and debate clause for personnel decisions concerning positions of employment relating to the legislative process. In *Browning* v. *Clerk, U.S. House of Representatives,* the court stated:

> The speech and debate clause is intended to protect the integrity of the legislative process by restraining the judiciary and the executive from questioning legislative actions. Without this protection, legislators would be both inhibited in and distracted from the performance of their constitutional duties. Where the duties of the employees implicate speech or debate, so will personnel actions respecting that employee.

This is not the first time the Senate has been down this path. In 1985, we passed the Gramm-Rudman bill; our intentions were good, but our means were faulty. Like the bill before this body, the Gramm-Rudman bill failed to respect the constitutional principle of Separation of Powers. It delegated executive powers to a lesser legislative entity and it retained the Senate's ability to remove an executive officer. But our error in passing that law was soon rectified. In 1986, 1 year after Gramm-Rudman was enacted, the Supreme Court declared it to be unconstitutional. If enacted, this bill, which I think is similarly flawed, may be likely declared unconstitutional, but only after the Senate has expended considerable sums establishing the bicameral Board and eliminating the current Senate Fair Employment Office.

Let me explain more specifically how this bill permits unprecedented judicial intrusion into the Senate's affairs. Under this bill, a Senate or other congressional employee need not use the dispute resolution and enforcement procedure provided through this new Office of Congressional Compliance. Instead, he or she may file a lawsuit directly against a Member's office in Federal court in the district in which the employee works. In the course of pretrial discovery, a Federal judge could order a Senate employing office to produce documents and other information in the possession of the employing office. The employee is entitled to a jury trial. If the court finds in favor of the employee, it could order the Senate office to submit periodic reports to the court to satisfy it that the problems have been eliminated. The court also could appoint an individual to inspect the Senate offices and to interview Senate employees to satisfy the court that no employment problems reoccur. I submit that this level of intrusion by the judicial branch into the affairs of the legislative branch violates the constitutional doctrine of Separation of Powers, and it impermissibly intrudes on the Senate's constitutional power of self-governance.

The potential for political mischief this provision creates should be obvious. Political opponents and possible challengers with law degrees will be lining up to offer their services as counsel for plaintiffs in such cases.

Moreover, I suggest that this system eventually will lead to a constitutional impasse. It will be only a matter of time before a court issues an order that intimately intrudes on the Senate's powers. At this point, the Senate may very well refuse to comply. Such an impasse will be unresolvable. The Supreme Court may order the Senate to comply, but it is within the constitutional powers of the Senate to refuse. What is the compelling reason for passing a law that invites such a constitutional showdown, particularly when we have a workable system in place?

POWER OF THE BOARD

I have other concerns about this bill. It grants unprecedented plenary powers to a bicameral board. The Board will be the equivalent of the Equal Employment Opportunity Commission, the Labor Department, the Federal Labor Relations Authority, the Occupational Safety and Health Administration, and other Federal agencies with enforcement powers. It will have the authority to submit legislation, to interpret laws, to enforce the laws against the Senate, and against the offices of Senators. Never has this body granted so much authority over its operations and powers to an outside entity.

ADMINISTRATIVE AND PRACTICAL PROBLEMS

COLLECTIVE BARGAINING

Mr. President, this bill, as I understand it, delegated to the Office and the Board the power to decide a whole range of very complicated and potentially highly political questions with respect to the application of these statutes in particular circumstances in the Senate. Let me just give you a few examples of what we are giving this Board and its associated bureaucracy the authority to do.

The bill extends the rights and protections of the Federal Service Labor Management Relations Act to the Congress. This is the law that provides for collective bargaining in the executive branch of the Federal Government. It should be noted that this statute is substantially different from the National Labor Relations Act, under which private sector employees collectively bargain and have the right to strike. When Congress applied collective bargaining laws to the executive branch, Congress recognized the distinctive character of that branch of the Federal Government and its functions. Thus, Federal employees do not have the right to strike. Nor can unions representing Federal employees bargain about wages. I would submit that the same concern for the special role and function of the Congress should warrant such full and careful consideration as well. Certainly we should not assume in a simpleminded way that the Congress is just like the executive branch or any other institution. But such a measured approach is not taken by this bill, in my judgment.

UNFAIR LABOR PRACTICE EXAMPLES

Let me give some concrete examples of the kinds of policies that will be made by this Board in the area of collective bargaining. The Board will determine what an unfair labor practice is. And what is an unfair labor practice? Under the Federal Labor Relations Act and annotated case law, an unfair labor practice would include the following: Failure to bargain with the union over the effects of layoffs, moving offices from one location to another, reassigning duties of employees, hours of work and break time. Do not be fooled by the argument that most Senate employees will be exempt from these requirements. That is not obvious on its face. In fact, the way this law has been construed in the executive branch, the right to organize and bargain collectively covers all nonsupervisory employees with minor exceptions. Senators might ask themselves whether their legislative assistants are supervisory employees by any credible standard. How may we suppose the Board will decide?

The Board also will define the scope of appropriate bargaining units. The questions here are even more significant from a institutional perspective:

First, will the bargaining unit be confined to a single Senate office?

Second, will it encompass all Senate offices?

Third, will it encompass all Senate and House offices?

Fourth, will it include all employees with similar jobs in the Senate, in both Houses, or throughout the legislative branch?

On all of these questions, the legislation is silent other than to say that the Board will make these decisions. Depending on the outcome, it could well be that we will have unions representing all legislative assistants and other classes of employees in the Senate—or in the Senate and House.

Remember, to be recognized as a representative of the bargaining unit, the labor organization only has to win a majority of the votes. That means that if a majority of the legislative assistants in the Senate or in the House or in both Houses of Congress vote to have a union, then that union is the sole bargaining authority for all legislative assistants in the Senate or in the House or in both Houses of Congress. Senators will no longer have the ability to structure and manage their staffs consistent with the unique needs of the States which they represent without first consulting with union representatives. And who will bargain on behalf of management? Individual Senators? The Senate leadership? The joint congressional leadership? The Board will decide.

JOB CLASSIFICATION AND DEFINITION

The Board and its bureaucracy also will serve, in effect, as the Wage and Hour Division of the Department of Labor. In that capacity, it will decide the following kinds of issues:

First, which employees must be paid time-and-a-half for overtime;

Second, what kinds of record keeping must offices maintain;

Third, whether or not the Board and its bureaucracy has the right to inspect detailed payroll records;

Fourth, what positions are comparable for purposes of the Equal Pay Act? Are the tasks performed by a legislative assistant who works for a rural Congressman the same as for a legislative assistant who works for a Senator from the most populous State, for example?

These are important decisions which go to the heart of a Senator's ability to represent those who sent him to the Senate and should not be left to the unbridled discretion of an unelected and largely unaccountable Board and its bureaucracy.

FUNDING ISSUES

And finally, Mr. President, there is the issue of cost. It is argued that a bicameral board and bureaucracy will somehow be more efficient and cost-effective. I frankly believe that such optimism is based on little more than a pious hope. If our experience with Government organizations shows us anything, it is that they tend to expand and to cost more than what is originally estimated. I have not the slightest doubt that the cost of this new bureaucracy, when all is said and done, will far exceed the expenses of operating the Senate Office of Fair Employment Practices. The annual operating cost of the Office of Senate Fair Employment Practices is approximately $800,000. The bureaucracy envisioned in this bill will inevitably be several times as large and correspondingly more expensive to the taxpayers. For example, section 302 of the bill empowers the Board to appoint an executive director; two deputy executive directors; a general counsel; as many additional attorneys as may be necessary to enable the general counsel to perform his duties; such other additional staff, including hearing officers as may be necessary; and, the executive director may procure the temporary or intermittent services of consultants.

But even if costs were not an issue, even if for the purposes of argument one assumes that this office would achieve administrative efficiency, there is a larger question. At what point do we bend to the political demagoguery of the day and at what price does the Senate surrender its constitutional right of self-governance and its independence from the executive and judicial branches and from the House of Representatives?

One final point about funding, Mr. President. Under this legislation, the director of this new bicameral bureaucracy can hire as many staff, consultants, and inspectors as he wants. Elected representatives, both Members of the House and Senators, will be without authority to review, control, modify, or change any of these financial arrangements entered into on the sole authority of the director.

It is highly irregular to empower the head of a new agency to create its organization and establish its budget without specific authorization and appropriation. Under section 305, one will find the following language:

> Until sums are first appropriated pursuant to the preceding sentence, but for a period not exceeding 12 months following the date of the enactment of this Act—
>
> (1) one-half of the expenses of the Office shall be paid from funds appropriated for allowances and expenses of the House of Representatives, and
>
> (2) one-half of the expenses of the Office shall be paid from funds appropriated for allowances and expenses of the Senate, upon vouchers approved by the Executive Director.

The Appropriations Committee will thus be faced with a staff which is already in place, with a salary structure that has already been determined, with expenses already obligated and a very difficult political situation.

This blank check on the Treasury of the United States is something, Mr. President, that no member of the Appropriations Committee and, indeed, no Member of the Senate should condone. The American people should understand that they are the ones who will be paying the bills for this new bureaucracy; for paying time-and-a-half to congressional employees; and for hiring all of these new attorneys, hearing officers, and consultants. Here is another example of the rhetoric of the day not matching the actions of Senators. The rhetoric is—Let us make Congress live by the laws it passes for everyone else. The action being taken will result in costing American taxpayers millions of dollars and the creation of a brand new bureaucracy.

The exemption from some laws has facilitated the Member's ability to serve his constituents and to do the business of the Nation. The Hill is not a 9-to-5 operation. The Nation's business cannot be confined to normal business hours. Constituent problems do not always occur conveniently within the confines of a normal business day. In order to provide maximum service to our Nation and to the people we represent, we ask our staffs to work long and arduous hours, and we ask them to view their work as public service. Surely this ability to serve will be somewhat compromised if we apply certain of these laws to employees of the Senate and the House. Certainly the cost of providing present services will go up under the requirement that we must pay overtime. Every year we hear complaints about the cost of the legislative branch, and we have repeated efforts to cut the budget of the legislative branch.

I wonder what the folks at the town meetings would say if after the cheering stopped, a Senator would explain that bringing the Hill into compliance with certain laws would mean lessened services to the taxpayer at a substantially greater cost. We will all comply with these laws in our offices, but you, the taxpayer, will get less rapid attention to your needs, and you will have to foot the bill for this poorer service.

I am not at all sure that the cheering would continue. I am not at all sure that the cry for bringing the Hill into compliance with all of these laws would be so popular if the public understood what taking that step would mean in terms of their needs, the services they have a right to expect to receive, and their pocketbooks. But, that is the age in which we live. Anything that sounds good on the surface, we rush to do. Anything which the talk show jockeys can whip up the public about becomes the basis for legislation. Never mind whether or not it is really in the public interest. Just enact something to quiet the latest fad criticism and move on.

Well, I cannot and I will not support a measure which will likely have the effect of shortchanging my constituents in terms of the services my office can provide and which then asks the shortchanged taxpayer to foot the bill.

I congratulate Senator GLENN, who has spent many weeks and months of hard work in the effort to bring this bill to the floor and to improve upon it. And I also compliment his counterpart, Mr. GRASSLEY, for his interest and dedication to the legislation. I have made this statement in keeping with my own views, after the experience of working on this Hill, now, for almost 43

years. My staff and I have always felt that in taking on this job and in taking on the jobs as employees in my office, that we are here to render a public service and we have never felt that this was a 9-to-5 operation. I have always attempted to pay my employees in accordance with their merits and to pay them well and to be liberal in leave time. And we have never felt, anybody on my staff—and I have attempted to set the example for them, that we do not work from 9 to 5. We work until the job is done. If it takes longer we stay here longer because we are in the service of the public. And I do not find fault with others who feel otherwise about it. And there is much good, I am sure, to be achieved in passage of the legislation in many ways. But I have outlined the reasons why I will not vote for it.

As I stated in the beginning, I anticipate that I may be the only one who feels this way about it. I do not come here expecting to persuade anyone else. My feelings are based on my own experience and on my own knowledge of the problems that we confront here and I do not seek to disparage the viewpoints of others who may want to disagree with me.

Mr. President, if I have any time remaining I yield it back and I suggest the absence of a quorum.

Mr. President, I withhold the suggestion.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Ohio is recognized.

Mr. GLENN. Mr. President, Senator BYRD, in his experience here as majority leader, minority leader, repeat majority leader and so on, has an experience level in this body that no one can match. And when he rises and expresses his concerns about things it is of great importance to us because he has studied these things and no one is a greater constitutional scholar on what is provided for, for the Senate and the House, the separation of powers, and making certain that the balance of powers within our form of government remains intact and protected. When he rises to oppose this legislation it is of particular concern to me and I want to just address a couple of the items very briefly here. I do not want to get into a big debate on this.

I would say we have passed, through the years, much legislation that applies all across this country. We did that in the assumption that what we were doing was right. It was right to apply certain protections of workplace conditions and of how people were dealt with out there on safety in the workplace and on wages and conditions of employment and so on. And we applied them all across this land. Some of the arguments the distinguished Senator from West Virginia makes are the same arguments that businessmen across this country have made. They feel they are treating their employees fairly. Yet we impose laws upon them.

We are not without being justifiably criticized, sometimes, here on Capitol Hill. I remember some newspaper articles just a couple of years ago of some of the working conditions in the Government Printing Office. That is an instrumentality of the Congress. They were atrocious. They did not even come close to passing safety and OSHA regulations that we apply all across the country to every other printing plant and every business across this country. So I would just say if it is right that we impose these laws on other businesses across this country, is it not also right that we apply those for the protection of our own employees here on Capitol Hill?

At the same time, I know everyone relates to the situation in his or her own office. What is going to happen in our office on this? Let me say we provide in this legislation that employees who are employed in a ''bona fide executive, administrative or professional capacity are not covered by the minimum wage and maximum hours provision.'' That means, then, that the people who are covered are basically clerical people, people like that in our offices. We can say that even they are required sometimes to work irregular hours. And that is true, they are, just as out in the private industry sometimes people who are temporary employees or something are required to work very irregular hours. Where that is a norm for the conditions of employment in private industry, they can make an appeal from that and get relief from the requirements of the law. That is done on a regular basis by those who have their employees working very irregular hours.

The same way here on Capitol Hill, that would be the province of the board, to issue regulations like that right here if we wish to be exempted from that. If we did not, if our clerical personnel, for instance, and those who normally out in industry would be working a regular shift, say—if they are not exempted by the board then I would say we are treating ourselves, then, just like everybody else in the country. If a person out there running a business has some irregular working hours and applies for relief from that so he does not have to comply with certain regulations, then I think we would do the same thing here. If we find it is not working right we would appeal to the board. In other words, the board would be the authority here. Just as there is an appeals process out there in private industry, we would have our own appeals process here.

But I want to point out that bona fide executive, administrative or professional capacity—they are not covered by these minimum wage or maximum hour provisions. That would cover our LA's, our legislative assistants, who would be considered as professionals. As far as the right to strike, that is prohibited here. I was looking up the language—I did not get it—just before I took the floor. But that is prohibited as it is in other Government activities also.

I would say all we tried to do in this, after all these years of having this objection about the separation of powers—and that is a very real one, and has been a problem for me all those years, too, as it has for my distinguished colleague from West Virginia. He was one who rose many years ago on the floor here and was very concerned about the separation of powers. He brought some of this up a long time ago, and rightly so, because we should not be giving away authority, back and forth, here. So what we did, instead of having the executive branch have the authority to just say, ''OK, we are going up on Capitol Hill and we are going to run a check on OSHA considerations and we are going to do it on our own and we will enforce it by law''—that gets into a very sticky area, as the Senator from West Virginia knows. And it has been one of his main complaints about this.

We set up this Office of Compliance which will set rules that are appropriate to the unique operations of the Congress. They will have considerable authority. But we will have the appeals process, also.

Another area of the board's authority that I think may be misunderstood, and I want to clarify also, is most of the rules for the Congress could probably be approved once the board sees them. The rules and regulations will have to come back for approval. I think most of those can be a joint resolution that applies to both the House and the Senate, probably most of it. If there are requirements, though, for one body or the other to treat itself differently because of the different operation of the House and Senate, then those rules have to be approved by each House regarding their own operations. And if we would deem it necessary here in the Senate to say our operation here is unique to the House and we think the rule here should be applied in a different way and we passed that, and the House passed a different resolution with regard to their operations, then the board would administer those rules for that body according to what that body approved for itself. The Senate rules that applied that the board would administer might not be the same rules of the House as it applies to them. But the board would be administering the rules as approved by each body for its own operations. I was not sure that was clearly understood.

So it gives us the maximum flexibility, I think, and gives us protection for the unique nature of congressional operations, both the House and the Senate, and allows for the peculiar nature of and the unique nature of the activities of both the House and the Senate.

So we try to foresee these things. We may not have done a perfect job on it. Senator GRASSLEY and Senator LIEBERMAN put the bill in last year. We worked together on this. But I think I fairly described how this whole thing

would operate. I do not know if Senator GRASSLEY wants to add anything or not. But that should clarify some of the concerns of my distinguished colleague.

I yield the floor.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Ohio for his consideration of some of the concerns I have expressed and for his explanation.

I have absolutely no doubt whatsoever as to his sincerity and his conscientiousness and his dedication to doing the right thing for and by everyone concerned. As I stated in the beginning, I guess I see this through the perspective of having managed an office here on the Hill for going on 43 years. And I do not expect any other Members of this body to agree with me on this. But I do thank the Senator. I salute him for his dedication and for his tenacity in working as long as he has to bring this legislation to the Senate. This is something that he feels strongly about and I think I heard him speak about many times, even in our party conferences.

So I do not for one moment feel that what I think about the legislation is necessarily right. I approach things, generally speaking, feeling that I can be wrong. But it is pretty hard after 43 years to share a viewpoint that is different from the one that has worked very well, I think, in my office over the years. But I admire the Senator. I like him and am very fond of him.

I hope he will understand that I come to the floor not to engage in a crusade against this bill or to persuade another mind. I simply wanted to state my own views, and that is it. On the next question, I hope we can be together.

I yield the floor, Mr. President.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, without repeating what my good friend from Ohio, Senator GLENN, had to say about our respect in this body for the views of Senator BYRD, I would just simply say that I associate myself very much with the remarks of Senator GLENN. I would like to make some commentary on the issues raised by the distinguished Senator from West Virginia and follow along on what the Senator from Ohio has said. Our intent as we approach the writing of this legislation is to be very cognizant of the separation of powers and constitutional arguments that can be made.

One of the first points that was made is that these laws already apply to Congress, or at least some of these laws apply to Congress. As to those that do not apply to Congress, Senators have a responsibility to make a conscientious effort to make sure that the principles of the law are applied out of a matter of fairness to those employees that are working for Congress as an institution or working for individual Senators.

The laws that now apply to Congress do so in a way that is, in a sense, in name only. I have been involved with the application of some of these laws because I had what I considered a major victory at the time to get civil rights laws applied to Congress in the fall of 1991. But the remedies that we provided were not the same remedies for Hill employees that private-sector employees have.

So I say that the law applies kind of in name only. It is on paper. But the absence of the identical remedy for employees of Capitol Hill makes current coverage inadequate.

The agency that we set up here, the Office of Compliance, is a single agency that does not make policy for the two houses of Congress. No rule can be adopted without the concurrence of the membership of the body to whom the rule applies, and there is no infringement upon the independence of the Senate on the one hand, the independence of the House on the other hand, or the constitutional principle that each House can adopt its own rules.

There is a separation of powers. But constitutional analysis is not so general as to say that the Supreme Court will decide a case based upon an argument that the separation of powers has been violated. The claim must be more specific than that.

In the case law, the Supreme Court refuses to strike down legislation on the broad argument that it somehow violates constitutional separation of powers. Specific constitutional provisions must be cited, notwithstanding the novelty of the arrangement that we have set up in this legislation. The Supreme Court's decision upholding the constitutionality of the Sentencing Commission and the independent counsel—these have been court cases within the last 5 or 6 years—demonstrates this point.

In my opening statement, I mentioned that executive branch employees have some of the same rights that we want to now give to Hill employees under existing legislation we have already applied to the private sector.

Well, when an executive branch employee's rights are in question, these rights are protected by the judicial branch. It is as simple as this: no one has ever found judicial enforcement of the rights of executive branch employees to be unconstitutional. So my good friend, who spoke eloquently on this point, said that the judicial branch should not enforce a decision against a Member of Congress or Congress as an institution because it violates separation of powers. Nobody raises that argument when the judicial branch enforces an executive branch employee's right under existing law; so why should that be a problem for applying those laws to us? An independent, impartial person, or the institution of the judiciary protects the rights of executive branch employees. No one questions this.

And there has never been an impasse between the executive branch and the judiciary when any of these cases has been decided. When President Nixon was ordered to comply with a court decision during Watergate, pure and simple, he did. If the President of the United States can obey a judge's decision saying that the most powerful executive in the entire world must obey a court order, then why would we as individual Members of Congress have any question whatsoever if we have done something wrong and the independent judiciary or any one of its judges made a decision and issued an order enforced upon a Member of Congress.

The only way, then, that there could be an impasse between Congress and the judiciary is if Congress refused to comply with the Court order interpreting the Constitution. It is one thing for opponents of this legislation to argue that Congress should be above the law, and, of course, I disagree with that; but it is breathtaking to argue that Congress should be above the Constitution.

The board's determinations regarding bargaining units and covered employees under collective bargaining and overtime will not take effect until Members of Congress themselves approve the regulations. And I have faith that for all the reasons that have been expressed by the Senator from West Virginia that Congress is different, long hours are expected, that when we deal with these regulations, my colleagues will act to preserve their constitutional responsibilities. The board is unelected, but the board that governs the Office of Compliance that will write the regulations is not unaccountable, and it is not uncontrollable.

The bill addresses separation of powers as well, by providing for legislative branch, rather than executive branch enforcement. The bill was crafted to take into account constitutional issues, and I believe the courts would permit Congress to exercise these powers against its own activities. Moreover, the bill expressly prevents waiver of any congressional prerogative.

One last point that I want to make is that there was reference to the Browning case, decided by the D.C. circuit in 1986. That was a case where there was a discharge of an official reporter at the House of Representatives, and it was challenged by that reporter. The Court held the congressional defendant to be immune under the speech and debate clause. The standard was ''whether the employee's duties were directly related to the due functioning of the legislative process,'' and ''if the employee's duties are such that they are directly assisting Members of Congress in the discharge of their functions, personnel decisions affecting them are legislative and shielded from judicial scrutiny.''

If Members heard during the previous speeches that Browning may effect what we can do here on congressional coverage to protect our employees because they might be an extension of our legislative duties, under the speech and debate clause, you should observe that the Supreme Court, 2 years later,

in 1988, issued an opinion that requires Browning to be revisited. And here the Court was deciding what is referred to as the Forrester case. This case unanimously held that a State court judge did not have judicial immunity in a suit for damages brought by a probation officer whom that judge had fired. The Court explained that in determining whether immunity attaches to a particular official action, it applied a—this is their words—''functional approach.'' And then, ''Under that approach we examine the nature of the functions with which a particular official or class of officials has been lawfully entrusted, and we seek to evaluate the effect and exposure that particular forms of liability would have on the appropriate exercise of those functions. Officials who seek exemption from personal liability have the burden of showing that such an exemption is justified by overriding considerations of public policy.''

Thus, it is ''the nature of the function performed, not the identity of the actor who performed it, that informs our immunity analysis.''

So you can see that in Forrester, the Supreme Court is telling us that the Browning decision is not as compelling as it was for the 2 years before the Forrester case came before the Supreme Court.

I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. Mr. President, everything sounds so good, it is almost hard to believe it. The general public out there believes that we are applying the same rules to our own institution as we apply to them. That is not true. That is not true. In the Americans With Disabilities Act, for instance, we excluded title II. We hear this rhetoric that we put that in. We excluded title II. Title II is buildings and transportation. You wait until we have to change the other subway. That is fine, but the last one cost $16 million. I wonder what the others are going to cost. That is not coming out of my pocket or the Senator's pocket; it is coming out of the taxpayer's pocket.

The congressional exemptions in the statutes as provided by this bill will do a lot of things. If the same laws are applied to Congress as to the private sector, the statutory provisions must be the same. The statutory provisions are not the same. The remedies available to employees must be the same, the regulations must be the same, and the provisions for judicial enforcement and review must be the same as it applies to the private sector. But, no, we do not do that.

We do not do that. No, we do not.

The Republican bill creates a special agency, creates a special agency, to enforce selective provisions of law to the Congress. We set up a special agency. We do not just say that the provisions that apply to the small employer down there, the small businessman, will apply to us. We do not do that.

Under the bill, Congress will have its own special regulations. We set up our own special regulations. Separation of powers, sure. But we are out there telling our general public, our constituents, that we are going to apply the same thing to us as we apply to them. Now, I may vote for the bill, but I am going to tell you one thing, I want the general public to know what we are doing and what we are not doing.

Congress will have its own special regulations that may vary for each House. We may not have the same provisions in the Senate as they have in the House. It will vary between the House and the Senate, its own rules of procedure, not what the general public has—its own agency with its own inspectors with its own staff with its own general counsel with its own executive director and its own board. Now, you know, the general public out there does not have all that as we are setting up for ourselves.

The law will not result in Congress being subjected to the same laws that apply to the private sector. It is a continuation of special treatment of Congress by Congress. Any rose should smell so sweet.

The repeal of the exemption for Congress in the various civil rights and labor statutes would be the fulfillment of what the Republicans really promised by the Democrats. We would be holding them to their promise, not to their slogans.

So when you get right down to it, it is very simple. You just say all the statutes that apply to the business people out there apply to us. That is very simple. But, no, we are making it complicated. We excluded the Members of the Senate and the Members of the House. We are giving the Senate and the House the opportunity to set up different rules, and the expense is going to be tremendous.

Impact on confidentiality: The bill provides its office proceedings, including hearings before a hearing officer and before the board on appeal, will be confidential. It would permit public release only of the hearing officer's or board's decision, provided the complainant's name had been redacted. However, trial de novo will likely become the more popular avenue for the employee to pursue. A trial is usually not confidential and the parties would be named in the complaint.

Just a lot of things that we are doing here.

The bill requires the office to develop a system for the collection of demographic data respecting the composition of congressional employees, including race, sex, wages and a system for the collection of information on employment practices, including family leave and flexible work hours, and report annually to Congress on the information collected under such system.

How many employers out there have that done for them? How many?

And so we are saying we are applying the same laws to Congress that we are applying to our constituents. Not true. Not true. You can say what you want to, get up here and make all these grandiose statements for 30-second sound bites, but when you get down to it and you read the bill, we are taking care of Congress. We are giving immunity to Congress. The immunity is there. Self-enforcement has not worked very well. And that is what is happening here. Self-enforcement is what is happening here and it has not worked very good.

Two years ago, Congress passed legislation to extend coverage of several employment discrimination laws to the Senate. A Fair Employment Practices Office was established and employees were promised fair treatment. It was certainly an intent of these actions to provide some protection against arbitrary employment decisions to employees of the Senate. With this change in the majority, we have had employees that were within a few weeks of retiring, few months of retiring, and nondesignated employees—they were not Democrat or Republican, Independent or otherwise, they were professionals—the professionals were fired so you could hire some more designated. We will see employees terminated for the sake of termination.

And we are going to have a lot of cases, a lot of cases, when you fire a professional that is there because he is a professional, not because he is a Republican or Democrat or an Independent, whatever he might be. Is this action consistent with the intent of this legislation?

If the same laws are to apply to Congress and to the private sector, the statutory provisions must be the same. The enforcement agency must be the same, the remedies available to employees must be the same, the regulations must be the same, and the provisions for judicial enforcement and review must be the same as applied to the private sector. But, no, Congress is being good to itself again. Congress is being good to itself again. We are given immunity.

So, Mr. President, I hope that we will look at what is coming down the pike. And I think it is appropriate. But let us not fool the general public. Let us not say we are applying the same laws to Congress that we have applied to them, because we are not.

We will get in the argument about separation of powers and all this sort of thing. But then that is an argument where you can take care of yourselves.

Eight-thousand employees are now serving in the Senate. We will go to approximately 24,000 employees that will be covered; counseling up to 30 days; mediation, 30 or more; inspections for OSHA and ADA, title II. You hear we have put ADA, we have applied that to the Senate. We have not.

Investigation and initiation of charges: In addition to Senate OFEP

staff above, the bill requires a five-person hearing board and two, House and Senate, deputy directors. We do not need all those. Just eliminate the statutes' exemptions for us and let the statutes apply to us.

So I will have more to say on this, I guess, before we get through. But I just want to be sure that people understand that we are not applying the same laws that we apply to our constituents to the Congress. I hope that there will be an admission that we are not doing that.

We are doing more than we have been. I have been for it for a long time. I got the Fair Employment Practices Office set up. Who had the responsibility of that? That is a $900,000 annual budget. We have had several cases we have settled. All those things have been transpiring. And wonder who paid for that? The taxpayers paid an additional $900,000, plus whatever the costs were. And whatever happens in this instance, the taxpayers are going to pay for it. We have immuned ourselves. Confidentiality is there. All of that.

And so, I hope those that who are listening understand that what we are doing is in the right direction, but it is not what we are saying we are doing. We are doing something far different.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MCCONNELL. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 2.

Mr. MCCONNELL. Is there a pending amendment, Mr. President?

The Ford amendment?

The PRESIDING OFFICER. It is the Ford amendment No. 4 to S. 2.

AMENDMENT NO. 8

(Purpose: To modify amendment No. 4 to S. 2 to clarify Senate regulations on the use of frequent flier miles)

Mr. MCCONNELL. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] proposes an amendment numbered 8 to the Ford amendment.

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

Mr. FORD. I object.

The PRESIDING OFFICER. There is an objection. The clerk will report.

The legislative clerk read as follows:

1. On line 7 of the first page, strike from paragraph (a): ''or House of Representatives'';

2. On line 10 of the first page, strike from paragraph (b): ''Committee on House Oversight of the House of Representatives and the'';

3. On line 9 of the second page, strike from subparagraph (2) of paragraph (c): ''the House of Representatives and'';

4. On line 8 of the first page, strike from paragraph (a): ''Government'' and substitute ''office for which the travel was performed''.

Mr. MCCONNELL. Mr. President, my friend and colleague from Kentucky has offered an amendment which as it relates to the Senate codifies existing policy. It is not possible, it is my understanding, under Senate rules, for a Member of the Senate to convert frequent flier mileage acquired as a result of Government travel to personal use.

So, Mr. President, my assumption is that the amendment is designed to establish such a policy for the other body, and it is my view, and I think the Senator from Kentucky might—he can speak for himself—have objected to the House passing a Senate rule when he was chairman of the Rules Committee. Maybe he would not have. But it is my view that since the Senate has already curbed this problem—I am not sure exactly when the rule was adopted—it would be best that we not use this vehicle that Senator GRASSLEY and Senator LIEBERMAN have been working so hard on to impose a standard on the House that it may well adopt for itself at a time of its own choosing.

But this issue of the use of frequent flier miles acquired as a result of the expenditure of taxpayers' dollars to provide travel for Senators going back and forth to their States has long since been solved. It is not a problem in the Senate.

One concern I do have about the particular crafting of the amendment by my friend and colleague from Kentucky is that I gather the money saved by his amendment would accrue to ''the Government.'' Under the current system, it is my understanding that the frequent flier mileage accrued goes to the office of the Senator; it is assigned to that particular office and then, of course, can be used to defray travel for the Senator back and forth to his State, thereby saving the taxpayers money.

So it seems to me better if we continue the policy of allowing the Senator to accumulate these miles for his own Government travel back and forth to his State, thereby saving taxpayers money for that particular office.

That is essentially my point, Mr. President, in offering this second-degree amendment. It is to simply limit the operation to the Senate, because basically that is already our policy, and to refrain from seeking to establish this standard for the House because I think they are not likely to take kindly to our advice about how they ought to handle this matter.

Let me just briefly go over a short statement here that outlines what I have said extemporaneously.

The Senate abides by travel regulations promulgated by the Senate Rules Committee. These travel regulations prohibit using frequent flier miles accrued from official business for personal use. They do allow the office which accrued the miles to use them for additional travel. Thus, the Senate regulations save the taxpayers money by allowing Senators to use accrued frequent flier miles to fly back and forth to our respective States.

To the extent that the FORD amendment codifies existing Senate policy, I would argue that it is probably not necessary because that is already our policy. But a consequence of the amendment of my friend may be that the frequent flier miles would be wasted and unusable.

Under our current regulations, as I just outlined earlier, bonus miles accrue to the office that pays for the ticket. That office may then use the accrued miles for additional official travel.

The amendment of my colleague would have the miles accrued to ''the Government.'' The airlines, as I understand it, do not allow the pooling of bonus miles, not by private citizens and not by Government agencies. So if an office with accrued miles must turn them over to ''the Government,'' those miles would in all likelihood be lost. The result would be an increase potentially in the cost of Government to the taxpayers.

Finally, just let me reiterate what I said earlier, that I hope we would not try to impose our longstanding rule on the House. It seems to me that they are not likely to respond to that kindly and may well deal with this issue at a time of their choosing.

Mr. President, I yield the floor.

Mr. FORD addressed the Chair.

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

Mr. FORD. The other Senator.

Mr. President, I think my colleague, Senator MCCONNELL, has a very weak argument. What he is saying is let the House continue to take their frequent flier mileage and use it personally; take your wife and family to Europe on a nice trip, or go out to California on miles earned by official expense.

That is number one. Number two, the House says they are going to do this. Fine. I listened very closely to our majority leader, Senator DOLE, when he said this bill, in all probability, will be accepted by the House and we will not have to go to conference. So if this amendment is not included in S. 2, then the House will continue for a period of time being able to use their frequent flier miles for personal use. And I do not think the taxpayers want to do that.

And, if we approve this modification, or amendment, that my colleague has submitted, then the purpose of Senator FEINGOLD and I is just moot. There is no need of having the amendment, since the Senate already has its rule. I would prefer to keep it in. But nevertheless—and I am aware of the usual

practice that each House not legislate with regard to the operations of the other House. While this understanding is generally, and I underscore generally, honored, there have been a number of circumstances where it has not.

One recent major incident, and I underscore major, was the House insistence that the Senate official office accounts—if you remember that, we are just getting over that, we are just getting over that—that the Senate official office accounts be modified by adoption of restrictive language in the Legislative Branch Appropriations Act of 1991. That, in effect, was a major implementation of new rules by the House on the Senate. That change affected every Member of the Senate, and required the adoption of an extensive interpretive ruling by the Senate Ethics Committee, which my colleague should know plenty about since he is on the Ethics Committee.

The net effect of the amendment that deletes the House from this amendment is to permit the House Members to continue to convert frequent flier awards earned with taxpayers' money to personal use. Is this the congressional accountability that we talked about? It would be the only unit of Government that is allowed to do that. The executive does not allow it. The Senate does not allow it. But the House flies anywhere they want to on the perks from taxpayers' dollars. I understand you want to let the House go ahead and do it. It seems to me that if we want to be accountable here—sure we use, on our side in the Senate, those miles that are compiled from official trips back home to have more trips or to reduce the cost of our offices. It is pretty good, $300 or $400 a round trip, two or three trips, save $1,000; save $100,000 in the Senate. It begins to mount up. So the House, with 435 over there, it would be $435,000 that you would get back. You know, just a little bit.

So I would say to my friend that if this bill is going to become law—as I understand the majority leader insists that it will, if we do not amend it too much—just to put this in the bill, I do not think the House will vote against it just because we say to them they cannot use taxpayers' dollars for personal use. If you want to vote for that, let the House use it for personal use, you are going to get an opportunity, probably tomorrow afternoon around 2:15, or 2:30. But this amendment would modify the amendment I proposed with Senator FEINGOLD by deleting the reference to the House of Representatives, and the proposal is just not acceptable. I urge my colleagues to oppose it.

I yield the floor.

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

Mr. MCCONNELL. Mr. President, I want to make it clear it is not the view of this Senator that this vote on the second-degree amendment I have offered is in any way condoning of the use of frequent flier miles for private use—private use of frequent flier miles acquired as a result of Government travel. That is certainly not my view. It is not the view of the Senate. And the vote on the amendment I offered will be solely on the issue of whether or not the Senate ought to be making rules for the House. That is my view. I guess reasonable people can differ about that.

But in no way could a vote for the second-degree amendment I have offered be construed as condoning the policy that the Senate does not have. We have not had this for quite some time. So I personally certainly do not support the use of frequent flier miles accrued as a result of Government travel for private use. I know my friend from Kentucky was not implying that. But it is also my view that a vote for this second-degree amendment is not a vote to condone the use of frequent flier miles acquired as a result of Government travel for private use.

I will yield the floor.

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

Mr. GLENN. Mr. President, what our distinguished colleague from Kentucky, Senator FORD, is trying to do here is say if the Government pays the bills and there is a rebate of some kind, the Government should get the benefit, not the individual. It is that simple.

For the life of me, I do not see how anyone can argue against that, particularly people elected over in the House now who are supposed to be cleaning up Government and all that sort of thing. In other words, right now over in the House the more you travel, the more trips you can generate back and forth, the more you personally gained for you and your family in free travel paid for by the taxpayers. How anybody can justify that I do not know. I realize the House sets their own rules and we apply our own rules but I submit to my distinguished colleague, Senator MCCONNELL, we have had rules applied back and forth between the branches from time to time in the past. I think there are lots of examples of that.

I see this as almost a maximum personal perk. How can you have a more personal perk than all your travel back and forth between here and the west coast? You travel many, many, many thousands of miles. Or Hawaii, the Senators from out there, you build up a bundle of credit that over in the House they can use for personal family travel. They can take a trip around the world if they build enough of it up, at taxpayers' expense. I just do not see how anybody can justify that, that Government-paid-for tickets, with a rebate coming back, that rebate should not go to the Government that paid for it. That goes back to the taxpayers who paid for it to begin with. I do not think this thing of having the House determine its own rules—we have made rules back and forth that applied to different Houses in the past.

I will at the appropriate time, probably tomorrow morning, since we have just discussed this a short time ago, but I will probably have an amendment after we dispose of this one that would ask the GSA, the General Services Administration, that supervises the travel, that they negotiate with the airlines to include a frequent flier mile reduction in the original cost of the tickets. Why should that not inure to the Government going in? We should not argue about who gets the benefits of kickbacks later on, on frequent flier miles, but say if there is a reduced cost to the Government beyond the normal Government-reduced price, Government rate, for frequent flier miles in addition to Government-reduced rates, apply those frequent flier reductions in the original cost of the ticket. It seems to me that is very simple and solves the whole problem. So I will introduce that tomorrow at the appropriate time. But I rise in strong support of the proposal of Senator FORD.

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

UNANIMOUS-CONSENT AGREEMENT

Mr. GRASSLEY. Mr. President, first I want to make a unanimous-consent request. I am doing it for the Republican leadership and it is my understanding it has been approved by the Democratic side of the aisle.

Mr. President, I ask unanimous consent that at 2:15 on Tuesday, January 10, the Senate proceed to vote on the McConnell second-degree amendment to the Ford amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I now ask for the yeas and nays on the McConnell amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

Mr. FORD. Mr. President, I want to clear up one item with my colleague as it relates to his interpretation of whether it belongs to the Government or to the office. Under the rules of the Senate, and legislative counsel advised us to draft the amendment that way, it says:

> Discount coupons, frequent flier mileage, or other evidence of reduced fares obtained on official travel shall be turned in to the office for which the travel was performed so that they may be utilized for future official travel. This regulation is predicated upon the general Government policy that all promotional materials such as bonus flights, reduced fare coupons, cash, merchandise, gifts, credits toward future free or reduced cost of services or goods earned as a result of trips paid by appropriated funds, are the property of the Government and may not be retained by the traveler for personal use.

So, it is the Government money but it is returned to the office. So the language in the amendment is there based on the rules of the Senate, and they would apply as a result of this amendment.

I thank the Chair and yield the floor.

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

Mr. GRASSLEY. Mr. President, I rise in support of the amendment offered by Senator MCCONNELL, the junior Senator from Kentucky. Just last week, this body overwhelmingly rejected an attempt to change the filibuster rules. We did that for a very important reason. We believe that it is an integral part of the functioning of this body within our constitutional system to protect minority interests and minority points of view in debate and consideration of legislation. So we decided to maintain a historic Senate rule, and we voted for recognition of our uniqueness when we did that. The House of Representatives and the Senate are two distinctly different bodies. They are entitled to adopt different rules, and one House should not dictate the rules of the other.

The underlying bill before us, S. 2, recognizes this principle. The underlying bill, as Senator LIEBERMAN and I have introduced it, sets up different rules for the House and the Senate so long as those rules do not infringe upon the statutory and regulatory rights of employees of Congress and the individual offices within Congress.

So no amendment should be offered, including the amendment by the senior Senator from Kentucky, that tells the other body what it must do in an area unrelated to the provisions of this bill. Under the second-degree amendment, Senators would be barred from converting frequent flyer miles earned on official business to personal use. That happens to be the existing rule in the Senate. I think the point has been very clearly made, that none of the 100 Senators may use frequent flyer miles for anything but official business.

It is all right to make our Senate rule into legislation, and, if Senator MCCONNELL's amendment is adopted, that is what we will be doing. We will be putting in statute language that is already a rule of the Senate. But we should let the House make its own rule in this regard. The other body is currently studying the treatment of frequent flyer miles in the private sector. They will want to conform their rules to the existing prevalent practice, and we should allow the other body to proceed on that course. I do not think there is any doubt but what they will be dealing with this as they know they should deal with it, as they dealt with it last August. Then, it did not get through in the final process of legislation.

So I argue that the process going on in the other body, and our respect for the rights of the other body, should be satisfactory to anyone. In the meantime, we should remember that the amendment of the senior Senator from Kentucky has no relationship to this bill.

If I have spoken more than once, I have spoken a dozen times to make the point that the underlying legislation is something that was clearly an issue in the last election. Whether you are a Republican or Democrat, you were probably elected on a proposition that you would vote for this. I did not run into anybody in the campaign who was against this legislation, Republican or Democrat. Now what we are doing is carrying out the will of the people, the mandate of that election, to get this bill passed and get it passed as quickly as we can. And the purpose of doing it as quickly as we can is so that we can show the people of this country that it is no longer business as usual.

So I believe that enacting existing Senate rules into law sometimes may be appropriate. So I will support the second-degree amendment. I want S. 2 to pass and to pass quickly, and adopting the second-degree amendment, I think, will further our goal because it is not going to complicate the bill. This is a matter of whether or not the other body is going to be turned off toward our legislation by the proposition that we are trying to tell them what to do to their own rules, because they have a constitutional right to adopt their own.

So I hope everyone will support the second-degree amendment by Senator MCCONNELL.

I yield the floor.

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

Mr. MCCONNELL. Mr. President, just briefly in conclusion, I was listening to all the speakers on the other side with great interest. Their parties controlled the House of Representatives for 40 long years. I am curious as to why we have not felt the need here in the Senate to dictate this particular House rule in the past. We could have done that at any point. I do not know how long the House has had this practice but probably a long time. I just do not see the urgency or the propriety just because the management currently changed in the House as of last week that the Senate start dictating internal House policy.

I agree with Chairman GRASSLEY that this is just not an appropriate thing to do, and a vote on the second-degree amendment that I have offered is in no way a condoning of the practice that we do not allow here. We serve in this body. We do not allow this. I do not think we ought to start off the year telling the House what ought to be in their internal operating mode.

So, Mr. President, I thank you for the opportunity to address the Senate.

I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from Kentucky.

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

You try a lot of things on this side that do not work. We voted overwhelmingly for a lobbying bill, gift bans, and everybody on the other side voted for it, 93 to 5, overwhelmingly. Some go out of here, and the only excuse they had for not voting for it this time is that they want to set the agenda. They want to introduce their own lobbying bill-gift ban bill.

Now we are trying to uphold something that is absolutely the right thing to do, and they say we should not impose it on the House. If they have been doing it for a while, why not correct it now? Do not wait months from now.

The distinguished majority leader said that this is a bill that would be acceptable on the House side. If it is going to be accepted on the House side, why not have something in there that is right? Let us do the right thing instead of letting it go. If something bad has happened, if something bad is going on, let us correct it now. Let us not wait until we are down the pike. If anyone wants to pass this underlying bill, sure, let us pass the underlying bill, but not by setting up a new, special and separate bureaucracy by Congress for Congress.

You go out and tell your constituent tomorrow that you are immune from prosecution. He is not. Tell him about the special committee set up to set your rules, and he does not have any. Tell him about the special counsel you are going to hire for yourself, and he does not have any. Do you think this is applying the laws that you put on the small businessman to Congress? Think again.

So if the underlying bill is that bad, why not add something on it that might do a little good? Just stop the use of perks from taxpayers' dollars for personal use. It is not the first time I have tried to do this. Why is it in the Senate? In 1991 we did it. As the chairman of the Rules Committee I tried. I think I was fair to everybody. I do not believe anybody in the Senate can say that I did not attempt to be fair with every Member. A lot of things we tried to prevent.

So if you are going to allow the imagery going out of here applying the laws to the Senate and the House that you apply to your constituents, which is not really true because you are setting up something different that is costly, wait until you get on the 1988 Disability Act when we begin to get into title II. Everybody said we have covered it under ADA.We have not. Now we are finally getting around to it. The Russell subway is not handicap accessible, the subway on the House side is not. We have a lot of things to do. I want my colleagues to know that we are setting up a special bureaucracy for Congress by Congress. The more

things change the more they stay the same.

There is one thing we can change: taking taxpayers' dollars and using them for personal perks. I do not care if it has been going on for 40 years. Why should it go on for 41? And if the majority leader is right—and I have to accept his word that this bill will be accepted by the House and not go to conference—then we just delay the personal perks of the Members on the other side. I do not think they object to this. We are the ones that are objecting. I have not had anybody from the House run over here and say: FORD, you cannot do that, you cannot take my perk away from me. I want to continue to get my frequent flier miles so I can take my family to Europe or Hawaii or San Diego or Miami. We want to take a vacation on the taxpayers.

If you want to say that is what we want you to continue to do, then vote for Senator MCCONNELL's amendment, and we will just pull ours down. It will not make any difference at all.

So I hope people will look at this. The fabric of the legislation has to be accurate. There cannot be a 30-second sound bite in legislation. You can have a 30-second sound bite out in the campaign, but when we develop the fabric of the legislation here, that fabric has to meet where the rubber meets the pavement. It has to be accurate. You said something and now we are going to do it. But this legislation does not do it. I can give you chapter and verse, chapter and verse. There are about 24,000 employees that you are putting under this. You will have to have supplemental appropriations to pay for it—more than once a year, in my opinion. And I am for it, but I think all you have to do is just waive our exemptions and let us do what our constituents have to do. Very simple.

Oh, the separation of powers. If you are going to have separation of powers, that is one thing. But separation of powers is so costly under this bill, we will never see the end of tens of millions of dollars we are going to have to spend, because we are doing for Congress by Congress again, and the more things change the more they stay the same. I think in this instance we ought to change it just a little bit and say you cannot use your constituents' tax dollars for personal perks. It is a very simple vote. It will not take long, about 15 minutes tomorrow. I yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The chair recognizes the Senator from California, [Mrs. FEINSTEIN].

Mrs. FEINSTEIN. Mr. President, I rise, not to discuss this subject, but to discuss another. I had a placeholder at 5:30 to introduce four amendments to this bill. But knowing that the proponents of the bill would very much like to have it passed without amendment, I simply would like to make a statement about these amendments and then hope to work on a bipartisan basis to achieve some consensus and propose them later.

Mr. President, the amendments I was going to propose were in an area of congressional reform, which is as important as any area in this bill. It is campaign spending reform. I think campaign spending reform actually is more important, because it has so solidly conditioned the atmosphere of the public with respect to campaigns.

I was going to propose four amendments, the first, on spending limits. As I understood it, there was substantial objection to the public finance aspect of spending limits. The amendment I would propose would contain the spending limits of the prior Senate bill. In other words, the limit per State would be based on voting-age population. It would range from a high of $8.1 million in a large State such as California and a low of $1.5 million in the smallest State. In exchange for complying with these voluntary spending limits, a candidate would be entitled to a half-price discount broadcast rate, a reduced postage rate, and a complying candidate would be able to match an opponent that would not abide by the spending limit or exceed the spending limit without regard for the individual contribution limit of $1,000. That would be the balance.

The second amendment would limit PAC contributions to 20 percent of the total raised.

The third amendment would require a candidate to state at the end of their television ad in the last 4 seconds, clearly and definitively, speaking on the tube, that ''I believe the facts in this advertisement to be true.''

The fourth amendment would be in the area of personal funds. They would require a candidate to declare if they intend to spend in excess of $250,000 or, second, in excess of $1 million in the race, within 15 days of qualifying as a candidate. If their answer was in the affirmative, then gradually the individual contribution limits applicable to the opponent would be raised. So, again, you would have the opportunity to achieve a more level playing field.

Let me briefly state the rationale. I think there is probably no campaign in the Nation that better demonstrates the need for campaign spending reform than does the recent California Senate race. In my own election, and in others around the country, voters, I believe, saw some of the worst features of campaigns repeating themselves. There were spiraling campaign costs. More than $45 million was spent in the California Senate race. There was a virtual arms race of negative political advertisements day after day, beginning in February in California. One area my amendment would address, for example, is where there was a negative ad in the sense of one candidate referring to their opponent, the station broadcasting the ad would have to make a disclaimer. That is, this station has no way of ascertaining the truth of the ad that is about to appear. One of the problems we found is that people automatically believe a paid commercial spot is true, in the same way they believe a paid commercial spot for a product is true, and, of course, there is legitimate recourse for a false commercial spot. What we found is that there is no recourse for a false political spot. The station must run the spot, even if it is blatantly false.

Therefore, why not have the station come forward and say that this station has no way of ascertaining the truth or falsity of the spot which is about to appear.

The total amount of funds spent in the 1994 election cycle nationally is staggering. Spending by Senate and House candidates who survived primaries was $596 million, up 17 percent from 1992 and up 50 percent from 1990. Fifty percent more funds were spent in this race than just 4 years ago. Democratic candidates spent a record of $292 million, up 8 percent from 1992. And Republican candidates spent a record of $294 million, up 29 percent from 1992.

The source of this is the Federal Election Commission.

Now, we all know that there is no room in campaigns for people with sensitive feelings.

However, in the 1994 campaign, negative messages, groundless attacks on character, and distorted images dragged political advertising to a new low.

I would like to quote from an op-ed appearing in the New York Times and authored by Regionald Brack, chairman of Time Inc., and also chairman of the Advertising Council, which sponsors public-service ads. He reports:

> The cutthroat ads followed a disturbing formula. In clipped, agitated tones, attack your opponent's character. Distort his or her record. Associate him or her with extremists or unpopular political figures. To awaken fear, work in a between-the-lines racist message; foster suspicion, insinuate corrupt behavior. And by all means, steer clear of substantive issues.

Examples abound.

> This year one ad implied that a candidate might have lied about drug abuse.
>
> At least two candidates suggested that their opponents' political philosophies were somehow to blame for the kidnapping and murder of a 12-year-old and for the lethal rampage of a foe of abortion.
>
> Each political party charged that the other would significantly erode Social Security, Medicare, and other such programs dear to the electorate.

It is these 30-second negative ads that are driving politics in America today and turning away the American voter.

These ads, which are short on substance and long on attack, are shaping the political debate.

A post-election poll indicated that 75 percent of the respondents who said they voted in November said they were

turned off by negative ads. In an election in which only 39 percent of the eligible voters went to the polls, 58 percent of those who did not vote said negative ads had influenced their decision to stay home.

Now, what is the problem? What I found the problem to be, is that even if a candidate wants to take the high road and deal with issues, the simple fact is you cannot. And I want to tell you why.

Focus group after focus group suggests this: The negatives drive through; the positives do not.

When you ask in a focus group what do you remember most about this or that candidate, what they remember are the negative ads, and what they do not believe are the positive ads of record and accomplishment that a candidate may run. Therefore, what you find, as you watch poll numbers in big races, is that a candidate has to respond in kind to negative ads and if you try to respond to an attack with positives, the poll numbers drop. You also have to respond in quantity and equally to the opponent to have an effect.

Consumers can file a complaint about false advertising of consumer products. But the aggrieved candidate has no legitimate recourse in a race. In my campaign, one television station began to run its own disclaimer before an attack ad saying that although the ad, they believed, was not correct, they still had to run it.

Another disturbing problem is the specter of super-wealthy candidates being able to buy a seat. In the 1994 election, several candidates received as much as 16 to 17 percent of their total funds from loans out of their own pockets—the highest proportion since at least 1986.

At least one way, I believe, the campaign system can offset the advantage of personal wealth without running afoul of the First Amendment and the Buckley versus Valeo decision is simply to loosen the constraints on the opponent. If a candidate declares up front that, ''I'm going to contribute either $250,000, up to $1 million, or over $1 million in personal funds,'' then the individual contribution limits on the opponent are adjusted gradually so that the opponent then can compete.

Last, I strongly believe that campaign reform must look at the prevalence of contributions by PAC's. There is a real distortion in the public's mind that policymakers are beholden to special interests, and the special interests are the so-called PAC's, which overshadow average citizens, and impair, the public believes, an official's ability to make policy decisions based on national interests.

Current law is thought to favor PAC's in two key respects. Most PAC's qualify as multicandidate committees and, as such, they may contribute up to $5,000. Now, in prior legislation, the Senate has banned PAC's altogether, and the House has opposed such a move.

It seems to me that a fair compromise between the two is simply to limit the amount of PAC dollars a candidate can receive so that it does not exceed 20 percent of whatever the candidate raises.

So I hope, Mr. President, in the future, to present these amendments, either separately or as a whole. There is no public finance in any of them. We would establish a campaign spending limit. We would be able to better bring about truth in advertising. We would be able to level the playing field when personal wealth is considered. And we would be able to reduce considerably the so-called involvement of special interests in campaigns.

They are simple, they are direct, they make sense.

So I will, in the days to come, be approaching, on both sides of the aisle, Members in hopes that I can put together a bipartisan commitment to just these four simple amendments and move them forward, either separately or as a whole.

I thank you for your indulgence, Mr. President.

I yield the floor.

Mr. GRASSLEY addressed the Chair.

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

Mr. GRASSLEY. Mr. President, I wish to thank the Senator from California for her willingness not to offer those amendments. I thank her very much, because it will help us hurry the legislation through this body and to the President of the United States.

I also want to assure her for our leader—because he has said so many times himself that there will be an ample opportunity to discuss the issues that she wants to bring up, as well as the campaign finance reform issue will be discussed—that there will be plenty of opportunity to do that.

I say that not only to assure the Senator from California of that opportunity, but also to suggest to other people on her side of the aisle, on the Democratic side of the aisle, who have amendments that deal with campaign finance reform—and there still are a few of the 20 yet to deal with tomorrow—that maybe they will follow the example of the Senator from California and not offer their amendments so that we can get done with this bill earlier tomorrow.

Mrs. FEINSTEIN. I thank the Senator.

Mr. GRASSLEY. I thank the Senator.

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

The PRESIDING OFFICER (Mr. THOMPSON). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

MESSAGES FROM THE HOUSE

At 2:02 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1. An Act to make certain laws applicable to the legislative branch of the Federal Government.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 1. Concurrent Resolution recognizing the sacrifice and courage of Army Warrant Officers David Hilemon and Bobby W. Hall II, whose helicopter was shot down over North Korea on December 17, 1994.

At 4:13 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that pursuant to the provisions of section 3 of Public Law 94–304, as amended by section 1 of Public Law 99–7, the Speaker appoints Representative SMITH of New Jersey as Chairman of the Commission on Security and Cooperation in Europe.

MEASURES REFERRED

The following concurrent resolution was read and referred as indicated:

H. Con. Res. 1. Concurrent Resolution recognizing the sacrifice and courage of Army Warrant Officers David Hilemon and Bobby W. Hall II, whose helicopter was shot down over North Korea on December 17, 1994; to the Committee on Armed Services.

MEASURE PLACED ON THE CALENDAR

The following bill was read the second time and placed on the calendar:

S. 169. A bill to curb the practice of imposing unfunded Federal mandates on States and local governments; to strengthen the partnership between the Federal Government and State, local and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate funding, in a manner that may displace other essential governmental priorities; and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations.

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–4. A communication from the President of the United States, transmitting, pursuant to a Senate Rule, notice relative to the Presidential Business Development Mission to

Ireland and Northern Ireland; to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROTH, from the Committee on Governmental Affairs, with amendments:

S. 1. A bill to curb the practice of imposing unfunded Federal mandates on States and local governments; to strengthen the partnership between the Federal Government and State, local and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate funding, in a manner that may displace other essential governmental priorities; and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations; and for other purposes.

By Mr. DOMENICI, from the Committee on the Budget, with amendments:

S. 1. A bill to curb the practice of imposing unfunded Federal mandates on States and local governments; to strengthen the partnership between the Federal Government and State, local and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate funding, in a manner that may displace other essential governmental priorities; and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations; and for other purposes.

STATEMENT OF THE CHAIRMAN ON THE REPORTING BY THE GOVERNMENTAL AFFAIRS COMMITTEE OF S. 1—UNFUNDED MANDATE REFORM ACT OF 1995

Mr. ROTH. Mr. President, this morning the Governmental Affairs Committee, by a vote of 9 to 4, reported S. 1, the Unfunded Mandate Reform Act of 1995. Because of the great importance of this legislation to the State and local governments of this country, the bill is expected to be taken up by the Senate this week. Therefore, no official report of the committee will be filed on this legislation. To do so would delay the start of the bill's consideration. When a report is to be filed, each Member is entitled to a minimum of 3 days to prepare additional views. After it is filed, printed, and made available, the bill must lay over for 2 days before it may be considered.

Therefore, I am publishing instead a statement of the chairman on S. 1, which contains the very information, such as a legislative history and a section-by-section analysis, that would have been included in the report to accompany the legislation, had one been filed. Much of this is similar to the official committee report that was filed on the bill last year, when the committee reported S. 993, the predecessor of S. 1.

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

STATEMENT OF THE CHAIRMAN, SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS, ON S. 1—UNFUNDED MANDATE REFORM ACT OF 1995

I. PURPOSE

The purpose of S. 1—the ''Unfunded Mandate Reform Act of 1995''—is to strengthen the partnership between Federal, State, local and tribal governments by ensuring that the impact of legislative and regulatory proposals on those governments are given full consideration in Congress and the Executive Branch before they are acted upon. S.1 accomplishes this objective through the following major provisions: a majority point of order in the Senate to lie against Federal mandates without authorized funding to State, local and tribal governments; a requirement that the Congressional Budget Office (CBO) estimate the cost of Federal mandates to State, local and tribal governments as well as to the private sector; a requirement that Federal agencies establish a process to allow State, local and tribal governments greater input into the regulatory process; and, a requirement that agencies analyze the costs and benefits to State, local, and tribal governments of major regulations that include federal mandates.

II. BACKGROUND

On October 27, 1993, State and local officials from all over the Nation came to Washington and declared that day as ''National Unfunded Mandates Day.'' These officials conveyed a powerful message to Congress and the Clinton Administration that unfunded Federal mandates imposed unreasonable fiscal burdens on their budgets, limited their flexibility to address more pressing local problems, forced local tax increases and service cutbacks, and hampered their ability to govern effectively.

The Committee on Governmental Affairs heard that message, and on November 3rd scheduled a Full Committee hearing on the issue. Witnesses from all levels of State and local government, from big cities on down to small townships, testified at the hearing on how unfunded Federal mandates adversely affected their ability to govern and set priorities. Mayor Greg Lashutka of Columbus, Ohio summed up the problems best when he said: ''Others have called it [unfunded Federal mandates] spending without representation. Across this country, mayors and city councils and county commissioners have no vote on whether these mandated spending programs are appropriate for our cities. Yet, we are forced to cut other budget items or raise taxes or utility bills to pay for them because we must balance our budget at our level.''

Mayor Ed Rendell of Philadelphia, Pennsylvania was more emphatic: ''What is happening is we are getting killed. In most instances, we can't raise taxes. Many townships are at the virtual legal cap that their State government puts on them, or in my case in Philadelphia I took over a city that had a $500 million cumulative deficit that had raised four basic taxes 19 times in the 11 years prior to my becoming mayor. We have driven out 30 percent of our tax base in that time. I can't raise taxes, not because I want to get reelected or because it is politically feasible to say that, but because that would destroy what is left of our base, and our base isn't good enough.''

Further, Mayor Rendell noted how Federal mandates forced undesirable tradeoffs against tackling more needy local problems: ''So when you pass a mandate down to us and we have to pay for it, the police force goes down, the firefighting force goes down. Recreation departments are in disrepair. Our rec centers are in disrepair because our capital budget is being sopped up by Federal mandates, by the need to pay for Federal mandates.''

Susan Ritter, County Auditor, Renville County, North Dakota, and David Worhatch, Township Trustee, Hudson, Ohio gave their perspective of how Federal mandates negatively impact the smallest of governments with a description of some specific examples. Ms. Ritter noted that the town of Sherwood, with a population of 286, will have to spend one half of its annual budget on testing its water supply. Mr. Worhatch noted how well-intentioned Federal mandates can have unintended consequences at a township-level that thwart the original purpose of the mandate. He pointed to strict regulations that could force the closure of a local landfill. That closure could lead to greater midnight dumping—an undesirable result.

The Federal-State-local relationship is a complicated one. It is a blurry line between where one level of government's responsibility ends and another begins. Local officials decry unfunded State mandates as much as they do unfunded Federal ones.State officials then tell local officials that those mandates aren't theirs, but rather that they come from the Federal government and that States are just the conduit. The Federal government officials sometimes accuse State and local governments of falling down on their share of responsibilities when using Federal aid to carry out a Federal program. Likewise, State and local governments say that the regulations that go with accepting that aid are too onerous, and getting more so. They blame Federal agencies for promulgating burdensome and inflexible regulations. The agencies say that it is not their fault and claim that they are only carrying out the will of Congress in implementing statutes. Congress asserts that agencies have the statutory authority to allow State and local governments more leeway and flexibility in regulation and that therefore the responsibility lies there. What is lost in the debate is need for all levels of government to work together in a constructive fashion to provide the best possible delivery of services to the American people in the most cost-effective fashion. Vice President Gore's National Performance Review recognizes this fundamental issue in its report—''Strengthening the Partnership in Intergovernmental Service Delivery.'' The report notes:

''Americans increasingly feel that public institutions and programs aren't working. In fact, serious social and economic problems seem to be getting worse. The percentage of low-birth-weight babies, the number of single teens having babies, and arrest rapes for juveniles committing violent crimes are rising; the percentage of children graduating from high school is falling; welfare rolls and prison populations are swelling; median incomes for families with children are falling; more than half of children in female-headed households are poor; and 37 million Americans have no basic health care or not enough.''

''Why? At least part of the answer lies in an increasingly hidebound and paralyzed intergovernmental process.''

The report goes on to explain how the 140 Federal programs designed to help families and children are administered by 10 departments and 2 independent agencies. Fifteen percent of them are directly administered by the Federal government, 40 percent by States, and the remaining 40 percent by local, private or public groups.

Whether these programs, as well as many other Federal programs, work or not hinges on the ability of Federal, State and local to work together as partners in carrying the

program's responsibilities. When that coordination breaks down, the whole program suffers and program's objectives, be they improved environmental protection, reduced crime, better education, etc., fall short.

State and local officials emphasized in the Committee's hearings of November 3, 1993, April 28, 1994, and January 5, 1995, that over the last decade the Federal government has not treated them as partners in the providing of effective governmental services to the American people, but rather as agents or extensions of the Federal bureaucracy. In their view this lack of coordination and cooperation has not only effected the provision of services as a local level but also carriers with it the penalty of high costs, costs that they then pass on to local citizens.

A. The cost of Federal mandates to State and local governments

There has been substantial debate on the actual costs of Federal mandates as well as on their indirect costs and benefits. Suffice it to say that almost all participants in the debate would conclude that there is not complete data on the aggregate cost of Federal mandates to State and local governments. So there is a need to develop a baseline of what the aggregate cost of Federal mandates is to State and local budgets.

Notwithstanding the difficulty in preparing reliable cost estimates, the Committee believes that a strengthened and more thorough analytical process applied to legislation and regulation that impacts State, local and tribal governments is not only worthwhile, but achievable. There have been good faith efforts made in the past to measure the cost impacts of Federal intergovernmental mandates.

The Advisory Commission on Intergovernmental Relations' (ACIR) 1993 report ''Federal Regulation of State and Local Governments: The Mixed Record of the 1980s'' examined the procedures by which Congress measures the impact of legislation on State and local governments. Since 1981, the Congressional Budget Office (CBO) has been preparing cost estimates on major legislation reported by Committee that is expected to have an annual cost to State and local governments in excess of $200 million. According to CBO, on average roughly 10 to 20 reported bills per year exceed to $200 million threshold. These figures translate to between 2 and 4 percent of the total number of bills reported out of Committee. CBO estimates that about 11 percent of all bills reported out of Committee each year have some cost impact on State and local governments. A breakout on a year-by-year basis between 1983 and 1988 is shown below.

TABLE 5–5.—STATE AND LOCAL COST ESTIMATES PREPARED BY CBO, 1983–88

Estimates prepared	1983	1984	1985	1986	1987	1988	Total	Average
For bill approved by committee	483	554	367	465	393	559	2,821	470
Other	90	87	166	125	138	127	733	122
Total	573	641	533	590	531	686	3,554	592
Estimates with no state/local cost	496	584	488	543	448	598	3,157	526
Percent	87	91	92	92	84	87	89	89
Estimates with some cost	77	57	45	47	83	73	382	64
Percent	13	9	8	8	16	11	11	11
Estimates with impact above $200 million	24	6	14	8	22	15	89	15
Percent of total	4	1	3	1	4	2	3	3
Percent of bills with some cost	31	11	31	17	26	21	23	23

Source.—Congressional Budget Office Bill Estimates Tracking System, in Theresa A. Gullo, ''Estimating the Impact of Federal Legislation on State and Local Governments,'' in Michael Fix and Daphne A. Kenyon, eds., ''Coping with Mandates: What Are the Alternatives?'' (Washington, DC: Urban Institute Press, 1990), p. 43.

The Committee also asked CBO to provide it with more recent cost estimates and to examine the number of bills that cross a $100 million annual threshold. In 1991, CBO scored 5 bills to cost State and local governments in excess of $100 million apiece. Another 8 bills had significant costs to State and local governments, but fell under the $100 million threshold. Further, CBO determined that for another 6 pieces of legislation for which they were unable to come up with specific estimates—5 bills would probably fall under the $100 million mark, one would probably exceed that total.

In testimony before the Committee on April 28, 1994, Dr. Robert Reischauer, Director of CBO, noted that preparing thorough and reliable State and local cost estimates is not easy. He presented the following reasons for the difficulty CBO sometimes has in preparing the estimates: Preparing the estimates requires the use of many different methodologies; the estimating process does not always yield firm estimates. Further, completing the estimates does take time—time that may not be readily available in the normal legislative process; and, legislative language may lack the detail necessary to estimate the costs.

Dr. Reischauer further stated that these constraints apply even more so to the preparation of cost estimates on private sector mandates. The Committee does believe that part of CBO's difficulty in performing these estimates lies in CBO not having adequate resources to conduct the estimates. Therefore, S. 1 authorizes an increase in funding for CBO of $4.5 million for each of Fiscal Years 1996 through 2002. CBO's budget currently stands at just over $23 million.

Federal environmental mandates head the list of areas that State and local officials have claimed to be most burdensome. A closer look at two of the studies done on the cost to State and local governments of compliance with environmental statutes does indicate these costs appear to be rising. A 1990 EPA study (prepared in conjunction with the Environmental Law Institute) ''Environmental Investments: The Cost of a Clean Environment,'' estimates that total costs of environmental mandates (from all levels of government) to State and local governments will rise (in constant 1986 dollars) from $22.2 billion in 1987 to $37.1 billion by the year 2000—a real increase of 67 percent. According to the Vice President's National Performance Review report on the EPA, this figure when adjusted for inflation reaches close to $44 billion on an annual basis by the year 2000. EPA estimates that costs to local government will increase the most (70 percent) while the impact on State governments is less (48 percent), but still significant. Over the 13 year span, the average real increase in costs to State and local governments translates to 5.2 percent on an annual basis. A table is included as follows:

TABLE I–2.—TOTAL ANNUALIZED COSTS OF ENVIRONMENTAL MANDATES BY FUNDING SOURCES, 1972–2000

[In millions of 1986 dollars]

Funding source	1972	1980	1987	1995	2000
Environmental Protection Agency	$978	$4,574	$6,578	$9,161	$10,409
Other Federal Agencies	87	1,932	2,649	7,970	11,670
State Government	1,542	2,230	3,025	3,911	4,476
Local Government	7,673	12,857	19,162	27,913	32,577
Private	16,201	36,376	53,696	76,101	88,772
Total	26,481	57,969	85,290	125,056	147,904

Source.—U.S. Environmental Protection Agency, ''Environmental Investments: The Cost of a Clean Environment'' (Washington, DC: U.S. Environmental Protection Agency, 1990) selected data from pp. 8–49 through 8–51. These estimates use a mid-range discount rate of 7 percent and include funding to meet EPA's air, water, land, chemicals, and multi-media regulations.

The City of Columbus, Ohio also noted a trend in rising costs for city compliance with Federal environmental mandates in its study: ''Environmental Legislation: The Increasing Costs of Regulatory Compliance to the City of Columbus.'' The City examined its cost of compliance with 13 Federal environmental and health statutes and concluded that its cost of compliance with those statutes would rise from $62.1 million in 1991 to $107.4 million in 1995 (in 1991 constant dollars), a 73 percent increase. The City estimates that its share of the total city budget going to pay for these mandates will increase from 10.6 percent to 18.3 percent over that timeframe. These calculations were based on anunchanging total city budget between 1991 and 1995; assuming a 3 percent annual real growth rate in the budget reveals a lesser increase from 10.6 percent to 16.1 percent.

In addition to environmental requirements, State and local officials cite other Federal requirements as burdensome and costly: compliance with the Americans with Disabilities Act and the Motor Voter Registration Act; complying with the administrative requirements that go with implementing many Federal programs; meeting Federal criminal justice and educational program requirements. While all these programs clearly carry with them costs to State and local governments, they can have benefits both to society as a whole—a fact that State and local officials concede. It is the aggregate impact of all Federal mandates that has spurred the calls for mandate reform and relief. However, to truly reach a better understanding of the Federal mandates debate, it is necessary to look at the Federal funding picture.

B. Federal aid to State and local governments

It is readily apparent that Federal discretionary aid to State and local governments both to implement Federal policies and directives as well as to comply with them saw a sharp drop in the 1980s before rising again in the early 1990s—although in real terms Federal aid is still significantly below its earlier levels.

An examination of Census Bureau data on sources of State and local government revenue shows a decreasing Federal role in funding to State and local governments. In 1979, the Federal government's contribution to State and local government revenues reached 18.6 percent. By 1989, the Federal share of the State and local revenue pie had steadily shrank to 13.2 percent before edging

up to 14.3 percent in 1991—the latest year that data is available (see accompanying chart).

The Federal Government's contribution to State and local government revenues[1] (1970–1991)

Year:	Percent of State and local government revenue
1970	14.6
1971	15.8
1972	16.4
1973	18.0
1974	17.6
1975	17.8
1976	18.3
1977	18.5
1978	18.7
1979	18.6
1980	18.4
1981	17.8
1982	15.9
1983	15.2
1984	14.9
1985	14.7
1986	14.4
1987	13.6
1988	13.3
1989	13.2
1990	13.3
1991	14.3

[1] U.S. Census Bureau—Government Finances Series, 1970–1991. Chart tabulated by Staff of Senate Committee on Governmental Affairs.

A closer look at patterns in Federal discretionary grants-in-aid programs during the 1980s confirms the finding that the Federal government lessened its financial support of State and local governments. According to the Federal Funds Information Service (FFIS), between 1981 and 1990 Federal discretionary funding to State and local governments rose from $47.5 billion to $51.6 billion, a nominal increase of 8.6. percent. However, this figure when adjusted for inflation (using the GDP Price Deflator) tells a much different story: Federal aid dropped 28 percent over the decade—a 3.1 percent real decline on an annual average basis.

A number of significant Federal aid programs to State and local governments experienced sharp cuts and, in some cases, outright elimination during the decade. In 1986, the Administration and Congress agreed to terminate the general revenue sharing program—a program that provided approximately $4.5 billion annually to local governments and allowed them broad discretion on how to spend the funds. Since its inception in 1972, general revenue sharing had provided approximately $83 billion to State and local governments. Funding for Urban Development Action Grants, another significant program, was also terminated within this timeframe.

Between 1981 and 1990, funding for numerous Federal-State-local government grant programs was substantially trimmed, among them: Economic Development Assistance (47.5 percent—decrease is in nominal dollars), Community Development Block Grants (21.1 percent), Mass Transit (30.2 percent), Refugee Assistance (38.4 percent), and Low-Income Home Energy Assistance (17.6 percent). These cuts were partially offset by increases in funding in other areas—primarily in housing and health and human services programs.

The early 1990s saw a resurgence in funding for Federal-State-local discretionary aid programs. Funding rose from $51.6 billion in 1990 to $67.4 billion in 1993, a nominal increase of 30.6 percent and an inflation-adjusted average annual gain of 5.6 percent. This growth was driven primarily by expansions in funding for Head Start, Highway Funding, and Compensatory Education. Still, even with this recent growth, between 1980 and 1993 discretionary funding declined 18.2 percent in real dollars—an average annual real decrease of 1.4 percent.

In simple terms, over the last decade or so, State and local governments have gotten less of the Federal carrot and more of the Federal stick. The Committee has responded to State and local officials' calls for change, and has reported out bipartisan mandate reform legislation.

III. LEGISLATIVE HISTORY

In the 103rd Congress, eight bills were introduced and referred to the Committee that addressed, at least in part, the subject of Federal mandates on State and local governments. Bill sponsors included: S. 480—Levin; S. 563—Moseley-Braun; S. 648—Gregg; S. 993—Kempthorne; S. 1188—Coverdell; S. 1592—Dorgan; S. 1604—Glenn; and, S. 1606—Sasser. Several major concepts were contained in most of the bills, among them: analysis of the costs of legislation and regulation on State and local governments; a prohibition or restriction on new Federal mandates without funding; and, points of order enforcement. Senator Kempthorne's legislation, the original S. 993—the ''Community Regulatory Relief Act of 1993''—had the strongest support, with more than 50 cosponsors. After two hearings and extensive meetings and discussions with State and local government organizations, the Administration, Senators and their staff, and the public interest community, the Committee crafted a legislative proposal that drew from many of the provisions of the eight bills, as well as incorporating several new provisions.

On June 16, the Committee marked up and reported out S. 993 with an amendment and an amendment to the title. Chairman Glenn offered a substitute bill to the original Kempthorne Bill, titled the ''Federal Mandate Accountability and Reform Act of 1994'', which passed by unanimous voice vote. Several other amendments offered by members of the Committee were also adopted, including an amendment by Senator Dorgan to include the private sector under the CBO and Committee mandate cost analysis requirements of Title I of S. 993, and a Glenn amendment to allow CBO to waive the private sector cost analysis if CBO cannot make a ''reasonable estimate'' of the bill's cost.

S. 993 as amended and reported by the Committee was considered by the Senate on October 6, 1994, without a time agreement. After some debate and the introduction of several additional amendments to the bill, the Senate proceeded to other items without taking any votes. The Senate adjourned without further consideration of S. 993.

In the 104th Congress, Senator Kempthorne introduced S. 1—the ''Unfunded Mandate Reform Act of 1995''—on January 4, 1995, and the bill was concurrently referred both to the Governmental Affairs Committee. On January 5, the Governmental Affairs Committee held a joint hearing on the bill with the Budget Committee. On January 9, the Governmental Affairs Committee voted to report the bill, S. 1, by a vote of 9–4 after adopting an amendment by Senator Glenn and two by Senator Levin. Voting ''aye'' were Senators Roth, Stevens, Cohen, Thompson, Cochran, Grassley, Smith, Glenn, and Nunn (with Senators McCain and Dorgan voting ''aye'' by proxy). Voting ''nay'' were Senators Levin, Pryor, Lieberman, and Akaka.

IV. SECTION-BY-SECTION ANALYSIS

S. 1 sets up a legislative and regulatory framework that is based on three relatively simple concepts:

To better understand the impact of Federal mandates on State, local and tribal governments, and on the private sector, before policymakers act in either the Congress or the Executive Branch.

To ensure that the needs and views of State and local governments are given full consideration before the Congress or the Executive Branch imposes new Federal mandates without funding.

To establish a point of order in the Congress against unfunded federal mandates on State, local and tribal governments.

A more detailed description of the most important provisions in the bill follows below.

Section 1. Short Title

This section identifies the short title as the ''Unfunded Mandate Reform Act of 1995.''

Section 2. Purposes

This section establishes the purposes of the Act.

Section 3. Definitions

This section breaks the definition of Federal mandates into two components: Federal intergovernmental mandates and Federal private sector mandates.

The section amends the Congressional Budget and Impoundment Control Act of 1974, by adding several new definitions. It stipulates that a ''Federal intergovernmental mandate'' means any legislation, or a provision therein, or regulation that imposes a legally binding duty on State, local or tribal governments. This would include legislation or regulation that seeks to eliminate or reduce the authorization of appropriations of Federal financial assistance to State, local and tribal governments should they not comply with that legislation's or regulation's duties. The subsection also provides that legislation or regulation would be considered a Federal intergovernmental mandate if it sought to reduce or eliminate an existing authorization of appropriations for the purposes of complying with some previously imposed duty. The Committee believes that if the Federal Government imposes legally binding duties on State, local or tribal governments, and provides financial assistance to them to carry out or comply with those duties, then S. 1's provisions should apply if the Federal government subsequently reduces the authorization of that aid, while continuing to keep the existing duties in place. Exempted from the provisions of this subsection is legislation or regulationthat authorizes or implements a voluntary discretionary aid program to State, local and tribal governments that has requirements or conditions of participation specific to that program.

Included, as part of the definition of Federal intergovernmental mandates, are Federal entitlement programs that provide $500 million or more annually to State, local or tribal governments. This would currently include nine large Federal entitlement programs, seven of which are either exempt from sequestration or subject to a special rule under the Budget Act. The nine are: Medicaid; AFDC; Child Nutrition; Food Stamps; Social Security Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and, Child Support Enforcement. Any legislation or regulation would be considered a Federal intergovernmental mandate if it: (a) increases the stringency of State, local or tribal government participation in any one of these nine programs, or (b) caps or decreases the Federal government's responsibility to provide funds to State, local or tribal governments to implement the program, including a shifting of costs from the Federal government to those governments. The legislation or regulation would not be considered a Federal intergovernmental

mandate if it allows those governments the flexibility to amend their specific programmatic or financial responsibilities within the program while still remaining eligible to participate in that program. In addition to the nine previously-mentioned programs, also included are any new Federal-State-local entitlement programs (above the $500 million threshold) that may be created after the enactment of this Act. The Committee has included this provision in the legislation because of its concern over past and possible future shifting of the costs of entitlement programs by the Federal government onto State governments.

''Federal private sector mandate'' is defined to include any legislation, or a provision therein, that imposes a legally binding duty on the private sector.

''Direct costs'' is defined to mean aggregate estimated amounts that State, local and tribal governments, and the private sector will have to spend in order to comply with a Federal mandate. Direct costs of Federal mandates are net costs; estimated savings will be subtracted from total costs. Further, direct costs do not include costs that State, local and tribal governments and the private sector currently incur or will incur to implement the requirements of existing Federal law or regulation. In addition, the direct costs of a Federal mandate must not include costs being borne by those governments and the private sector as the result of carrying out a State or local government mandate. Finally, the Committee intends that direct costs be calculated on the assumption that State, local and tribal governments and the private sector are in compliance with relevant codes and standards of practice established by recognized professional organizations or trade associations.

''Private sector'' is defined to cover all persons or entities in the United States except for State, local or tribal governments. It includes individuals, partnerships, associations, corporations, and educational and nonprofit institutions.

Independent regulatory agencies are excluded from the definition of a Federal ''agency''. The definition of ''small government'' is made consistent with existing Federal law which classifies a government as small if its population is less than 50,000. ''Tribal government'' is defined according to existing law.

Section 4. Exclusions

The Committee believes that several types of unfunded mandates should be properly excluded from the requirements of this Act. These include Federal legislation or regulation that: enforces constitutional rights of individuals; establishes or enforces statutory rights to prohibit discrimination on the basis of race, religion, gender, national origin, or handicapped or disability status; requires compliance with Federal auditing and accounting procedures; provides emergency relief assistance or is designated as emergency legislation; and, is necessary for national security or ratification or implementation of international treaties.

A number of these exemptions are standard in many pieces of legislation in order to recognize the domain of the President in foreign affairs and as Commander-in-Chief as well as to ensure that Congress' and the Executive Branch's hands are not tied with procedural requirements in times of national emergencies. Further, the Committee thinks that Federal auditing, accounting and other similar requirements designed to protect Federal funds from potential waste, fraud, and abuse should be exempt from the Act.

The Committee recognizes the special circumstances and history surrounding the enactment and enforcement of Federal civil rights laws. During the middle part of the 20th century, the arguments of those who opposed the national, uniform extension of basic equal rights, protection, and opportunity to all individuals were based on a States rights philosophy. With the passage of the Civil Rights Acts of 1957 and 1964 and the Voting Rights Act of 1965, Congress rejected that argument out of hand as designed to thwart equal opportunity and to protect discriminatory, unjust and unfair practices in the treatment of individuals in certain parts of the country. The Committee therefore exempts Federal civil rights laws from the requirements of this Act.

Section 5. Agency Assistance

Under this section, the Committee intends for Federal agencies to provide information, technical assistance, and other assistance to the Congressional Budget Office (CBO) as CBO might need and reasonably request that might be helpful in preparing the legislation cost estimates as required by Title I. Through the implementation of various Presidential Executive Orders over the last decade, agencies have developed a wealth of expertise and data on the cost of legislation and regulation on State, local and tribal government and the private sector. CBO should be able to tap into that expertise in a useful and timely manner. Other Congressional support agencies may also have developed information on cost estimates and the estimating process which might be helpful to CBO in performing its duties. CBO should not attempt to duplicate analytical work already being done by the other support agencies, but rather use as needed that information.

TITLE I—LEGISLATIVE ACCOUNTABILITY AND REFORM

Section 101. Legislative mandate accountability and reform

This section amends title IV of the Congressional Budget and Impoundment Control Act of 1974 by creating a new section 408 on Legislative Mandate Accountability and Reform. Subsection (a) establishes procedures and requirements for Committee reports accompanying legislation that imposes a Federal mandate. It requires a committee, when it orders reported legislation containing Federal mandates, to promptly provide the reported bill to CBO so that it can be scored. The Committee is concerned that the CBO scoring process not unnecessarily impede or slow the legislative process. With this view in mind, the Committee would urge the relevant authorizing committees to work closely with CBO during the committee process to ensure that legislation containing federal mandates, as well as possible related amendments to be offered in markup, be scored in a timely fashion.

The committee report shall include: an identification and description of Federal mandates in the bill, including an estimate of their expected direct costs to State, local and tribal governments and the private sector, and a qualitative assessment of the costs and benefits of the Federal mandates, including their anticipated costs and benefits to human health and safety and protection of the natural environment. If a mandate affects both the public and the private sectors, and it is intended that the Federal Government pay the public sector costs, the report should also state what effect, if any, this would have on any competitive balance between government and privately owned business.

Some Federal mandates will affect both the public and private sectors in similar, and in some cases nearly identical, ways. For example, the costs of compliance with minimum wage laws or environmental standards for landfill operations or municipal waste incinceration are incurred by both sectors. There has been some concern expressed that subsidization of the public sector in these cases could create a competitive advantage for activities owned by State, local or tribal governments in those areas where they compete with the private sector. In any instance where this might be the case, Congress should be aware of that impact and the effect on the continuing ability of private enterprises to remain viable, and carefully consider whether the granting of a competitive advantage to the public sector is fair and appropriate.

For Federal intergovernmental mandates, Committee reports must also contain a statement of the amount, if any, of increased authorization of Federal financial assistance to fund the costs of the intergovernmental mandates.

This section also requires the authorizing Committee to state in the report whether it intends the Federal intergovernmental mandate to be funded or not. There may be occasions when a Committee decides that it is entirely appropriate that State, local or tribal governments should bear the cost of a mandate without receiving Federal aid. If so, the Committee report should state this and give an explanation for it. Likewise, the Committee report must state the extent to which the reported legislation preempts State, local or tribal law, and, if so, explain the reasons why. To the maximum extent possible, this intention to preempt should also be clear in the statutory language.

Also set out in this section are procedures to ensure that the Committee publishes the CBO cost estimate, either in the Committee report or in the Congressional Record prior to floor consideration of the legislation.

Duties of the Director

New section 408(b) of the Congressional Budget and Impoundment Control Act requires that the Director of CBO analyze and prepare a statement on all bills reported by committees of the Senate or House of Representatives other than appropriations committees. This subsection stipulates, first, that the Director of CBO must estimate whether all direct costs of Federal intergovernmental mandates in the bill will equal or exceed a threshold of $50,000,000 annually. If the Director estimates that the direct costs will be below this threshold, the Director must state this fact in his statement on the bill, and must briefly explain the estimate. (Although this provision requires only a determination by CBO that the threshold will not be equalled or exceeded, if, in cases below the threshold, the Director actually estimates the amount of direct costs, the Committee expects that he will include that estimate in his explanatory statement.) If the Director estimates that the direct costs will equal or exceed the threshold, the Director must so state and provide an explanation, and must also prepare the required estimates.

In estimating whether the threshold will be equalled or exceeded, the director must consider direct costs in the year when the Federal intergovernmental mandate will first be effective, plus each of the succeeding four fiscal years. In some cases, the new duties or conditions that constitute the mandate will not become effective against State, local and tribal governments when the statute becomes effective, but will become effective when the implementing regulations become effective. In such cases, the Director must consider direct costs in the first fiscal year when the regulations are to become effective, and each of the next four fiscal years.

The $50,000,000 threshold in this legislation for Federal intergovernmental mandates is

significantly lower than the threshold of $200,000,000 in the State and Local Cost Estimate Act of 1981 (2 U.S.C. 403(c)). The threshold in the 1981 Act also included a test of whether the proposed legislation is likely to have an exceptional fiscal consequence for a geographic region or a level of government. The Committee believes that, in the context of this present legislation, applying a threshold for specific geographic regions or levels of government would be too subjective or too complex. However, the significantly lowered threshold of S. 1 should provide an extra margin of protection for particular geographic regions or levels of government affected by Federal intergovernmental mandates.

If the Director determines that the direct costs of the Federal intergovernmental mandates will equal or exceed the threshold, he must make the required additional estimates and place them in the statement. These additional estimates may be summarized as follows:

An estimate of the total amount of direct costs of the Federal intergovernmental mandates. This is an aggregate amount, broken out on an annual basis over the 5-year period.

An estimate of any increase in the bill in authorization of appropriations for Federal financial assistance programs usable by the State, local, and tribal governments for activities subject to the Federal intergovernmental mandates.

The amount of increase in authorization of appropriations would be calculated, as the sum of the increased budget authority of any Federal grant assistance, plus the increased subsidy amount of any loan guarantees or direct loans.

The Director of CBO must also estimate first whether all direct costs of Federal private sector mandates in the bill will equal or exceed a threshold of $200,000,000 annually. In making this estimate, the Director must consider direct costs in the year when the Federal private sector mandate will first be effective, plus each of the succeeding four fiscal years. In some cases, the new duties or conditions that constitute the mandate will not become effective for the private sector when the statute becomes effective, but will become effective when the implementing regulations become effective. In such cases, the Director must consider direct costs in the first fiscal year when the regulations become effective, and each of the next four fiscal years. If the Director estimates that the direct costs will equal or exceed the threshold, the Director must so state and provide an explanation, and must also prepare the required estimates. These additional estimates may be summarized as follows:

An estimate of the total amount of direct costs of the Federal private sector mandates. This is an aggregate amount, broke out annually over the 5-year period.

An estimate of any increase in the bill in authorization of appropriations for Federal financial assistance programs usable by the private sector for activities subject to the Federal private sector mandates.

If the Director determines that it is not feasible for him to make a reasonable estimate that would be required with respect to Federal private sector mandates, the Director shall not make the estimate, but shall report in the statement that the reasonable estimate cannot be reasonably made. No corresponding section applies for Federal intergovernmental mandates.

If the Director estimates that the direct costs of a Federal mandate will be below the specified threshold, the Director must state this fact in his statement on the bill, and must briefly explain the estimate. (Although this provision requires only a determination from CBO of whether the threshold will or will not be exceeded, if, in cases below the threshold, the Director actually estimates the amount of direct costs, the Committee expects that he will include this estimate in his explanatory statement.)

Point of order in the Senate

This section provides that a point of order lies against any bill or joint resolution reported by a committee that contains a Federal mandate, but does not contain a CBO estimate of the mandate's direct costs. A point of order would also lie against any bill, joint resolution, amendment, motion, or conference report that increased the costs of a Federal intergovernmental mandate by an amount that caused the $50,000,000 threshold to be exceeded, unless that same amount were fully funded to State, local and tribal governments.

Such action would have to specify that the funding of the mandate's full costs would be by way of; (1) an increase in entitlement spending with a resulting increase in the Federal budget deficit, (2) an increase in direct spending paid for by an increase in tax receipts, or (3) an increase in the authorization of appropriations.

If the third alternative is used (authorization of appropriations), the specific appropriation bill that is expected to provide funding must be identified. The mandate legislation must also designate a responsible Federal agency that shall either: implement an appropriately less costly mandate if less than full funding is ultimately appropriated (pursuant to criteria and procedures also provided in the mandate legislation), or declare such mandate to be ineffective. In other words, the authorizing committee should expect that unless it expressly plans otherwise, its mandate will be voided if the appropriations committee at any point in the future under-funds the mandate. Therefore, if a ''less money, less mandate'' alternative is both feasible and desired, it is incumbent upon the authorizing committee to specify how the agency shall implement that alternative.

Appropriations bills are not subject to a point of order under this section. If such a bill did seek to impose a federal mandate, it would likely be subject to the point of order that lies against legislating on an appropriations bill.

The Committee expects that during those instances when the Parliamentarian must rule on a point of order under this section, there may be occasions when there is a need for consultation regarding the applicability of this Act. This section provides that on all such questions that are not within the purview of either the House or Senate Budget Committee, it is the Senate Governmental Affairs Committee or House Government Reform and Oversight Committee that shall make the final determination. For example, on the question of whether a particular mandate is properly excluded from coverage of the Act as bill which enforces constitutional rights of individuals, the Governmental Affairs Committee would be the appropriate committee to consult. On a question regarding the particular cost of such a mandate, the Budget Committee would be the appropriate committee.

Section 102. Enforcement in the House of Representatives

This section specifies the procedures to be followed in the House of Representatives in enforcing the provisions of this Act.

Section 103. Assistance to committees and studies

This section requires the Director of CBO to consult with and assist committees of the Senate and the House of Representatives, at their request, in analyzing proposed legislation that may have a significant budgetary impact on State, local or tribal governments or a significant financial impact on the private sector. It provides for the assistance that committees will need for CBO to fulfill their obligations under the provisions of S. 1.

This section also states that CBO should set up a process to allow meaningful input from those knowledgeable, affected, and concerned about the Federal mandates in question. One possible way to establish this process is through the formation of advisory panels made up to relevant outside experts. The Committee leaves it to the discretion of the Director as to when and where it is appropriate to form an advisory panel; however, the Committee does encourage the Director to form these panels where feasible and helpful in performing the requisite studies. The membership of the panels should represent a fair balance of interests and constituencies, as well as include those expert in the areas of economic and budgetary analysis, but the Committee believes that when the Director convenes an advisory panel, he should appoint State, local or tribal officials (including their designated representatives) to the panels.

This section encourages authorizing committees to take a prospective look at the impact of Federal intergovernmental and private sector mandates before considering new legislation. It stipulates that committees should request that CBO undertake studies in the early part of each Congress of the potential budgetary and financial impact of Federal mandates in major legislation expected to be considered in that Congress.

Section 104. Authorization of appropriations

This paragraph authorizes appropriations for CBO of $4,500,000 per year for FY 1996 through 2002. The Committee recognizes that additional resources and personnel are needed for CBO to fully perform its duties under this Act along with continuing to carry out its current responsibilities. The Committee understands that the current policy and practice at CBO is to rely on in-house personnel to conduct studies and cost estimates, rather than contracting these duties to outside entities. The Committee supports this policy and urges the Appropriations Committee, in funding this authorization, to increase CBO's authority to hire additional personnel in order to fulfill its new duties under this Act.

Section 105. Exercise of rulemaking powers

This section provides that the terms of title I are enacted as an exercise of the rulemaking power of the Senate and the House of Representatives, and that either house may change such rules at any time.

Section 106. Repeal of the State and Local Cost Estimate Act of 1981

This paragraph rescinds the provisions of the State and Local Cost Estimate Act of 1981.

Section 107. Effective date

Title I will take effect on January 1, 1996 and apply only to legislation introduced on or after that date. This is to giveCBO the time to develop the proper methodologies and analytical techniques in order to develop a more thorough cost estimating process, as well as to give Congress opportunity to provide adequate resources to CBO in the annual appropriations process.

TITLE II—REGULATORY ACCOUNTABILITY AND REFORM

Section 201. Regulatory process

Under this section, agencies must assess the effects of their regulations on State, local and tribal governments, and the private sector, including resources available to

carry out Federal intergovernmental mandates contained in those regulations. In keeping with both statutory and regulatory objectives, agencies shall seek ways to minimize regulatory burdens that significantly effect State, local and tribal governments.

Subsection (b) requires agencies to develop an effective process to permit elected officials of those governments (or their designated representatives) to provide meaningful and timely input into the development of regulatory proposals that contain significant Federal intergovernmental mandates. This provision mirrors Section 1(b) of President Clinton's Executive Order 12875—''Enhancing the Intergovernmental Partnership''—which seeks to establish a closer partnership between Federal agencies and elected and other State, local and tribal officials in the regulatory process. The Committee expects agencies to fully and faithfully implement this section as well as the other provisions in the E.O. On January 11, 1994, OMB Director Leon Panetta and OIRA Administrator Sally Katzen issued guidance on the implementation of the E.O. Concerning Section 1 of the E.O., that guidance states, ''intergovernmental consultation should take place as early as possible, and preferably before publication of the notice of proposed rulemaking or other regulatory action proposing the mandate. Consultations may continue after publication of the regulatory action initiating the proposal, but in any event they must occur 'prior to the formal promulgation' in final form of the regulatory action 'containing the proposed mandate.'" Early and extensive intergovernmental consultation can help promote the development of more cost-effective Federal regulation as well as help all the participants in the process reach a better understanding of the proper needs and responsibilities of each level of government in implementing or complying with a Federal requirement.

OMB's guidance also outlines with whom agencies should consult in State, local and tribal government. The Committee feels strongly that agencies should follow the OMB guidance concerning consultation with elected officials, including their representatives, from all levels of smaller governments because these officials are responsible for balancing the competing claims on the government's revenue base from many program responsibilities. The OMB guidance further discusses how Federal agencies should also confer with the designated representatives of elected officials as well as with program and financial officials from State, local and tribal governments. program officials clearly are able to offer information and guidance to their Federal counterparts on the likely effectiveness of any Federal regulatory proposal, while financial officials can offer important perspectives on their government's ability to pay for the mandate. In consulting with financial officials, Federal agencies should look to the applicable treasury, budget, tax-collection, or other financial officers in State, local and tribal governments.

Subsection (b) also states that the intergovernmental consultations should be consistent with the requirements established in existing Federal law governing the regulatory process. In particular, the Committee believes that agencies must ensure that the consultation process not subvert or violate in any way the public disclosure and sunshine provisions of existing law and Executive Order, including the Administrative Procedure Act.

Subsection (c)(1) has agencies establishing plans to inform, advice, involve and consult with small governments before implementing regulations that might significantly or uniquely affect those governments. The Committee believes that Federal agencies should undertake a special effort to ensure that officials from small governments have an opportunity for significant input into the regulatory process. According to the Census Bureau, small governments (population below 50,000) make up 97 percent of all general purpose governments in the United States. A full 67 percent of all general purpose governments serve fewer than 2,500 people. Yet despite their prevalence, small governments have a relatively small presence in the Nation's Capital where Federal regulatory policies and decisions are made. It is the Committee's sense that Federal agencies have not always been aware of, or have adequately considered, small governments' capabilities in implementing certain regulatory requirements. This has resulted in the promulgation of regulations in certain cases that have not only over-burdened small governments to the point of widespread noncompliance, but in so doing fails to achieve those regulations' goals and objectives. The Committee believes that one way to achieve the twin goals of more cost-effective regulation and greater rates of compliance on significant regulations that impact small governments is for agencies to establish plans for outreach to small governments. Such plans might incorporate activities such as greater technical assistance to small governments; regional planning activities, conferences, and workshops; and establishment of small government advisory committees, or appointment of small government representatives on existing advisory committees. One good approach is embodied in the recommendations of the National Performance Review Report for the Environmental Protection Agency. The NPR EPA Report recommends that the agency convene a series of town meetings across the United States to discuss more flexible ways to achieve environmental protection.

Section 202. Statements to accompany significant regulatory actions

This section states that before a Federal agency promulgates any final rule or notice of proposed rulemaking that includes any intergovernmental mandate that is estimated to result in an annual aggregate expenditure of $100,000,000 or more by State, local or tribal governments, and the private sector, the agency must complete a written statement containing the following:

Estimates of the anticipated costs to State, local and tribal governments, and the private sector, of compliance with the mandate, including the availability of Federal funds to pay for those costs;

Future costs of Federal intergovernmental mandate not estimated above, including estimates of any disproportionate budgetary effects on any particular regions of the United States or on particular States, local governments, tribal governments, urban or rural or other types of communities;

A qualitative, and if possible, a quantitative assessment of costs and benefits anticipated from any Federal intergovernmental mandate, including enhancement of public health and safety and protection of the natural environment;

An estimate of the effect on the national economy of the mandate's impact on private sector costs;

A description and summary of input, comments, and concerns received from State, local and tribal government elected officials; and,

A summary of the agency's evaluation of those comments and concerns, and the agency's position supporting the need to issue the regulation containing the Federal intergovernmental mandates.

Subsection (b) requires agencies to summarizes their written statements and include that summary in the promulgation of the notice of proposed rulemaking and in the final rule. Subsection (c) states that preparation of the written statements may be done in conjunction with other analyses. This subsection ensures that agency actions be compatible with the regulatory planning and coordination provisions of the President's scheme for regulatory review as governed by Executive Order 12866—Regulatory Planning and Review.

The Committee believes that proper agency assessment of the impact of major regulations on State, local and tribal governments can lead to better and more cost-effective Federal regulation as well as reduce unreasonable burdens on smaller governments. The spirit and intent of this section is meant to be entirely consistent with the relevant portions of E.O. 12866. As part of its principles, the E.O. states, ''each agency shall assess the effects of Federal regulations on State, local, and tribal governments, including specifically the availability of resources to carry out those mandates, and seek to minimize those burdens that uniquely or significantly affect such governmental entities, consistent with achieving regulatory objectives. In addition, as appropriate, agencies shall seek to harmonize Federal regulatory actions with related State, local, and tribal regulatory and other governmental functions.'' The Committee strongly endorses these principles and supports their full implementation.

Section 203. Assistance to the Congressional Budget Office

This section requires the Director of the Office of Management and Budget to collect the written statements prepared by agencies under Section 202 and submit them on a timely basis to CBO. The reason for this section is that CBO may find useful agency assessments and analyses in performing the required cost estimates on legislation. As OMB already collects these assessments and related information from all agencies under Executive Order authority, it makes good sense that OMB also supply that information to CBO as a matter of routine.

Section 204. Pilot program on small government flexibility

This section requires OMB, in consultation with Federalagencies, to establish at least two pilot programs to test innovative and more flexible regulatory approaches that reduce reporting and compliance burdens on small governments while continuing to meet overall statutory goals and objectives.

The Committee believes that Federal agencies should experiment with some new and innovative approaches on regulations that affect small governments. Such a pilot program would embody some of the recommendations of the Vice President's National Performance Review. For example, the NPR report for the Environmental Protection Agency recommends that the agency establish a pilot project to assist a community in assessing its environmental and community health risks and how to direct resources to priority problems. The Committee's wish is that similar sorts of initiatives be tried by at least one other agency.

TITLE III—BASELINE STUDY

Section 301. Baseline study of costs and benefits

This section establishes a Commission on Unfunded Federal Mandates.

Section 302. Report on unfunded Federal mandates by the Commission

This section provides that the Commission shall review the role and impact of unfunded Federal mandates in intergovernmental relations, and make recommendations to the President and Congress on how State and

local governments can participate in meeting national objectives without the burden of such mandates. It shall also make recommendations on how to allow more flexibility in complying with mandates, reconcile conflicting mandates, terminate obsolete ones, and simply reporting and other requirements. The Commission shall first develop criteria for evaluating unfunded mandates, and then shall publish a preliminary report on its activities under this title within 9 months of the enactment of this Act. A final report shall be submitted within 3 months of the preliminary report.

Section 303. Membership

This section provides that the Commission shall be composed of 9 members—3 appointed by the Speaker of the House of Representatives (in consultation with the minority leader), 3 by the majority leader of the Senate (in consultation with the minority leader), and 3 by the President. No Member or employee of Congress may be a member of the Commission.

Section 304. Director and staff of commission; experts and consultants

This section provides for the appointment of the staff and Director of the Commission, without regard to certain Civil Service rules. It also grants the Commission the authority to hire on a temporary basis the services of experts and consultants for purposes of carrying out this title, as well as the right to receive detailees from Federal agencies on a reimbursable basis, if approved by the agency head.

Section 305. Powers of commission

This section provides the Commission with the authority to hold hearings, obtain official data, use the U.S. mails, acquire administrative support services from the General Services Administration, and contract for property and services.

Section 306. Termination

The Commission shall terminate 90 days after submitting its final report.

Section 307. Authorization of appropriations

This section authorizes the appropriation to Commission of $1 million.

Section 308. Definition

This section defines the term ''unfunded federal mandate'', as used in title III.

TITLE IV—JUDICIAL REVIEW

Section 401. Judicial review

This section provides that nothing under the Act shall be subject to judicial review, that no provisions of the Act shall be enforceable in an administrative or judicial action, and that no ruling or determination under the Act shall be considered by any court in determining the intent of Congress or for any other purpose.

V. REGULATORY IMPACT STATEMENT

Paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate requires Committee reports to evaluate the legislation's regulatory, paperwork, and privacy impact on individuals, businesses, and consumers.

S. 1 addresses Federal government process, not output. It will directly affect and change both the legislative and regulatory process. It will not have a direct regulatory impact on individuals, consumers, and businesses as these groups are not covered by the bill's requirements.

However, the implementation of S. 1 will likely have an indirect regulatory impact on these groups since a primary focus of the bill is to ensure that Congress assess the cost impact of new legislation on the private sector before acting. In so much as information on private sector costs of any particular bill or resolution may influence its outcome during the Congressional debate, it is possible that this bill may ease the regulatory impact on the private sector—both on individual pieces of legislation as well as overall. However, it is impossible at this time to determine with any specificity what that level of regulatory relief may be.

S. 1 does address the Federal regulatory process in three ways: (1) It requires agencies to estimate the costs to State, local and tribal governments of complying with major regulations that include Federal intergovernmental mandates; (2) It compels agencies to set up a process to permit State, local and tribal officials to provide input into the development of significant regulatory proposals; and (3) It requires agencies to establish plans for outreach to small governments.

However, with the exception of the third provision, the bill will not impose new requirements for agencies to implement in the regulatory process that are not already required under Executive Orders 12866 and 12875. The bill merely codifies the major provisions of the E.O.s that pertain to smaller governments.

The legislation will have no impact on the privacy of individuals. Nor will it add additional paperwork burdens to businesses, consumers and individuals. To the extent that CBO and Federal agencies will need to collect more data and information from State, local and tribal governments and the private sector, as they conduct their requisite legislative and regulatory cost estimates, it is possible that those entities will face additional paperwork. However, although smaller governments are certainly encouraged to comply with agency and CBO requests for information, they are not bound to.

VI. CBO COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, January 9, 1995.

Hon. WILLIAM V. ROTH,
Chairman, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1, the Unfunded Mandate Reform Act of 1995.

Enactment of S. 1 would not affect direct spending on receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER.

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE—JANUARY 9, 1995

1. Bill number: S. 1.

2. Bill title: Unfunded Mandate Reform Act of 1995.

3. Bill status: As ordered reported by the Senate Committee on Governmental Affairs on January 9, 1995.

4. Bill purpose: S. 1 would require authorizing committees in the House and Senate to include in their reports on legislation a description and an estimate of the cost of any federal mandates in that legislation, along with an assessment of their anticipated benefits. Mandates are defined to include provisions that impose duties on states, localities, or Indian tribes (''intergovernmental mandates'') or on the private sector (''private sector mandates''). Mandates also would include provisions that reduce or eliminate any authorization of appropriations to assist state, local, and tribal governments or the private sector in complying with federal requirements, unless the requirements are correspondingly reduced. In addition, intergovernmental mandates would include changes in the conditions governing certain types of entitlement programs (for example, Medicaid). Conditions of federal assistance and duties arising from participation in most voluntary federal programs would not be considered mandates.

Committee reports would have to provide information on the amount of federal financial assistance that would be available to carry out any intergovernmental mandates in the legislation. In addition, committees would have to note whether the legislation preempts any state or local laws. The requirements of the bill would not apply to provisions that enforce the constitutional rights of individuals, that are necessary for national security, or that meet certain other conditions.

The Congressional Budget Office (CBO) would be required to provide committees with estimates of the direct cost of mandates in reported legislation other than appropriation bills. Specific estimates would be required for intergovernmental mandates costing $50 million or more and, if feasible, for private sector mandates costing $200 million or more in a particular year. (CBO currently prepares estimates of costs to states and localities of reported bills, but does not project costs imposed on Indian tribes or the private sector.) In addition, CBO would probably be asked to assist the Budget Committees by preparing estimates for amendments and at laterstages of a bill's consideration. Also, at times other than when a bill is reported, when requested by Congressional committees, CBO would analyze proposed legislation likely to have a significant budgetary or financial impact on state, local, or tribal governments or on the private sector, and would prepare studies on proposed mandates. S. 1 would authorize the appropriations of $4.5 million to CBO for each of the fiscal years 1996–2002 to carry out the new requirements. These requirements would take effect on January 1, 1996, and would be permanent.

S. 1 would amend Senate rules to establish a point of order against any bill or joint resolution reported by an authorizing committee that lacks the necessary CBO statement or that results in direct costs (as defined in the bill) of $50 million or more in a year to state, local, and tribal governments. The legislation would be in order if it provided funding to cover the direct costs incurred by such governments, or if it included an authorization of appropriations and identified the minimum amount that must be appropriated in order for the mandate to be effective, the specific bill that would provide the appropriation, and a federal agency responsible for implementing the mandate.

Finally, S. 1 would require executive branch agencies to take actions to ensure that state, local, and tribal concerns are fully considered in the process of promulgating regulations. These actions would include the preparation of estimates of the anticipated costs of regulations to state, localities, and Indian tribes, along with an assessment of the anticipated benefits. In addition, the bill would authorize the appropriation of $1 million, to be spent over fiscal years 1995 and 1996, for a temporary Commission on Unfunded Federal Mandates, which would recommend ways to reconcile, terminate, suspend, consolidate, or simplify federal mandates.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000
Congressional Budget Office:						
Authorization of Appropriations	.....	4.5	4.5	4.5	4.5	4.5
Estimated Outlays	.....	4.0	4.4	4.4	4.4	4.4
Commission on Unfunded Federal Mandates:						
Authorization of Appropriations	1.0	.....	.....	.....	.....	.....

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000
Estimated Outlays	0.4	0.6	.....	.....	.....	.....
Bill Total:						
Authorization of Appropriations	1.0	5.5	4.5	4.5	4.5	4.5
Estimated Outlays	0.4	4.6	4.4	4.4	4.4	4.4

The costs of this bill fall within budget function 800.

Basis of estimate: CBO assumes that the specific amounts authorized will be appropriated and that spending will occur at historical rates.

We estimate that executive branch agencies would incur no significant additional costs in carrying out their responsibilities associated with the promulgation of regulations because most of these tasks are already required by Executive Orders 12875 and 12866.

6. Comparison with spending under current law: S. 1 would authorize additional appropriations of $4.5 million a year for the Congressional Budget Office beginning in 1996. CBO's 1995 appropriation is $23.2 million. If funding for current activities were to remain unchanged in 1996, and if the full additional amount authorized were appropriated, CBO's 1996 appropriation would total $27.7 million, an increase of 19 percent.

Because S. 1 would create the Commission on Unfunded Federal Mandates, there is no funding under current law for the commission.

7. Pay-as-you-go considerations: None.

8. Estimated cost to State and local governments: None.

9. Estimate comparison: None.

10. Previous CBO estimate: None.

11. Estimate prepared by: James Hearn.

12. Estimate approved by: Paul Van de Water, Assistant Director for Budget Analysis.

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. SIMON:

S. 174. A bill to repeal the prohibitions against political recommendations relating to Federal employment and United States Postal Service employment, and for other purposes; to the Committee on Governmental Affairs.

By Mr. SHELBY:

S. 175. A bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States; to the Committee on Governmental Affairs.

By Mr. BUMPERS:

S. 176. A bill to require the Secretary of the Interior to convey the Corning National Fish Hatchery to the State of Arkansas; to the Committee on Environment and Public Works.

By Mr. MCCAIN:

S. 177. A bill to repeal the Ramspeck Act; to the Committee on Governmental Affairs.

By Mr. LUGAR (for himself and Mr. LEAHY) (by request):

S. 178. A bill to amend the Commodity Exchange Act to extend the authorization for the Commodity Futures Trading Commission, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ROTH:

S. 179. A bill to amend the Immigration and Nationality Act to facilitate the apprehension, detention, and deportation of criminal aliens, and for other purposes; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. SIMON, and Mr. DODD):

S. 180. A bill to streamline and reform Federal job training programs to create a world-class workforce development system for the 21st century, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. HATCH:

S. 181. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage small investors, and for other purposes; to the Committee on Finance.

S. 182. A bill to amend the Internal Revenue Code of 1986 to encourage investment in the United States by reforming the taxation of capital gains, and for other purposes; to the Committee on Finance.

By Mr. ABRAHAM:

S. 183. A bill to provide that pay for Members of Congress shall be reduced whenever total expenditures of the Federal Government exceed total receipts in any fiscal year, and for other purposes; to the Committee on Governmental Affairs.

By Mr. HATFIELD:

S. 184. A bill to establish an Office for Rare Disease Research in the National Institutes of Health, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BUMPERS:

S. 185. A bill to transfer the Fish Farming Experimental Laboratory in Stuttgart, Arkansas, to the Department of Agriculture, and for other purposes; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SHELBY:

S. 175. A bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States; to the Committee on Governmental Affairs.

LEGISLATION TO MAKE ENGLISH THE OFFICIAL LANGUAGE OF THE U.S. GOVERNMENT

● Mr. SHELBY. Mr. President, today I am introducing legislation to designate English as the official language of the U.S. Government.

Last year, tax forms were printed in a language other than English for the first time in the 131 year history of the IRS. In addition, the Immigration and Naturalization Service is now conducting non-English language citizenship ceremonies. I find these policies very disturbing. The Government is sending a clear message that to live in the United States, one must not learn the English language.

I believe such Government policies establish a dangerous and expensive precedent. The idea that the U.S. Government can accommodate better than 300 foreign languages now found in America, is absurd.

In order to assimilate the various cultures and ethnic groups that comprise this great land, we must use English. Of all the different homelands and dialects introduced to the United States in the 18th century, the language the immigrants choose was English. They did not choose French, German, or Spanish.

A common, established language allows individuals to engage in conversation, commerce and of course political discussion. A common language serves as a bridge unifying a community by opening the lines of communication. In this diverse land of ours, English is the common line of communication we share. English is what allows us to teach, learn about and appreciate one another. It is therefore important that the Federal Government formally recognize English as the language of Government and pursue efforts to help new citizens assimilate and learn the English language.

The inability to communicate fosters frustration and resentment. By encouraging people to communicate in a common language, we actually help them progress in society. A common language allows individuals to take advantage of the social and economic opportunities America has to offer. The ability to maintain a law abiding citizenry is hindered and the ability to offer true representation is certainly hampered if individuals cannot communicate their opinions.

There might be concerns that this legislation will deprive non-English speaking individuals of certain rights or services. Let me assure you it will not. This legislation does not deny individuals their right to use native languages in their private lives nor does it deny critical services. This bill only affects the official functions of the U.S. Government. If anything, this legislation reflects the need to provide services that help non-English speaking people learn English and assimilate to America. Participatory democracy in this country simply requires people learn the English language.

I strongly urge my colleagues to join in this effort to establish a national language policy for the U.S. Government by cosponsoring the Language of Government Act of 1995.●

By Mr. BUMPERS:

S. 176. A bill to require the Secretary of the Interior to convey the Corning National Fish Hatchery to the State of Arkansas; to the Committee on Environment and Public Works.

THE CORNING NATIONAL FISH HATCHERY CONVEYANCE ACT OF 1995

Mr. BUMPERS. Mr. President, today, I am introducing legislation that would transfer the property rights in the Corning National Fish Hatchery from the Federal Government to the State of Arkansas. In 1983, the Fish and Wildlife Service closed this hatchery because of budget constraints. Because the State of Arkansas was interested in maintaining the Corning facility as part of its State hatchery system, the U.S. Fish and Wildlife Service signed a Memorandum of Understanding with the Arkansas Game and Fish Commission transferring the operation of the Corning Hatchery to the Arkansas Game and Fish Commission. The hatchery has even been renamed the William H. Donham State Fish Hatchery.

Mr. President, it is time to give the State of Arkansas clear title to this property. The State has been operating and maintaining it for over 10 years

without any Federal funding and it has become an important component of the State's fisheries program. The proposed transfer not only has the support of the Arkansas Game and Fish Commission but also the U.S. Fish and Wildlife Service.

I urge my colleagues to join me in support of this legislation and look forward to its speedy passage.

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

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

S. 176

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 ''Corning National Fish Hatchery Conveyance Act of 1995''.

SEC. 2. CONVEYANCE OF THE CORNING NATIONAL FISH HATCHERY TO THE STATE OF ARKANSAS.

(a) CONVEYANCE REQUIREMENT.—The Secretary of the Interior shall convey to the State of Arkansas, without reimbursement and by no later than December 31, 1995, all right, title, and interest of the United States in and to the property described in subsection (b), for use by the Arkansas Game and Fish Commission as part of the State of Arkansas fish culture program.

(b) PROPERTY DESCRIBED.—The property refereed to in subsection (a) is the property formally known as the Corning National Fish Hatchery, (popularly known as the William H. Donham State Fish Hatchery), located one mile west of Corning, Arkansas, on Arkansas State Highway 67 in Clay County, Arkansas, consisting of 137.34 acres, (more or less) and all improvements and related personal property under the control of the Secretary that is located on that property, including buildings, structures, and equipment.

(c) REVERSIONARY INTEREST OF UNITED STATES.—All right, title, and interest in property described in subsection (b) shall revert to the United States if the property ceases to be used as part of the State of Arkansas fish culture program. The State of Arkansas shall ensure that the property reverting to the United States is in substantially the same or better condition as the time of the transfer.

By Mr. MCCAIN:

S. 177. A bill to repeal the Ramspeck Act; to the Committee on Governmental Affairs.

THE RAMSPECK REPEAL ACT OF 1995

● Mr. MCCAIN. Mr. President, I introduce the Ramspeck Repeal Act, which would terminate the Ramspeck Act after a 2-year period. I believe the Ramspeck Act is obsolete and unfair, and the time has come to do away with it.

A description of the Ramspeck Act will quickly outline why I think it is unnecessary and unjustified. Signed into law in 1940, the Ramspeck Act provides exclusive privileges to former legislative and judicial branch employees to secure career civil service positions with the Federal Government. The Ramspeck Act makes a special exception to certain competitive requirements of civil service positions for individuals who have served 3 years in the legislative branch or 4 years in the judicial branch.

Under the Ramspeck Act, legislative branch employees are awarded status for direct appointment to a civil service position if they have been involuntarily separated from their job, and they are allowed 1 year from their date of separation in which to exercise this privilege. Furthermore, the Ramspeck Act waives any competitive examination which ranks applicants for a job for individuals who are former legislative or judicial branch employees. Therefore, if a competitive exam is required to rank candidates for a civil service position, the Ramspeck Act enables a select group of individuals to skip that hurdle, while assuring them of being able to be selected for the job.

Finally, individuals appointed under this act become career employees in the civil service without regard to the tenure of service requirements that exist for all other civil service employees. Most people who have successfully competed for a position with the civil service must then serve a 3-year probationary period before they achieve career status with their agency. Ramspeck appointees, however, are afforded career status immediately.

It is not appropriate for former legislative employees to receive special reemployment privileges that allow them to jump ahead of their fellow citizens when seeking a civil service position. It is both reasonable and equitable to require former legislative or judicial branch employees to compete for civil service jobs under the same terms that other Americans have to. Leveling the playing field for qualified individuals from the private sector who are interested in entering the civil service is a worthy endeavor, Mr. President, and one of the primary objectives of this proposal. By offering this legislation, I am also continuing my efforts to make the Congress abide by the same rules that our constituents live by.

Let me say that while I want to swiftly repeal the Ramspeck Act, I do not want to act in a manner that has a partisan or punitive impact. This proposal would have no impact on any former Senate or House employees who lost their jobs in the November 1994 election. I recognize that while the results of this November's election caused a large number of involuntary job losses among Democratic legislative employees, and many of them may currently be trying to utilize the Ramspeck Act to secure a civil service position. Clearly, Republican legislative branch employees have utilized their eligibility under the Ramspeck Act to seek civil service jobs after other elections, as well.

I strongly believe that the Ramspeck Act affords unfair employment privileges for both Republicans and Democrats alike, to the detriment of their fellow citizens who may not have had the opportunity to work in the legislative branch. Therefore, the legislation I am introducing today would terminate this reemployment perk 2 years after the enactment of this measure.

A repeal of the Rampseck Act is warranted because it is wrong for former legislative and judicial branch employees to be given special reemployment privileges that allow them to leap in front of equally qualified individuals—especially on the basis that they recently worked for a Senator or Congressmen who was recently defeated for reelection.

In closing, Mr. President, this legislation is about fairness and equal opportunity. The Ramspeck Act is an unnecessary and unjustified relic from another era, and it's time we repealed it. I hope the Senate will pass this legislation and take a sound step toward reforming a part of Federal civil service law that is an affront to the principles of merit-based job selections and true competition. I ask my colleagues to join with me in reaffirming these principals by supporting the Ramspeck Repeal Act.●

By Mr. LUGAR (for himself and Mr. LEAHY) (by request):

S. 178. A bill to amend the Commodity Exchange Act to extend the authorization for the Commodity Futures Trading Commission, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE COMMODITY FUTURES TRADING COMMISSION REAUTHORIZATION ACT

● Mr. LUGAR. Mr. President, I am pleased to introduce a bill to reauthorize the Commodity Futures Trading Commission [CFTC] to exercise its responsibilities to prevent manipulation, prohibit fraud, maintain financial integrity, and encourage innovation in the Nation's futures and commodity options markets through regulation and oversight. This legislation provides assurance to the national and international financial markets of the continuing authority of the CFTC, continues the CFTC's responsibilities under existing law, gives adequate time to complete implementation of the extensive amendments included in the Futures Trading Practices Act of 1992 [FTPA] and allows time for reviews of the effects of that implementation. The CFTC was established by the Commodity Futures Trading Commission Act of 1974 as a sunset agency, and its authority must be regularly extended by Congress. The FTPA authorized the agency for a period of only 2 years and the CFTC now operates under authority granted by Congress through the appropriations process, a deficiency this bill will correct.

The CFTC's task of overseeing and regulating a rapidly expanding futures industry has been, is, and will be enormous. The volume of commodity futures and options contracts traded on the Nation's commodity exchanges, or designated contract markets, for 1994 exceeded half-a-billion transactions.

These transactions directly or indirectly effect the financial well being of family farms, corporations, financial institutions, traders, and millions of individuals through pooled investments. All of this trading is carried out within a self-regulatory framework overseen and supplemented by the CFTC, an agency of less then 600 employees.

The futures industry is an essential part of our Nation's financial markets and the CFTC is an essential player in the federal regulation of those markets. President Bush recognized the role of the CFTC in establishing the President's Working Group on Financial Markets, in the wake of the October 1987 stock market collapse, which included the Secretary of the Treasury, the Chairman of the Federal Reserve Board of Governors, the Chairman of the Securities and Exchange Commission, and the Chairman of the CFTC. Former Secretary of the Treasury Bentsen reactivated the Working Group and the Chairman of the CFTC remains an active and vital participant in its efforts. Reauthorization of the CFTC will express congressional intent that the agency continue its role as a member of this group.

The volume of exchange traded futures and commodity options contracts and the increased importance of this trading to all sectors of the financial markets is not confined to the United States. New markets are developing in other nations around the world and governments of those countries are grappling with regulatory issues. The CFTC has taken a leading role in dealing with these governments on a variety of futures related matters. Reauthorization will assist the CFTC in its dealings with these governments. This is an area of increasing importance as our financial markets compete with overseas markets to attract and serve customers around the world.

Along with increasing volume, connections with other financial industries, and internationalization, the increasing complexity of financial transactions is a challenge facing the CFTC. The financial industry is now able to construct a bewildering array of instruments to serve the investment, or risk management needs of their customers.

Often these instruments are lumped together under the term ''derivatives.'' Exchange traded futures contracts governed by the requirements of Federal law since 1922 and overseen by the CFTC since 1974 are certainly one form of derivatives, since their value is derived from the value of an underlying commodity. Development of the over the counter instruments knows as derivatives led to the question whether they were the economic or legal equivalents of futures contracts. Since prior to FTPA, Federal law required all futures trading to occur on organized exchanges, this led to legal uncertainty in the now huge derivatives market. Using the broad exemptive authority granted by Congress in FTPA, the CFTC has been addressing this problem. Reauthorization will give these new markets the confidence that the process will go forward in a orderly way.

While the markets overseen by the CFTC have grown immensely in volume, variety of products, and diversity of users, the importance of futures trading to agriculture cannot be overstated. The development of futures trading allowed farmers to mitigate the boom and bust cycle of prices for their crops through intelligent marketing. Today futures trading is an integral part of pricing and risk management for U.S. agriculture. The volume of exchange traded futures and commodity options contracts on U.S. commodity exchanges totalled over 58 million transactions in 1994. This trading affected not only the market participants, but ultimately all producers, processors, merchandisers and consumers of agricultural products with prices affected by exchange trading. As the Congress reviews the current Federal commodity programs through hearings, and debates on the 1995 farm bill, the pricing and risk shifting functions of the futures markets may take on even more importance as we reconsider the role of the Federal Government in stabilizing prices and assuming price risks in agriculture. As we take on this task, we need to assure ourselves that the futures markets are operated appropriately and are properly overseen.

Finally, after 4 years of hearings, debate, and consideration the Congress passed FTPA. The law addressed not only the tremendous growth in volume, variety of products, internationalization, and complexity issues discussed above; but also concerns about the interrelationship of the futures and securities markets in the wake of the October 1987 stock market collapse, fraudulent trading practices by numerous individuals on the Nation's exchanges as disclosed by FBI undercover operations and CFTC investigations, and the negative effect on soybean prices precipitated by an exchange emergency action that angered many producers. The Congress granted the CFTC new authorities to address these issues. Further, the Congress directed the agency to undertake numerous rulemakings and studies to implement the requirements of FTPA. That law amended the Commodity Exchange Act to:

Improve the regulation of futures and options traded under rules and regulations of the Commodity Futures Trading Commission; to establish registration standards for all exchange floor traders; to restrict practices that may lead to the abuse of outside customers of the marketplace; to reinforce development of exchange audit trails to better enable the detection and prevention of such practices; to establish higher standards for service on governing boards and disciplinary committees of self-regulatory organizations; to enhance the international regulation of futures trading; to regularize the process of authorizing appropriations for the Commodity Futures Trading Commission; and for other purposes. . . .

The committee intends to commence hearings in the near future to review the CFTC's progress in implementing FTPA. Enactment of this legislation will assure orderly implementation of FTPA and assure industry participants, commerce generally and the public of continued oversight of this vital sector of the American economy.

Mr. President, I ask unanimous consent that the full text of the bill I am introducing today be printed in the RECORD.

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

S. 178

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 ''CFTC Reauthorization Act of 1995''.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended to read as follows:

''(d) There are authorized to be appropriated such sums as are necessary to carry out this Act for each of fiscal years 1995 through 2000.''.●

By Mr. ROTH:

S. 179. A bill to amend the Immigration and Nationality Act to facilitate the apprehension, detention, and deportation of criminal aliens, and for other purposes; to the Committee on the Judiciary.

THE CRIMINAL ALIEN CONTROL ACT OF 1995

● Mr. ROTH. Mr. President, today I am introducing the Criminal Alien Control Act of 1995. This comprehensive legislation addresses a problem that has reached staggering proportions in this country: criminal aliens.

Without question, there are many problems with our Nation's immigration system. I hope that this is the year we undertake comprehensive immigration reform, including changing the much-abused asylum process. But we cannot effectively reform our immigration system without addressing the problem of criminal aliens.

The problem of criminal aliens occupies the dangerous intersection of crime and the control of our Nation's borders, two issues of great concern to the American people. I hope we can all agree that there is no place in this country for people who come here and commit serious crimes. Criminals are one commodity we do not need to import.

Last Congress, as ranking minority member of the Permanent Subcommittee on Investigations, I conducted an investigation and held 2 days of hearings on the problem of criminal aliens and the governmental response to that problem. Our investigation found that criminal aliens are a serious threat to our public safety that is costing our criminal justice system hundreds of millions of dollars. And the problem is getting worse by leaps and bounds.

Criminal aliens now account for an all-time high of 25 percent of the Federal prison population and are, by far, the fastest growing segment of the Federal prison population. Throughout our Nation's criminal justice system, there are an estimated 450,000 criminal aliens—a staggering number.

Although our investigation found that the Immigration and Naturalization Service is not adequately responding to the criminal alien problem, the INS does not deserve all of the blame. In fact, when it comes to criminal aliens, there is plenty of blame to go around and we in Congress are not immune. Congress deserves blame because our Federal criminal alien deportation laws, created on a piecemeal and patchwork basis, set out an irrational, lengthy and overly complex process that prevents us from deporting criminals as rapidly as we should be.

There are, however, many difficulties with the INS that have exacerbated this problem. For example, the INS is unable to even identify most of the criminal aliens who clog our State and local jails before these criminals are released onto our streets. Also, many criminal aliens, having been identified, are released on bond while the lengthy deportation process is pending. It should be a surprise to no one that many skip bond and never show up for their deportation hearings.

One thing the IRS does is routinely provide criminal aliens with work permits legally allowing them to get jobs while their appeals are pending. One INS deportation officer told my staff that he spends only about 5 percent of his time looking for criminal aliens because he must spend most of his time processing their work permits.

As for actual deportation, the final step in the process, criminal aliens often are not actually deported even when deportation orders have been issued for them. According to the INS, there are more than 27,000 aliens, including many criminal aliens, who have been ordered deported yet remain at large. It is no wonder that one frustrated INS official told us that only the stupid and honest actually get deported.

Perhaps the ultimate indictment of the current system is that even on those rare occasions when the system actually works and a criminal alien is deported, reentry into the United States is so easy that it makes the whole process appear to be a giant exercise in futility. The subcommittee obtained long lists of criminal aliens who have repeatedly been deported only to reenter the country illegally and commit more crimes.

My legislation addresses the serious problem posed by criminal aliens by simplifying, streamlining and strengthening the deportation process for these aliens who have been convicted of committing crimes in this country.

My legislation simplifies existing law by eliminating the confusing array of crimes for which criminal aliens are deportable. Under my legislation, any alien who commits any felony is deportable—period.

My legislation streamlines the deportation process for criminal aliens by, among other things, requiring aliens who are not permanent residents and who wish to appeal deportation orders, to do so from their home countries, after they have been deported. My legislation further streamlines the process by allowing States and Federal judges to order the deportation of criminal aliens. Once an alien has been convicted beyond a reasonable doubt of having committed a felony, having had the benefit of all the due process that is required in our criminal justice system, there is no reason why the sentencing judge should not also be permitted to enter an order of deportation at the time of sentencing. My legislation also restricts the defense currently used by criminal aliens to delay or avoid deportation.

Also, as many of us know, certain State and local governments have been highly critical of what they see as the Federal Government's inability to effectively police our Nation's borders. Yet, some of these same jurisdictions have passed laws and adopted official policies prohibiting their local police departments and other employees from cooperating with Federal immigration officials. I think that is hypocritical. I offered an amendment to the crime bill last year that was adopted 93–6 that would cut crime bill funding to local entities that adopt such policies of noncooperation, but my amendment was dropped in conference. A similar provision is included in this legislation.

Through this comprehensive legislation, I believe we can begin to effectively address the growing serious problem of criminal aliens in this country. I believe this is an essential step on the road to meaningful reform of our Nation's immigration system and I urge my colleagues to support this important measure.

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

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

S. 179

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 ''Criminal Alien Control Act of 1995''.

SEC. 2. TABLE OF CONTENTS.

The following is the table of contents for this Act:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—DEPORTATION OF CRIMINAL ALIENS

Sec. 101. Equal immigration treatment to all alien felons.
Sec. 102. Deportation procedures for certain criminal aliens.
Sec. 103. Judicial deportation.
Sec. 104. Uncontested deportations.
Sec. 105. Restricting defenses to deportation for certain criminal aliens.
Sec. 106. Extraterritorial appeals by criminal aliens.
Sec. 107. Collateral attacks on underlying deportation order.
Sec. 108. Restriction on asylum for criminal aliens.
Sec. 109. Federal incarceration.
Sec. 110. Form of deportation hearings.
Sec. 111. Construction of expedited deportation requirements.

TITLE II—LOCAL COOPERATION WITH FEDERAL OFFICIALS AND PROCEDURES

Sec. 201. Funding based on cooperation.
Sec. 202. Production of criminal records.

TITLE III—MISCELLANEOUS

Sec. 301. Detention of undocumented criminal aliens at military installations to be closed.
Sec. 302. Authorizing registration of aliens on criminal probation or criminal parole.
Sec. 303. Admissible evidence before a special inquiry officer.

TITLE I—DEPORTATION OF CRIMINAL ALIENS

SEC. 101. EQUAL IMMIGRATION TREATMENT TO ALL ALIEN FELONS.

(a) FELONIES.—(1) Sections 101(f) (8 U.S.C. 1101(f)); 106(a) (8 U.S.C. 1105a(a)); 208(d) (8 U.S.C. 1158(d)); 212(a)(6)(B) (8 U.S.C. 1182(a)(6)(B)); 236(e)(i) (8 U.S.C. 1226(e)(i)); 241(a)(2)(A) (8 U.S.C. 1251(a)(2)(A)); 242 (8 U.S.C. 1252(a)); 242A(d) (8 U.S.C. 1252a); 242B(c) (8 U.S.C. 1252b(c)); 243(h) (8 U.S.C. 1253(h)); 244(e) (8 U.S.C. 1254(e)); and 277 (8 U.S.C. 1327) are amended by striking ''aggravated felony'', ''an aggravated felony'', and ''aggravated felonies'' each place they appear and inserting in lieu thereof ''felony'', ''a felony'', or ''felonies'', respectively.

(2) Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraph:

''(47) The term 'felony' means any offense under Federal or State law that is punishable by death or imprisonment for more than 1 year.''.

(b) PRECLUSION OF JUDICIAL REVIEW.—Section 106(c) of the Immigration and Nationality Act (8 U.S.C. 1105a(c)) is amended—

(1) by inserting ''(1)'' immediately after ''(c)''; and

(2) by adding at the end the following:

''(2) An order of deportation or of exclusion shall not be reviewed by any court of the United States if the grounds for such order is the commission of a felony by the alien, except that the Attorney General may defer deportation or exclusion of the alien pending judicial review if the Attorney General determines that to do otherwise would cause hardship to the alien.''.

SEC. 102. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS.

(a) IN GENERAL.—Section 242A(a) of the Immigration and Nationality Act (8 U.S.C. 1252a(a)) is amended—

(1) in paragraph (1), by inserting ''permanent resident'' after ''correctional facilities for'';

(2) in paragraph (2) by striking ''respect to an'' and inserting ''respect to a permanent resident''; and

(3) in paragraph 3, by inserting ''permanent resident'' after ''in the case of any''.

(b) DEPORTATION OF ALIENS WHO ARE NOT PERMANENT RESIDENTS.—Section 242A(b)(1) of such Act is amended by striking ''Attorney General may'' and inserting ''Attorney General shall''.

(c) PRESUMPTION OF DEPORTABILITY.—Section 242A of such Act (8 U.S.C. 1252a) is

amended by adding at the end the following new subsection:

''(d) PRESUMPTION OF DEPORTABILITY.—An alien convicted of an aggravated felony shall be conclusively presumed to be deportable from the United States.''.

(d) LIMITED JUDICIAL REVIEW.—Section 106(d) of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended to read as follows:

''(d) Notwithstanding subsection (c), a petition for review or for habeas corpus on behalf of an alien described in section 242A(c) may only challenge whether the alien is in fact an alien described in such section, and no court shall have jurisdiction to review any other issue.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of enactment of this Act.

SEC. 103. JUDICIAL DEPORTATION.

(a) JUDICIAL DEPORTATION.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

''(c) JUDICIAL DEPORTATION.—

''(1) AUTHORITY.—Notwithstanding any other provision of this Act, a United States district court or a State court shall have jurisdiction to enter a judicial order of deportation at the time of sentencing against an alien whose criminal conviction causes such alien to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of a felony).

''(2) PROCEDURE.—(A) The United States Attorney or, in the case of a proceeding before a State court, the State's attorney general, shall provide notice of intent to request judicial deportation promptly after the entry in the record of an adjudication of guilt or guilty plea. Such notice shall be provided to the court, to the alien, to the alien's counsel of record, and to the Commissioner.

''(B) Notwithstanding section 242B—

''(i) in the case of a proceeding before a United States court, the United States Attorney, with the concurrence of the Commissioner, or

''(ii) in the case of a proceeding before a State court, the State's attorney general,

shall, at least 20 days before the date set for sentencing, file a charge containing factual allegations regarding the alienage of the defendant and satisfaction by the defendant of the definition of felony.

''(C) If the court determines that the defendant has presented substantial evidence to establish prima facie eligibility for relief from deportation under section 212(c), the court shall request the Attorney General to provide the court with a recommendation and report regarding the alien's eligibility for relief under such section. The court shall either grant or deny the relief sought.

''(D)(i) The alien shall have a reasonable opportunity to examine the evidence against him or her, to present evidence on his or her own behalf, and to cross-examine witnesses presented by the Government.

''(ii) The court, for the purposes of determining whether to enter an order described in paragraph (1), shall only consider evidence that would be admissible in proceedings conducted pursuant to section 242(b).

''(3) NOTICE, APPEAL, AND EXECUTION OF JUDICIAL ORDER OF DEPORTATION.—(A)(i) A judicial order of deportation or denial of such order may be appealed by either party to the court of appeals for the circuit in which the United States district court is located or to the appropriate State court of appeals, as the case may be.

''(ii) Except as provided in clause (iii), such appeal shall be considered consistent with the requirements described in section 106.

''(iii) Upon execution by the defendant of a valid waiver of the right to appeal the conviction on which the order of deportation is based, the expiration of the period described in section 106(a)(1), or the final dismissal of an appeal from such conviction, the order of deportation shall become final and shall be executed at the end of the prison term in accordance with the term of the order.

''(B) As soon as is practicable after entry of a judicial order of deportation by a United States court, the Attorney General shall provide the defendant with written notice of the order of deportation, which shall designate the defendant's country of choice for deportation and any alternate country pursuant to section 243(a).

''(C) As soon as is practicable after entry of a judicial order of deportation by a State court, the State court shall notify the Attorney General of the order. Upon the termination of imprisonment of the alien, the State shall remand the alien to the custody of the Attorney General. The Attorney General shall effect the deportation of the alien in the manner prescribed in this Act with respect to final orders of deportation.

''(4) DENIAL OF JUDICIAL ORDER.—Denial of a request for a judicial order of deportation shall not preclude the Attorney General from initiating deportation proceedings pursuant to section 242 upon the same ground of deportability or upon any other ground of deportability provided under section 241(a). Any denial of a judicial order of deportation shall include a statement in writing stating the reasons for the denial.

''(5) DEFINITION.—For purposes of this subsection, the term 'State' refers to any of the several States and the District of Columbia.''.

(b) TECHNICAL AND CONFORMING CHANGES.—The ninth sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by striking out ''The'' and inserting in lieu thereof ''Except as provided in section 242A(c), the''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens whose adjudication of guilt or guilty plea is entered in the record after the date of enactment of this Act.

SEC. 104. UNCONTESTED DEPORTATIONS.

Section 242B of the Immigration and Nationality Act (8 U.S.C. 1252b) is amended—

(1) in subsection (a)(1), by adding at the end the following new subparagraph:

''(G) The right of an alien deportable under section 241(a)(2) to execute a deportation affidavit pursuant to subsection (f) in lieu of deportation proceedings.'';

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (e) the following:

''(f) DEPORTATION AFFIDAVIT.—In lieu of a determination of deportability in a proceeding before a special inquiry officer, an alien may elect to admit deportability under section 241(a)(2) through the execution of an affidavit witnessed by such an officer and a notary public. A special inquiry officer shall make a determination of deportability under this subsection based solely on the affidavit and, if he finds the alien deportable, shall issue an order of deportation with respect to that alien.''.

SEC. 105. RESTRICTING DEFENSES TO DEPORTATION FOR CERTAIN CRIMINAL ALIENS.

(a) DEFENSES BASED ON SEVEN YEARS OF PERMANENT RESIDENCE.—Section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended—

(1) in the third sentence, by striking ''has served for such felony or felonies'' and all that follows through the period and inserting ''has been sentenced for such felony or felonies to a term of imprisonment of at least 5 years, if the time for appealing such conviction or sentence has expired and the sentence has become final;''; and

(2) by adding at the end the following new sentence: ''For purposes of calculating the period of seven consecutive years under this subsection, any period of imprisonment of the alien by Federal, State, or local authorities shall be excluded but shall not be considered to have broken the continuity of the period.''.

(b) DEFENSES BASED ON WITHHOLDING OF DEPORTATION.—Section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)) is amended—

(1) by striking ''or'' at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting ''; or''; and

(3) by striking the final sentence and inserting the following new subparagraph:

''(E) the alien has been convicted of a felony.''; and

SEC. 106. EXTRATERRITORIAL APPEALS BY CRIMINAL ALIENS.

Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended by adding at the end the following new subsection:

''(e)(1) In the case of any alien found to be deportable under section 242(a)(2), the Attorney General may not defer deportation of the alien and shall, after issuance of the deportation order, take the alien into custody until the alien is deported.

''(2) Any court of the United States shall have jurisdiction to review an order of deportation issued under paragraph (1) in any case where the petitioner for review is outside the United States. Any alien for whom an order of deportation has been vacated under this paragraph shall be issued a valid visa and admitted to the United States to the status held by the alien before deportation.''.

SEC. 107. COLLATERAL ATTACKS ON UNDERLYING DEPORTATION ORDER.

Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding at the end the following new subsection:

''(c) In any criminal proceeding under this section, no alien may challenge the validity of the deportation order described in subsection (a)(1) or subsection (b).''.

SEC. 108. RESTRICTION ON ASYLUM FOR CRIMINAL ALIENS.

(a) IN GENERAL.—Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) is amended by adding at the end the following new subsections:

''(f) Notwithstanding subsection (a), an alien may only be granted asylum under this section if the alien claims asylum within 15 days of the alien's entry into the United States, unless the alien establishes by clear and convincing evidence that since the date of entry into the United States circumstances have changed in the alien's country of nationality (or, in the case of a person having no nationality, the country in which such alien last habitually resided) such that, if the alien returned to the country, it is more likely than not that the alien would be arrested or incarcerated or the alien's life would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion.

''(g) An alien is not eligible for asylum under this section if the Attorney General determines that—

''(1) the alien ordered, incited, assisted, or otherwise participated in the persecution of

any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

''(2) the alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States;

''(3) there are serious reasons for believing that the alien has committed a serious nonpolitical crime outside the United States prior to the arrival of the alien in the United States;

''(4) there are reasonable grounds for regarding the alien as a danger to the security of the United States; or

''(5) a country willing to accept the alien has been identified (other than the country described in subsection (f)) to which the alien can be deported or returned and the alien does not establish that it is more likely than not that the alien would be arrested or incarcerated or the alien's life would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion.

For purposes of paragraph (2), an alien who has been convicted of a felony shall be considered to have committed a particularly serious crime. The Attorney General shall prescribe regulations that specify additional crimes that will be considered to be a crime described in paragraph (2) or (3).''.

(b) CONFORMING AMENDMENT.—Section 208(a) of such Act (8 U.S.C. 1158(a)) is amended by inserting '', except as provided in subsection (g),'' after ''asylum, and''.

SEC. 109. FEDERAL INCARCERATION.

Section 242(j)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1252(j)) is amended by inserting ''for a determinate term of imprisonment'' after ''the alien''.

SEC. 110. FORM OF DEPORTATION HEARINGS.

Section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by inserting after the second sentence the following new sentence: ''Nothing in the preceding sentence precludes the Attorney General from authorizing proceedings by electronic or telephonic media (with or without the consent of the alien) or, where waived or agreed to by the parties, in the absence of the alien.''.

SEC. 111. CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.

No amendment made by this Act may be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States, its agencies or officers, or against any other person.

TITLE II—LOCAL COOPERATION WITH FEDERAL OFFICIALS AND PROCEDURES

SEC. 201. FUNDING BASED ON COOPERATION.

(a) STATE AND LOCAL COOPERATION.—Notwithstanding any law, ordinance, or regulation of any State or subdivision thereof to the contrary, officials of any State or local government or agency, upon the request of any duly authorized official of the Immigration and Naturalization Service, shall provide information regarding the identification, location, arrest, prosecution, detention, and deportation of an alien or aliens who are not lawfully present in the United States.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General and the Commissioner of Immigration and Naturalization shall jointly report to the Congress and the President on the extent to which State and local governments are not cooperating with the Immigration and Naturalization Service. This report shall identify any State or local governments that have adopted laws, policies, or practices of noncooperation with the Immigration and Naturalization Service, the specific nature of those laws, policies or practices, and their impact on the enforcement of the immigration laws.

(c) FUNDING BASED ON COOPERATION.—No State or local government or agency which has been identified in the Attorney General's report required by subsection (b), which has a policy or practice of refusing to cooperate with the Immigration and Naturalization Service regarding the identification, location, arrest, prosecution, detention, or deportation of aliens who are not lawfully present in the United States, shall be eligible for any Federal funds from appropriations made pursuant to a provision of the Violent Crime Control and Law Enforcement Act of 1994 or of an amendment made by authorizing appropriations, as long as such policy or practice remains in effect.

SEC. 202. PRODUCTION OF CRIMINAL RECORDS.

Section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by inserting ''or any political subdivision thereof'' after ''State'' the second, third, and fourth occurrence thereof.

TITLE III—MISCELLANEOUS

SEC. 301. DETENTION OF UNDOCUMENTED CRIMINAL ALIENS AT MILITARY INSTALLATIONS TO BE CLOSED.

(a) IN GENERAL.—(1) Notwithstanding any other provision of law, the Secretary of Defense shall make available to the Attorney General for the purpose referred to in paragraph (2) any military installation of the Department of Defense that—

(A) is approved for closure under a base closure law; and

(B) is jointly determined by the Secretary and the Attorney General to be an appropriate facility for the detention of undocumented aliens.

(2) The Attorney General shall use facilities made available to the Attorney General under this paragraph for the detention of undocumented criminal aliens.

(b) DEFINITIONS.—In this section:

(1) The term ''approved for closure under a base closure law'', in the case of a military installation, means any installation whose closure under a base closure law is recommended by the President and not disapproved by Congress in accordance with the provisions of such law.

(2) The term ''base closure law'' means the following:

(A) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 102–510; 10 U.S.C. 2687 note).

(B) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(3) The term ''undocumented criminal alien'' means an alien who—

(A) has been convicted of a felony and sentenced to a term of imprisonment, and

(B)(i) entered the United States without inspection or at any time or place other than as designated by the Attorney General, or

(ii) was the subject of exclusion or deportation proceedings at the time he or she was taken into custody by the State.

SEC. 302. AUTHORIZING REGISTRATION OF ALIENS ON CRIMINAL PROBATION OR CRIMINAL PAROLE.

Section 263(a) of the Immigration and Nationality Act (8 U.S.C. 1303(a)) is amended by striking ''and (5)'' and inserting ''(5) aliens who are or have been on criminal probation or criminal parole within the United States, and (6)''.

SEC. 303. ADMISSIBLE EVIDENCE BEFORE A SPECIAL INQUIRY OFFICER.

In any proceeding under the Immigration and Nationality Act before a special inquiry officer, such documents and records as are described in section 3.41 of title 8, Code of Federal Regulations, as in effect on the date of enactment of this Act, may be admissible as evidence of a criminal conviction.●

By Mr. KENNEDY (for himself, Mr. SIMON, and Mr. DODD):

S. 180. A bill to streamline and reform Federal job training programs to create a world-class work force development system for the 21st century, and for other purposes; to the Committee on Labor and Human Resources.

THE WORKFORCE DEVELOPMENT ACT

Mr. KENNEDY. Mr. President, today I am introducing the Workforce Development Act. This bill is a complement to S. 6, the Working Americans Opportunity Act, which was introduced on the first day of this Congress by Senator DASCHLE, Senator BREAUX, other Senators, and myself.

One of our top priorities for this session is to modernize the current confusing and overlapping array of job training programs. In today's rapidly changing economy, we must provide more effective opportunities for workers to upgrade their skills and improve their earning power over the course of their careers.

Compared to other major industrial nations, the United States is still in the Dark Ages of enabling workers and firms to adjust to changes taking place in the economy. The policy foundations for our current job training system was established during the years of the New Deal, the New Frontier, and the Great Society.

The primary challenge that most of our current programs were designed to address was to help various hard-to-serve groups to enter the labor force. Many of these programs—such as the Job Corps—have been very successful. Over the years millions of economically disadvantaged individuals have benefitted.

As we move forward with new ideas to modernize our job training system we must not retreat from the commitment to provide the basic skills and support services which make it possible for large numbers of disadvantaged Americans to achieve self-sufficiency in the labor market.

At the same time, we also need to respond to the new and powerful economic forces which are disrupting the existing labor markets for millions of working Americans and their families. As a result of increased international competition, rapid technological change, reductions in defense spending, and the re-engineering and down-sizing of corporations, many men and women already in the labor force must be retrained to improve their skills and enable them to continue to productive careers. In the evolving modern economy, this kind of retraining may be needed more than once, and often several times, over the course of people's careers.

We also must respond to the concerns of the large numbers of two-income families, and families with single heads

of household who face the difficult challenge of balancing work and family responsibilities. We need a more flexible job training and employment system that can help the breadwinners in working families to move in and out of the labor force without losing their earning power.

Over the past decade, many private businesses have taken steps to streamline their operations to deal with the profound changes taking place in our economy. It is clearly time for the Federal Government to act as well to consolidate and coordinate current job training programs in order to give workers a greater opportunity to succeed. It is time for a comprehensive overhaul of Federal job training policy. The Workforce Development Act I am introducing provides action to streamline and reform current policy. It encourages the States to experiment with new approaches to make their own job training programs more responsive to the real needs of working families.

A key element of both the Workforce Development Act and S. 6, the Working Americans Opportunity Act introduced earlier this week, is the idea of making vouchers available to workers, so that they can purchase the training programs of their choice. President Clinton is right in proposing vouchers as a means to enable market forces to help transform the current excessively bureaucratic programs into a more effective system driven by the real needs of workers, job seekers, and firms in communities across the country.

Last year Senator KASSEBAUM and I began to work together to devise a new strategy to create the type of work force development system the Nation needs. In June we issued a joint statement on the Senate floor which laid out a series of principles to guide this reform. Several other Senators joined us at that time, and we subsequently received support from many other Senators on both sides of the aisle. Over the course of the summer and into last fall we worked together to lay the groundwork for a bipartisan reform effort in the 104th Congress.

The Senate has a good record of bipartisan accomplishment in the area of work force development policy. When the Republicans controlled this body in the 1980's, many of us worked closely with Senator Dan Quayle to pass the Job Training Partnership Act, which established the principle of a strong private sector role at the local level in designing training programs for disadvantaged and dislocated workers.

Similarly, in the last session of Congress, a bipartisan coalition of Senators joined in passing the School-To-Work Act. Much of the foundation for this bill was laid by the landmark ''American choice'' report issued in 1990 by a distinguished bipartisan commission led by former Labor Secretaries Bill Brock and Ray Marshall. As a result of this groundwork, the School-To-Work Act earned broad support from business, labor, governors, mayors, and leaders in education. It is time to apply that same sense of shared purpose to making all our job training programs more responsive to the needs of job seekers and workers struggling to be competitive in our modern economy.

The legislation I am introducing today grew out of discussions with Members of Congress on both sides of the aisle in the 103d Congress and with the Clinton administration. It also draws on the innovative steps being taken in Massachusetts to meet this challenge and to define the proper role of the private and public sectors and Federal, State, and local governments in work force policy.

In addition to streamlining and reforming Federal job training programs, this legislation will repeal duplicative or outmoded programs, and encourage States and communities to rationalize many others.

These efforts will give flexibility to the States to test ways that vouchers can best be implemented to help workers navigate or circumvent the excessive bureaucracy that now exists. One-stop career centers will be established to ensure that workers have an opportunity to make effective use of these vouchers. A new information system will produce reports on the effectiveness of training programs. All of the activities authorized by this act will be paid for by cost savings achieved in existing programs.

The existing bureaucracy is unlikely to reform itself. The private sector, especially business, labor, and community leaders, will have a key role in advising the public sector on all aspects of these reforms.

The Work Force Development Act also takes direct steps to assist current workers. Assistance will be available to business and labor to upgrade the skills of adult workers and establish portable industry-based skill credentials to serve as a passport to succeed in the labor market.

Finally, the bill establishes a timetable for further reform. By June 1, 1999 a national board must submit recommendations to the President and Congress. To ensure that Congress acts on these recommendations, 20 separate programs with more than $4 billion in funding will sunset September 30, 1999.

I look forward to working closely with Senators on all aspects of these fundamental issues. We need practical, not partisan or ideological answers. Most of all, we need a job training policy that can be for workers. I am hopeful that we can make landmark progress toward that goal in this session of Congress.

I ask unanimous consent that a summary of the bill and a copy of the bill be entered into the RECORD.

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

S. 180

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Workforce Development Act''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purpose.
Sec. 3. Authorization of appropriations.
Sec. 4. Definitions.

TITLE I—STREAMLINING AND CONSOLIDATION

Sec. 101. Purpose; findings; sense of the Congress.
Sec. 102. Elimination of certain programs.
Sec. 103. Streamlining and integration of adult training programs.
Sec. 104. Process for establishing 21st century workforce development system.
Sec. 105. Centralized waivers.

TITLE II—MARKET BUILDING ACTIVITIES

Subtitle A—Federal Level Activities

Sec. 201. Purpose.
Sec. 202. National Workforce Development Board.
Sec. 203. Mechanisms for building high quality integrated workforce development systems.
Sec. 204. Quality assurance system.

Subtitle B—State Level Activities

Sec. 211. State Workforce Development Councils.
Sec. 212. Membership.
Sec. 213. Chairperson.
Sec. 214. Duties and responsibilities.
Sec. 215. Development of quality assurance systems and consumer reports.
Sec. 216. Administration.
Sec. 217. Establishment of unified service delivery areas.
Sec. 218. Financial and management information systems.
Sec. 219. Capacity building grants.
Sec. 220. Performance standards for unified service delivery areas.

Subtitle C—Local Level Activities

Sec. 231. Workforce development boards.
Sec. 232. Workforce development board policy blueprint.
Sec. 233. Report card.
Sec. 234. One-stop career centers.
Sec. 235. Capacity building.

TITLE III—ENHANCING INDIVIDUAL CHOICE THROUGH TRAINING ACCOUNTS

Sec. 301. Purpose.
Sec. 302. Establishment.
Sec. 303. Participation of workforce development programs.
Sec. 304. Administration.
Sec. 305. Eligibility requirements for providers of education and training services.
Sec. 306. Evaluation and recommendations.
Sec. 307. Report relating to income support.

TITLE IV—PRIVATE-PUBLIC LINKAGES

Sec. 401. Purpose.
Sec. 402. Incentives to encourage worker training.
Sec. 403. Labor Day report on private-public training practices.
Sec. 404. Matching grants to encourage incumbent worker training.

TITLE V—INTEGRATED LABOR MARKET INFORMATION SYSTEM

Sec. 501. Integrated labor market information.
Sec. 502. Responsibilities of the National Board.

Sec. 503. Responsibilities of the Secretary.
Sec. 504. Responsibilities of Governors.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) increasing international competition, technological advances, and structural changes in the United States economy present new challenges to private firms and public policymakers in creating a skilled workforce with the ability to adapt to change and technological progress;

(2) the Federal Government should work with the private sector to create a streamlined, high-performance workforce development system that is driven by the needs of its customers rather than bureaucratic requirements;

(3) such a system should actively encourage collaboration among private sector firms and publicly funded education and training efforts in order to assist jobseekers and workers to adjust to structural economic changes;

(4) although it is necessary for the Federal Government to consolidate or eliminate unnecessary programs, the primary goal of Federal workforce development policy should be to help facilitate transactions taking place between jobseekers, workers, and business in local labor markets;

(5) while the Federal Government must maintain its commitment to provide economically and educationally disadvantaged individuals with skills and support services necessary to succeed in the labor market, Federal workforce development policy must also begin to provide incentives to assist firms to help upgrade the skills of their front-line workers;

(6) in order for labor markets to function more effectively, there must be—

(A) timely, accurate information about the supply, demand, price, and quality of services available in the job training marketplace; and

(B) trained brokers available to assist customers to choose the most suitable service;

(7) accordingly, the United States needs a comprehensive integrated labor market information system to ensure that workforce development programs are related to the demand for particular skills in local labor markets, and a mechanism for providing brokerage services to ensure that information about the employment and earnings of the local workforce, and the performance of education and training institutions, will be available to jobseekers, workers, and firms;

(8) in order to bring more coherence to Federal workforce development policy, there should be a single entity at the Federal, State, and local level vested with the necessary authority to strategically plan ways to transform the separate training and employment programs into an integrated and accountable workforce development system;

(9) these Federal, State, and local strategic planning bodies should be structured in such a way to give businesses and workers a meaningful role in shaping policy and overseeing the quality of workforce development programs;

(10) in recent years, many States and communities have made progress in developing new approaches to better integrate Federal employment and training programs;

(11) the Federal Government should take more systematic measures to encourage experimentation and flexibility, and to disseminate best practices in the design and implementation of a comprehensive workforce development system throughout the country; and

(12) the Federal Government should address the findings of this subsection through the implementation of immediate and long-term improvements that result in the establishment of a high-quality workforce development system needed for the economy of the 21st century.

(b) PURPOSE.—It is the purpose of this Act—

(1) to take certain immediate actions, and to establish a process for bringing about longer term improvements, that are needed to begin the transformation of Federally funded education and job training efforts from a collection of fragmented programs into a coherent, integrated, accountable workforce development system that—

(A) is based on the needs of jobseekers, workers, and employers, rather than bureaucratic requirements;

(B) is accessible to any jobseeker, worker, or employer;

(C) focuses on accountability, performance, and accurate information;

(D) provides flexibility and responsibility to the States, and in turn to local communities, for design and implementation of workforce development systems;

(E) requires the active involvement of firms and workers in the governance, design, and implementation of such system;

(F) is linked directly to employment and training opportunities in the private sector; and

(G) adopts best practices of quality administration and management that have been successful in the private sector; and

(2) to authorize appropriations under this Act for fiscal year 1996 at the same level as appropriations are authorized for fiscal year 1995 for the programs repealed under section 102(a).

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Subject to subsection (b), there are authorized to be appropriated to carry out titles II, III, and IV—

(1) $160,000,000 for fiscal year 1996; and

(2) such sums as may be necessary for each of fiscal years 1997 through 1999.

(b) LIMITATIONS.—

(1) FISCAL YEAR 1996.—Of the funds made available pursuant to subsection (a) for fiscal year 1996—

(A) not more than 5 percent shall be used for the activities of the National Board;

(B) not more than 10 percent shall be used for matching grants pursuant to section 404;

(C) not more than 15 percent shall be used for development grants pursuant to section 203(a); and

(D) not less than 70 percent shall be used for implementation grants pursuant to section 203(b).

(2) FISCAL YEARS 1997 THROUGH 1999.—Of the funds made available pursuant to subsection (a) for each of fiscal years 1997 through 1999—

(A) not more than 5 percent shall be used for the activities of the National Board;

(B) not more than 10 percent shall be used for matching grants pursuant to section 404; and

(C) not less than 85 percent shall be used for implementation grants pursuant to section 203(b).

(c) INTEGRATED LABOR MARKET INFORMATION SYSTEM.—To carry out title V, there are authorized to be appropriated—

(1) $90,000,000 for fiscal year 1996; and

(2) such sums as may be necessary for each succeeding fiscal year.

SEC. 4. DEFINITIONS.

As used in this Act—

(1) DEVELOPMENT GRANT.—The term ''development grant'' means a grant provided to each State under section 203(a).

(2) IMPLEMENTATION GRANT.—The term ''implementation grant'' means a grant provided under section 203(b).

(3) LEADING EDGE STATE.—The term ''leading edge State'' means a State that has been awarded an implementation grant under section 203(b).

(4) WORKFORCE DEVELOPMENT PROGRAM.—The term ''workforce development program'' means any Federally-funded or State-funded program that provides job training assistance to individuals or assists employers to identify or train workers.

(5) INTEGRATED WORKFORCE DEVELOPMENT SYSTEM; INTEGRATED SYSTEM.—The terms ''integrated workforce development system'' and ''integrated system'' mean the system of employment, training, and employment-related education programs, including the programs described in section 103(a) and any additional Federal or State programs designated by the Governor of a State, comprising the system described in section 203(b).

(6) NATIONAL BOARD.—The term ''National Board'' means the National Workforce Development Board established under section 202(b).

(7) NATIONAL REPORT CARD.—The term ''National Report Card'' means the Nation's Workforce Development Report Card prepared pursuant to section 202(c)(1).

(8) STATE COUNCIL.—The term ''State Council'' means a State Workforce Development Council established pursuant to section 211.

(9) STATE BLUEPRINT.—The term ''State Blueprint'' means the State Workforce Development Policy Blueprint prepared pursuant to section 214(a);

(10) STATE REPORT CARD.—The term ''State Report Card'' means the State Workforce Development Report Card issued pursuant to section 214(b).

(11) WORKFORCE DEVELOPMENT BOARD.—The term ''workforce development board'' means a local board established pursuant to section 202.

(12) UNIFIED SERVICE DELIVERY AREA.—The term ''unified service delivery area'' means the common geographic service area boundaries established pursuant to section 217 and overseen by a workforce development board.

(13) ONE-STOP CAREER CENTER.—The term ''one-stop career center'' means an access point for intake, assessment, referral, and placement services, including services provided electronically, that is part of the network established pursuant to section 234.

(14) HARD-TO-SERVE.—The term ''hard-to-serve'' means an individual meeting the requirements of section 203(b) of the Job Training Partnership Act (29 U.S.C. 1603(b)).

(15) SECRETARY.—The term ''Secretary'' means the Secretary of Labor, unless otherwise specified.

TITLE I—STREAMLINING AND CONSOLIDATION

SEC. 101. PURPOSE; FINDINGS; SENSE OF THE CONGRESS.

(a) PURPOSE.—The purpose of this title is to streamline the system of federally funded employment training services available to jobseekers, workers, and businesses.

(b) FINDINGS.—The Congress finds that—

(1) the process of streamlining the current collection of federally funded employment training programs begins with eliminating and consolidating separate employment training programs; and

(2) as such programs are eliminated, the funding for such programs should be utilized to support the creation of a market-driven workforce development system, as described in section 2(b).

(c) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) any budget savings realized as a result of the repeal of programs pursuant to section 102 or through the consolidation of programs pursuant to sections 103 and 104 should be reinvested in the Nation's job training system; and

(2) as programs are eliminated and merged, it is imperative that such elimination and merging be done without in any way reducing the commitment or level of effort of the

Federal Government to improving the education, employment, and earnings of all workers and jobseekers particularly hard-to-serve individuals.

SEC. 102. ELIMINATION OF CERTAIN PROGRAMS.

(a) IN GENERAL.—The following provisions are repealed:

(1) Section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)).

(2) Section 211 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 211).

(3) Section 204 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1255a note).

(4) Section 20 of the Federal Transit Act (49 U.S.C. App. 1616).

(5) The Displaced Homemaker Self-Sufficiency Assistance Act (29 U.S.C. 2301 et seq.).

(6) Section 43 of the Airline Deregulation Act of 1978 (49 U.S.C. App. 1552).

(7) Title II of Public Law 95–250 (92 Stat. 172).

(8) Section 413 of the Carl D. Perkins Vocational and Applied Technology Education Act (21 U.S.C. 2413).

(9) Title V of the Job Training Partnership Act (29 U.S.C. 1791 et seq.).

(10) Part J of title IV such Act (29 U.S.C. 1784 et seq.).

(11) Section 325 of such Act (29 U.S.C. 1662d).

(12) Section 325A of such Act (29 U.S.C. 1662d–1).

(13) Section 326 of such Act (29 U.S.C. 1662e).

(14) Sections 1141 through 1144 of title 10, United States Code.

(15) Subtitle C of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11441 et seq.).

(b) REPEALS OF EMPLOYMENT TRAINING PROGRAMS.—The repeals made by subsection (a) shall take effect on the date of enactment of this Act.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The National Board shall include in the draft joint resolution submitted under section 104(b), technical and conforming amendments regarding the provisions repealed under subsection (a). Such proposed amendments should be consistent with the purposes of this Act.

SEC. 103. STREAMLINING AND INTEGRATION OF ADULT TRAINING PROGRAMS.

(a) REQUIREMENTS.—

(1) IN GENERAL.—A State that receives an implementation grant to develop an integrated workforce development system—

(A) shall include in such system the components of the program and activities carried out on the date of enactment of this Act under the provisions described in subsection (b)(1); and

(B) may include any other Federal or State workforce development program identified by the Governor under paragraph (2).

(2) ADDITIONAL PROGRAMS.—Any other Federal or State workforce development program identified by the Governor pursuant to section 203(b), subject to a two-thirds vote of the National Board, may be included in the integrated system of a State described in paragraph (1).

(b) REPEALS OF JOB TRAINING PROGRAMS.—

(1) IN GENERAL.—The following provisions are repealed:

(A) Part A of title II of the Job Training Partnership Act (29 U.S.C. 1601 et seq.).

(B) Title III of such Act (29 U.S.C. 1651 et seq.).

(C) Part C of title IV of such Act (29 U.S.C. 1721).

(D) The Wagner-Peyser Act (29 U.S.C. 40 et seq.).

(E) Sections 235 and 236 of the Trade Act of 1974 (19 U.S.C. 2295 and 2296), and paragraphs (1) and (2) of section 250(d) of such Act (19 U.S.C. 2331(d)(1) and(2)).

(F) The Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note).

(G) Title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.).

(2) EFFECTIVE DATE.—The repeals made by paragraph (1) shall take effect on September 30, 1999.

(3) TECHNICAL AND CONFORMING AMENDMENTS.—The National Board shall include in the draft joint resolution submitted under section 104(b), technical and conforming amendments regarding the provisions repealed under subsection (a). Such proposed amendments should be consistent with the purposes of this Act.

SEC. 104. PROCESS FOR ESTABLISHING 21ST CENTURY WORKFORCE DEVELOPMENT SYSTEM.

(a) ANNUAL RECOMMENDATIONS.—Not later than 180 days after the date of enactment of this Act, and each June 1 thereafter, the National Board shall make recommendations to the President and Congress for the elimination of Federal workforce development programs, or programs whose functions should be subsumed under other Federal programs.

(b) REPORT AND JOINT RESOLUNTION.—

(1) REPORT.—Not later than June 1, 1999, the National Board, based on such board's analysis of the experience of leading edge States and the progress made toward establishing an integrated, market-driven workforce development system, shall prepare and submit to the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report containing the findings of such board, and recommendations for proposed reforms.

(2) JOINT RESOLUTION.—Not later than June 1, 1999, the National Board shall submit to the Congress a draft of a joint resolution containing provisions to develop a streamlined, integrated, market-driven workforce development system, from the programs described in section 103(b) and any other Federal workforce development program determined by the National Board as appropriate to be included that is consistent with this Act, pursuant to section 2(b). The joint resolution shall include recommendations for standard outcome measures as described in section 204(a)(2) and shall describe how the new system will maintain services to hard-to-serve populations.

SEC. 105. CENTRALIZED WAIVERS.

(a) EXPEDITED PROCESS.—Not later than 180 days after the date of enactment of this Act, the President shall establish an expedited process to consider and act on waiver requests submitted by the States under this section.

(b) STATES NOT RECEIVING IMPLEMENTATION GRANTS.—

(1) IN GENERAL.—Any State may apply, in accordance with this section, for a waiver of statutory or regulatory requirements under one or more of the programs described in section 103(b)(1), for a period of 2 years to facilitate the provision of assistance for workforce development.

(2) WAIVER AUTHORITY.—A waiver may be granted under this subsection only if—

(A) the requirement sought to be waived impedes the ability of the State, or a local entity in the States, to carry out the State or local workforce development plan;

(B) the State has waived, or agrees to waive, similar requirements of State law; and

(C) in the case of a statewide waiver, the State—

(i) provides all State and local agencies and appropriate organizations in the State, including labor organizations, with notice and an opportunity to comment on the State's proposal to seek a waiver; and

(ii) submits the affected agency's comments with the waiver application.

(3) APPLICATION.—Each application submitted under this subsection shall—

(A) identify the statutory or regulatory requirements that are requested to be waived and the goals that the State or local agency intends to achieve;

(B) describe the action that the State has undertaken to remove State statutory or regulatory barriers identified in the application;

(C) describe the purpose of the waiver and the expected programmatic outcomes if the request is granted;

(D) describe the numbers and types of people to be affected by such waiver;

(E) describe a timetable for implementing the waiver;

(F) describe the process the State will use to monitor, on a biannual basis, the progress in implementing the waiver; and

(G) describe how the goals of the program or programs for which a waiver is granted will continue to be met.

(c) STATES RECEIVING IMPLEMENTATION GRANTS.—Subject to subsection (d), each State receiving an implementation grant under section 203(b) shall have the statutory or regulatory requirement, described in its grant application or State Blueprint of such State waived for the duration of the implementation grant.

(d) LIMITATIONS.—

(1) IN GENERAL.—A waiver shall not be granted under a workforce development program if such waiver would alter—

(A) the purposes or goals of such program;

(B) the allocation of funds under such program;

(C) any statutory or regulatory requirement under such program relating to public health or safety, civil rights, protections granted under title I and sections 503 and 504 of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), occupational safety and health, environmental protection, displacement of current employees, or fraud and abuse; or

(D) eligibility requirements under such program, except that a waiver may be granted with respect to an eligibility requirement if such waiver would provide for increased flexibility in developing common definitions for individuals eligible for such program.

(2) CIRCULARS AND RELATED REGULATIONS.—The following circulars promulgated by the Office of Management and Budget shall be subject to the waiver authority of this subsection:

(A) A–87, relating to cost principles for State and local governments.

(B) A–102, relating to grants and cooperative agreements with State and local governments.

(C) A–122, relating to nonprofit organizations.

(D) A–110, relating to administrative requirements for grants and cooperative agreements with nonprofit organizations and institutions of higher education.

(E) A–21, relating to cost principles for institutions of higher education.

(3) EFFECTIVE DATE.—A waiver granted under this section shall take effect on the date such waiver is granted.

(4) REVIEW OF APPLICATION.—Each application submitted by a State pursuant to subsection (b)(3) shall be reviewed by the Secretary or agency head who has jurisdiction over the workforce development program or programs to which such waiver request relates.

(5) APPROVAL OR DISAPPROVAL OF APPLICATION.—

(A) TIMING.—Each application submitted by a State in accordance with subsection (b)(3) shall be reviewed promptly upon receipt, and shall be approved or disapproved

not later than the end of the 60-day period beginning on the date such application is received.

(B) APPROVAL.—A waiver or waivers proposed in an application may be approved for the 2-year period beginning on the date such application is approved, if the State demonstrates in the application that such waiver or waivers will achieve coordination, expansion, and improvement in the quality of services under its workforce development system.

(C) DISAPPROVAL AND RESUBMISSION.—If an application is incomplete or unsatisfactory, the appropriate Federal official shall, before the end of the period referred to in subparagraph (A)—

(i) notify the State of the reasons for the failure to approve the application;

(ii) notify the State that the application may be resubmitted during the period referred to in clause (iii); and

(iii) permit the State to resubmit a corrected or amended application during the 60-day period beginning on the date of notification under this subparagraph.

(D) REVIEW OF RESUBMITTED APPLICATION.—Any application resubmitted under subparagraph (C) shall be approved or disapproved before the expiration of the 60-day period beginning on the date of the resubmission.

(6) REVOCATION OF WAIVER.—If, after the approval of an application under this subsection, the Secretary determines that the waiver or waivers do not achieve coordination, expansion, and improvement in the quality of services under the workforce development programs to which such waiver or waivers relate, the waiver or waivers may be revoked in whole or in part.

TITLE II—MARKET BUILDING ACTIVITIES

Subtitle A—Federal Level Activities

SEC. 201. PURPOSE.

The purpose of this title is to establish a framework at the Federal, state, and local levels for key stakeholders to work cooperatively to build the infrastructure, brokerage, and accountability systems needed to transform current Federally funded job training programs into a market-driven workforce development system.

SEC. 202. NATIONAL WORKFORCE DEVELOPMENT BOARD.

(a) FINDINGS.—The Congress finds that a national workforce development board is necessary to ensure—

(1) the establishment and continuous improvement of the national workforce development system;

(2) that integrated strategic planning takes place among the Federal agencies currently responsible for administering job training programs;

(3) incorporation of private sector expertise to the governance of the national workforce development system; and

(4) that unnecessary legislative and regulatory barriers to service integration are removed as a market-driven workforce development system is established.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the National Workforce Development Board (referred to in this Act as the ''National Board'').

(2) COMPOSITION.—The National Board shall be comprised of 16 members, of whom—

(A) one member shall be the Secretary of Labor;

(B) one member shall be the Secretary of Education;

(C) one member shall be the Secretary of Health and Human Services;

(D) one member shall be the Secretary of Commerce;

(E) three members shall be representatives of business (including representatives of small businesses and large employers);

(F) three members shall be representatives of organized labor;

(G) three members shall be State and local elected officials of whom two shall be Governors of a State and one shall be a local elected official; and

(H)(i) one member shall be selected from representatives of community-based organizations;

(ii) one member shall be selected from representatives of secondary schools or post-secondary educational institutions; and

(iii) one member shall be selected from representatives of nongovernmental organizations that have a history of successfully protecting the rights of individuals with disabilities or older persons.

(3) ADDITIONAL REQUIREMENTS.—The members described in subparagraphs (E) and (F) of paragraph (2) shall—

(A) in the aggregate, represent a broad cross-section of occupations and industries;

(B) to the extent feasible, be geographically representative of the United States, and reflect the racial, ethnic, and gender diversity of the United States; and

(C) shall include at least one member of the National Skill Standards Board established pursuant to section 503 the National Skill Standards Act of 1994.

(4) EXPERTISE.—The National Board and the staff shall have sufficient expertise to effectively carry out the duties and functions of the National Board.

(5) APPOINTMENT.—The members described in subparagraphs (E), (F), (G), and (H) of paragraph (2) shall be appointed by the President, by and with the advice and consent of the Senate.

(6) EX OFFICIO NONVOTING MEMBERS.—The Director of the Office of Management and Budget and the chairpersons and ranking minority members of the Committee on Labor and Human Resources of the Senate and the Committee on Economic and Educational Opportunities of the House of Representatives shall be ex officio, nonvoting members of the National Board.

(7) TERMS.—Each member of the National Board appointed under subparagraph (E), (F), (G), and (H) of paragraph (2) shall be appointed for a term of 4 years, except that of the initial members of the National Board appointed under such subparagraphs—

(A) four members shall be appointed for a term of 2 years;

(B) four members shall be appointed for a term of 3 years; and

(C) four members shall be appointed for a term of 4 years.

(8) VACANCIES.—Any vacancy on the National Board shall not affect the powers of the National Board, but shall be filled in the same manner as the original appointments.

(9) CHAIRPERSONS.—The President, by and with the advice and consent of the Senate, shall select one cochairperson of the National Board from among the members of the National Board appointed under paragraph (2)(E) and one cochairperson from among the members appointed pursuant to paragraph (2)(F).

(10) COMPENSATION AND EXPENSES.—

(A) COMPENSATION.—Each member of the National Board who is not a full-time employee or officer of the Federal Government shall serve without compensation. Each member of the National Board who is an officer or employee of the Federal Government shall serve without compensation in addition to that received for the services of such member as an officer or employee of the Federal Government.

(B) EXPENSES.—The members of the National Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the National Board.

(11) EXECUTIVE DIRECTOR AND STAFF.—

(A) EXECUTIVE DIRECTOR.—The cochairpersons of the National Board shall appoint an Executive Director who shall be compensated at a rate determined by the National Board, not to exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(B) STAFF.—The Executive Director may—

(i) appoint and compensate such additional staff as may be necessary to enable the National Board to perform its duties; and

(ii) fix the compensation of the staff without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classifications of positions and General Schedule pay rates, except that the rate of pay for the staff may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(12) AGENCY SUPPORT.—

(A) USE OF FACILITIES.—The National Board may use the research, equipment, services, and facilities of any agency or instrumentality of the United States with the consent of such agency or instrumentality.

(B) STAFF OF FEDERAL AGENCIES.—Upon the request of the National Board, the head of any Federal agency may detail to the National Board, on a reimbursable basis, any of the personnel of such Federal agency to assist the National Board in carrying out this Act. Such detail shall be without interruption or loss of civil service status or privilege.

(13) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The co-chairpersons of the National Board may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code.

(c) DUTIES.—

(1) NATIONAL REPORT CARD.—

(A) IN GENERAL.—Not later than July 1, 1996, and each July 1 thereafter, the National Board shall prepare a report to be known as the Nation's Workforce Development Report Card (referred to in this Act as the ''National Report Card'').

(B) REQUIREMENTS.—The National Report Card shall assess the performance of the workforce development system of the United States, based on the earnings and employment gains and other nonemployment-related outcomes of individuals assisted by the programs comprising such system. The National Report Card shall evaluate all workforce development programs that receive Federal funding, and shall—

(i) assess the performance of each program;

(ii) assess performance based on the type of assistance provided, including the categories of services identified in section 204(b)(1)(C);

(iii) assess year-to-year changes in performance;

(iv) report on the extent to which hard-to-serve populations are receiving services and the related outcomes in relation to services received in the preceding three years;

(v) determine the annual Federal investment in workforce development in each State;

(vi) assess the lessons learned from the experience of leading-edge States, and States that waive certain program requirements to experiment with alternative workforce development strategies; and

(vii) assess the performance of the workforce development system in each State.

(2) CONGRESSIONAL TESTIMONY.—The co-chairpersons of the National Board shall, at least annually, provide testimony, during a joint hearing before the Committee on Labor and Human Resources of the Senate and the Committee on Economic and Educational Opportunities of the House of Representatives on the progress being made in—

(A) developing a more streamlined integrated and accountable public and private workforce development system in the United States; and

(B) carrying out the purposes described in section 2(b).

(3) REVIEW OF GRANT PROPOSALS.—The National Board shall review the development grant proposals pursuant section 203(a), the implementation grant proposals pursuant to section 203(b), and the matching grant proposals submitted pursuant to section 404, and make recommendations to the Secretary regarding such proposals.

(4) FINAL RECOMMENDATIONS.—Not later than June 1, 1999, the National Board shall submit recommendations in the form of a joint resolution to the President and Congress, pursuant to section 104(b).

(d) TERMINATION.—The National Board shall terminate on the date on which the National Board submits the joint resolution to President and Congress under section 104(b).

(e) NATIONAL FOR EMPLOYMENT POLICY.—

(1) IN GENERAL.—Part F of title IV of the Job Training Partnership Act (29 U.S.C. 1771 et seq.) is repealed.

(2) CONFORMING AMENDMENT.—Subsection (i) of section 106 of such Act (29 U.S.C. 1516(i)) is amended by striking ''(i) FUNCTIONS OF NCEP.—The National Commission for Employment Policy'' and inserting ''(i) FUNCTIONS OF NATIONAL WORKFORCE DEVELOPMENT BOARD.—The National Workforce Development Board established under section 202 of the Workforce Development Act''.

SEC. 203. MECHANISMS FOR BUILDING HIGH QUALITY INTEGRATED WORKFORCE DEVELOPMENT SYSTEMS.

(a) STATE DEVELOPMENT GRANTS.—

(1) PURPOSE.—The purpose of this subsection is to assist States and communities in strategic planning for integrated workforce development systems, including the development of a financial and management information system, a quality assurance system, and an integrated labor market information system.

(2) GRANTS TO STATES.—The Secretary may provide a development grant to a State in such amount as the Secretary, in consultation with the National Board, determines to be necessary to enable such State to develop a strategic plan, as described in paragraph (1), for the development of a comprehensive statewide integrated workforce development system.

(3) APPLICATION.—To be eligible to receive a development grant under this subsection, the Governor of a State, on behalf of the State, shall submit to the National Board and the Secretary an application, at such time, in such form, and containing such information as the Secretary may require.

(b) IMPLEMENTATION GRANTS TO LEADING-EDGE STATES.—

(1) PURPOSE.—The purpose of this subsection is to assist States in implementing statewide high-quality integrated workforce development systems that are accountable for achieving results.

(2) GRANTS TO STATES.—The Secretary, in consultation with the National Board, may provide an implementation grant to the State in such amount as the Secretary determines to be necessary to enable such State to implement an integrated workforce development system.

(3) PERIOD OF GRANT.—The provision of payments under a grant under this subsection shall not exceed 4 fiscal years, and shall be subject to the annual approval of the Secretary, in consultation with the National Board, and the availability of appropriations for the fiscal year involved.

(4) ALLOCATION REQUIREMENTS.—

(A) FIRST YEAR.—For the first fiscal year for which a State receives amounts from an implementation grant under this subsection, the State shall use not less than 75 percent of such amount to provide subgrants to local workforce development boards.

(B) SECOND YEAR.—For the second fiscal year for which a State receives amounts from an implementation grant under this subsection, the State shall use not less than 80 percent of such amount to provide subgrants to local workforce development boards.

(C) THIRD AND SUCCEEDING YEARS.—For the third, and each succeeding, fiscal year for which a State receives amounts from an implementation grant under this subsection, the State shall use not less than 85 percent of such amount to provide subgrants to local workforce development boards.

(5) LIMITATION.—A State shall be eligible to receive not more than 1 implementation grant under this subsection.

(6) APPLICATION.—To be eligible to receive an implementation grant under this subsection, the Governor of a State, on behalf of the State, shall submit to the National Board and the Secretary an application that shall include a copy of the State Blueprint and such other information as the Secretary, with the advice of the National Board, may require.

(c) DISSEMINATION OF INFORMATION ON BEST PRACTICES.—The Secretary, in consultation with the National Board, shall—

(1) collect and disseminate information that will assist State and local communities undertaking activities to streamline and reform their job training systems, including information on—

(A) the successful experiences of States and localities that—

(i) have received development or implementation grants;

(ii) have been granted waivers; or

(iii) are experimenting with training account systems established under title III of this Act; and

(B) research concerning the restructuring of workforce development systems; and

(2) facilitate the exchange of information and ideas among States and local entities that are building market-based workforce development systems.

(d) WORKFORCE DEVELOPMENT IMPACT REPORTS.—

(1) SUBMISSION.—For each bill or resolution concerning workforce development reported by any committee of the Senate or the House of Representatives, the National Board shall determine whether proposed Federal job training legislation complies with the data reporting, common definitions, and common funding cycles described in subsections (b) and (e) of section 204. A determination of compliance by the National Board under this subsection shall be included in the committee report accompanying such legislation, if timely submitted to such committee before such report is filed.

(2) PROCEDURE.—It shall not be in order in the Senate or the House of Representatives to consider any bill or resolution concerning workforce development that would not comply with the national workforce development system, as determined by the National Board under paragraph (1).

(3) WAIVER.—This subsection may be waived or suspended in the Senate or the House of Representatives only by the affirmative vote of three-fifths of the members of such House.

SEC. 204. QUALITY ASSURANCE SYSTEM.

(a) PURPOSE.—The purpose of this section is to improve the quality of all Federal programs directed at improving the knowledge, skills, and abilities of members of the workforce by strengthening accountability and encouraging the adoption of quality improvement processes at all levels of the workforce development system. In order to accomplish this purpose, this Act—

(1) directs the Secretaries of Labor, Education, and Health and Human Services to jointly, in consultation with the National Board—

(A) develop common terms and definitions as described in subsection (b);

(B) develop a placement accountability system as described in subsection (c); and

(C) adjust existing program performance standards as described in section 220(c); and

(2) directs the National Board to recommend a system of performance standards in its joint resolution submitted to Congress pursuant to section 104(b) that includes standard outcome measures relating to—

(A) employment;

(B) job retention;

(C) earnings; and

(D) nonemployment outcome measures, such as learning and competency gains.

(b) COMMON TERMS AND DEFINITIONS.—

(1) IN GENERAL.—Each workforce development program that receives Federal funds shall collect and report to the Governor and the State Council, if applicable, for each participant to whom assistance is provided, the following information:

(A) The quarterly employment status and earnings for 1 year after the participant no longer receives assistance under such program.

(B) Economic and demographic characteristics, including the participant's—

(i) social security number;

(ii) date of birth;

(iii) gender;

(iv) race or ethnicity;

(v) disability status;

(vi) education (highest formal grade level achieved at commencement of participation in program);

(vii) academic degrees and credentials at time of entry into the program; and

(viii) employment status at the time of entry into the program.

(C) Services received, the extent, when appropriate, and spending for such services, including—

(i) assessments;

(ii) testing;

(iii) counseling;

(iv) job development or job search assistance;

(v) occupational skills training;

(vi) work experience;

(vii) job readiness training;

(viii) basic skills education;

(ix) postsecondary academic education (nonoccupational);

(x) supportive and supplementary services; and

(xi) on-the-job training.

(D) Program outcomes, as specified by the State, such as—

(i) advancement to higher level education or training;

(ii) attainment of additional degrees or credentials (including skill standards as such standards become available);

(iii) assessment of learning gain in basic skills programs;

(iv) attainment and retention of subsidized or unsubsidized employment;

(v) quarterly earnings; and

(vi) reduction in welfare dependency.

(2) REPLACEMENT OF EXISTING REQUIREMENTS.—Program monitoring under this section shall supplant existing monitoring and

reporting requirements for program participants.

(3) ADOPTION OF COMMON TERMS AND DEFINITIONS.—

(A) REPORT.—Not later than 180 days after the date of enactment of this Act, each Federal department and agency with responsibility for a workforce development program shall report to the National Board on its progress in adopting the common terms and definitions for program participants, service activities, and outcomes by program operators and grant recipients.

(B) IMPLEMENTATION.—Not later than 1 year after the date of enactment of this Act, each workforce development program receiving Federal funds shall use the common terms and definitions.

(C) USE.—Upon adoption by the appropriate Federal agencies, the common definitions for terminology developed and reported pursuant to section 455 of the Job Training Partnership Act (29 U.S.C. 1735(b)) shall be utilized in interpreting and compiling the core data elements. Notwithstanding any other provision of Federal law, such common definitions shall be utilized in lieu of existing program definitions for similar data elements.

(4) RECOMMENDATIONS.—Not later than 180 days after the date all of the Members of the National Board are appointed, the National Board shall make recommendations to the Secretaries of Labor, Education, and Health and Human Services, and the heads of other agencies operating workforce development programs, on common definitions for other terms, including terms relating to—

(A) program status, including—

(i) applicant;

(ii) participant;

(iii) terminee; and

(iv) training-related placement;

(B) program eligibility, including—

(i) family income; and

(ii) economically disadvantaged individuals; and

(C) other terms considered appropriate by the National Board, such as common cost categories.

(5) AMENDMENTS.—If any of the proposed common definitions require amendment to existing laws, the National Board shall submit to Congress recommendations for legislative action not later than 9 months after the date all of the members of the National Board are appointed.

(c) PLACEMENT ACCOUNTABILITY.—

(1) IN GENERAL.—The purpose of this subsection is to establish a placement accountability system using a cost-effective data source with information on job placement, earnings, and job retention, to foster accountability by all federally funded workforce development programs.

(2) PERFORMANCE MONITORING.—Each workforce development program that receives Federal funds shall—

(A) engage in continuous performance self-monitoring by measuring, at a minimum, the quarterly employment status and earnings of each recipient of assistance under such program; and

(B) monitor each recipient of assistance for a period of not less than 1 year, beginning on the date on which the recipient no longer receives assistance under such program.

(3) INFORMATION MATCHING.—

(A) CORE DATA.—Each workforce development program that receives Federal funds shall provide the information described in subsection (b) regarding program participants to the State agency responsible for labor market information designated in title V.

(B) MATCHING.—The State agency responsible for labor market information designated in title V shall, in conjunction with the Bureau of Labor Statistics, match the information provided pursuant to subparagraph (A) with quarterly employment and earnings records.

(4) REIMBURSEMENT.—Requesting programs shall reimburse the State agency responsible for wage record data for the cost of matching such information. Notwithstanding any other provision of Federal law, requesting programs may use Federal funds for such reimbursement.

(5) CONFIDENTIALITY.—Requesting programs—

(A) shall protect the confidentiality of wage record data through the use of recognized security procedures; and

(B) may not retain such data for more than 10 years.

(6) SUBMISSION TO STATE COUNCIL.—The State agency responsible for labor market information shall submit the results of the matching to the State Council, in accordance with procedures and schedules specified by the National Board and the Secretary.

(7) RESPONSIBILITY OF GOVERNORS.—The Governor of each State shall ensure the submission of the matched data to the State Council, the National Board, the Secretary, and other Federal entities, as required by the National Board.

(d) DISSEMINATION OF QUALITY ASSURANCE.—The information obtained under subsection (c) shall be made available to—

(1) the State Council of the State in which the program is located;

(2) the local workforce development boards in the State in which the program is located; and

(3) consumers of labor market information to judge individual program performance in an easily accessible format.

(e) CONSISTENT FUNDING CYCLES.—

(1) IN GENERAL.—All federally funded workforce development training activities shall, to the extent practicable, be funded on a consistent funding cycle basis.

(2) RECOMMENDATIONS FOR FUNDING CYCLE.—Not later than 180 days after the date on which all of the members of the National Board are appointed, the National Board shall make recommendations to Congress on the appropriate funding cycle to be used for all workforce development programs and activities.

Subtitle B—State Level Activities

SEC. 211. STATE WORKFORCE DEVELOPMENT COUNCILS.

(a) ESTABLISHMENT.—Each State desiring to participate in the development of an integrated and accountable workforce development system under the procedures specified in section 203(b) shall establish a State Workforce Development Council (referred to in this Act as a ''State Council'') or have located within such State an existing entity that is similar to a State Council and that includes members who are representatives of employers and workers.

(b) PURPOSE.—Each State Council shall serve as the principal advisory board for the Governor of such State for all programs included in the integrated workforce development system of such State.

(c) FUNCTIONS.—Each State Council shall assume the functions and responsibilities of councils and commissions required under Federal law that are part of the integrated workforce development system of such State.

SEC. 212. MEMBERSHIP.

(a) IN GENERAL.—

(1) REPRESENTATIVES OF BUSINESS AND INDUSTRY AND ORGANIZED LABOR.—Each State Council shall be comprised of individuals who are appointed by the Governor for a term of not less than 2 years from among—

(A) representatives of business and industry, who shall constitute not less than 33 percent of the membership of the State Council, including individuals who are members of local workforce development boards;

(B) representatives of organized labor who shall constitute not less than 25 percent of the membership of the State Council and shall be selected from among individuals nominated by recognized State labor federations; and

(C) representatives of secondary and post-secondary academic or vocational education institutions.

(2) ADDITIONAL MEMBERS.—Each State Council may include one or more qualified members who are appointed by the Governor from among representatives of the following:

(A) Community-based organizations.

(B) Nongovernmental organizations that have a history of successfully protecting the rights of individuals with disabilities or older persons.

(C) Units of general local government or consortia of such units.

(D) State officials responsible for administering programs described in sections 103 and 104 and included in the integrated system.

(E) The State legislature.

(F) Any local program that receives Federal funding from any program included in the integrated workforce development system of the State.

(b) EX OFFICIO.—

(1) NONVOTING MEMBERS.—The Governor may appoint ex officio additional nonvoting members to the State Council.

(2) EXPERTISE.—The Governor of the State shall ensure that the State Council and the staff of the State Council have sufficient expertise to effectively carry out the duties and functions of the State Council described under the laws relating to the applicable program.

SEC. 213. CHAIRPERSON.

The Governor of the State shall appoint a chairperson of the State Council who shall be a representative of the business community.

SEC. 214. DUTIES AND RESPONSIBILITIES.

(a) STATE WORKFORCE DEVELOPMENT POLICY BLUEPRINT.—The State Council shall assist the Governor to prepare and submit to the National Board a biennial report to be known as the State Workforce Development Policy Blueprint (referred to in this Act as the ''State Blueprint''). The State Blueprint shall—

(1) serve as a strategic plan for integrating federally funded workforce development programs included in an integrated system of the State, established pursuant to section 203(b), with State-funded job training, employment, employment-related education, and economic development activities;

(2) summarize and analyze information about training needs of critical industries in the State contained in the local workforce development policy blueprints developed by the workforce development boards;

(3) establish State goals for the integrated workforce development system and a common core set of performance measures and standards for programs included in the system, to be used in lieu of existing performance measures and standards for each of the included programs;

(4) analyze how the businesses and labor organizations of the State are—

(A) progressing in the restructuring of the work place to provide continuous learning;

(B) improving the skills and abilities of front-line workers of such businesses; and

(C) participating in State and local efforts to transform federally funded education and job training programs into a coherent and accountable workforce development system;

(5) utilize information available from the State Report Card and other sources to analyze the relative effectiveness of individual workforce development programs within the State and of the State's workforce development system as a whole;

(6) evaluate the progress being made within the State in streamlining, consolidating, and reforming the workforce development system of the State in accordance with the purposes contained in section 2(b) and the framework for State implementation contained in the implementation grant proposal of the State;

(7) describe how service to special hard-to-serve populations is to be maintained;

(8) identify how any funds that a State may be receiving under section 203(b) are to be utilized in conjunction with existing resources to continuously improve the effectiveness of the workforce development system of the State;

(9) describe the method to be used to allocate funds received under section 203(b) in a fair and equitable manner among unified service delivery areas;

(10) specify the additional elements, if any, to be included in operating agreements between local workforce development boards and one-stop career centers;

(11) specify additional criteria, if any, for selection of one-stop career centers;

(12) specify the nonemployment-related outcome measures that will be used for the workforce development system;

(13) specify the nature and scope of the budget authority for local workforce development boards in the State; and

(14) supplant federally required planning reports for programs under the integrated workforce development system of the State.

(b) STATE WORKFORCE DEVELOPMENT REPORT CARD.—The State Council shall assist the Governor of the State to issue an annual report to be known as the State Workforce Development Report Card (referred to in this Act as the ''State Report Card''). The State Report Card shall describe the performance of all workforce development programs operating in the State that receive Federal funding and any additional State-funded programs that the Governor may choose to include. The State Report Card shall—

(1) include an integrated budget that documents the annual spending, number of clients served, and types of services provided for workforce development programs for the State as a whole and for each unified service delivery area within the State;

(2) assess the level of services to hard-to-serve populations in relation to the number served and outcomes for those populations during the preceding 3 years;

(3) utilize information available from the quality assurance system established under section 204 to assess—

(A) employment and earnings experiences of individuals who have received assistance from each workforce development program operated in the State; and

(B) relative employment and earnings experiences of participants receiving services from each one-stop career center in the State;

(4) include an analysis of other nonemployment-related results for each workforce development program operating within the State; and

(5) include a report of annual employment trends and earnings (by industry and occupation) in the State and each unified service delivery area, to assist State and local policymakers, training providers, and users of the system to link the training provided to the skill and labor force needs of local employers.

(c) WORKFORCE DEVELOPMENT BOARD CERTIFICATION AND EFFECTIVENESS CRITERIA.—Each State Council shall—

(1) assist the Governor to certify each local workforce development board; and

(2) make recommendations to the Governor for criteria that will be used to judge the effectiveness of each of the workforce development boards of the State.

SEC. 215. DEVELOPMENT OF QUALITY ASSURANCE SYSTEMS AND CONSUMER REPORTS.

(a) IN GENERAL.—The State Council shall develop a quality assurance system to complement and expand upon the quality assurance system established in section 204 in order to provide customers of job training services with consumer reports on the supply, demand, price, and quality of job training services in each unified service delivery area in the State.

(b) SELECTION OF TOOLS AND MEASURES.—Each State shall select the tools and measures that are appropriate to the needs of such State, including—

(1) collecting and organizing service provider performance data in accordance with information generated from the State Report Card under section 214(b), the financial and management information system designed pursuant to section 218, and the labor market information system of the State described in section 501; and

(2) conducting surveys as appropriate to ascertain customer satisfaction.

(c) COLLECTION AND DISSEMINATION.—The State Council shall, in conjunction with the local workforce development boards, establish mechanisms for collecting and disseminating the quality assurance information on a regular basis to—

(1) individuals seeking employment;

(2) employers;

(3) policymakers at the Federal, State, and local levels; and

(4) training and education providers.

(d) ASSURANCES.—Each public and private education, training, and career development service provider receiving Federal funds under a program in an integrated system of the State pursuant to section 203(b) shall collect and provide the quality assurance information required under this section.

SEC. 216. ADMINISTRATION.

(a) AUTHORITIES.—Each State Council shall be independent of other State workforce development agencies and have the authority to—

(1) employ staff; and

(2) receive and disburse funds.

(b) SPECIAL PROJECTS.—Each State Council may fund and operate special pilot or demonstration projects for purposes of research or continuous improvement of system performance.

(c) LIMITATION ON USE OF FUNDS.—Not more than 5 percent of the funds received by the State from an implementation grant under section 203(b) shall be used for the administration of the State Council.

SEC. 217. ESTABLISHMENT OF UNIFIED SERVICE DELIVERY AREAS.

(a) RECOMMENDATIONS.—Each State Council shall make recommendations to the Governor of such State for the establishment of unified service delivery areas that may be used as intrastate geographic boundaries, to the extent practicable, for all workforce development programs in an integrated system of the State pursuant to section 203(b).

(b) ESTABLISHMENT.—Each State receiving an implementation grant under section 203(b) shall, based upon the recommendations of the State Council, and in consultation and cooperation with local communities, establish unified service delivery areas throughout the State for the purpose of providing community-wide workforce development assistance in one-stop career centers under section 234.

(c) RESPONSIBILITIES.—In establishing unified service delivery areas, the Governor, in consultation with the State Council and local communities—

(1) shall take into consideration existing—

(A) labor market areas;

(B) units of general local government;

(C) service delivery areas established under section 101 of the Job Training Partnership Act (29 U.S.C. 1511); and

(D) the distance traveled by individuals to receive services;

(2) may merge existing service delivery areas; and

(3) may not approve a total number of unified service delivery areas that is greater than the total number of service delivery areas in existence in the State on the date of enactment of this Act.

SEC. 218. FINANCIAL AND MANAGEMENT INFORMATION SYSTEMS.

(a) IN GENERAL.—Each State shall use a portion of the funds it receives under section 203(a) to design a unified financial and management information system. Each State that receives an implementation grant under section 203(b) shall require that all programs designated in the integrated system use the unified financial and management information system.

(b) REQUIREMENTS.—Each unified financial and management information system shall—

(1) notwithstanding any other provision of Federal law, supplant federally required fiscal reporting and monitoring for each individual program included in the integrated system;

(2) be used by all agencies involved in workforce development activities, including one-stop career centers which shall have the capability to track the overall public investments within the State and unified service delivery areas, and to inform policymakers as to the results being achieved through that investment;

(3) contain a common structure of financial reporting requirements, fiscal systems, and monitoring for all workforce development expenditures included in the integrated system that shall utilize the common data elements and definitions included in subsection (b) of section 204; and

(4) support local efforts to establish unified service systems, including intake and eligibility determination for all financial aid sources.

SEC. 219. CAPACITY BUILDING GRANTS.

From funds made available to a State for implementation pursuant to section 203(b) or development pursuant to section 203(a), the State shall develop a strategy to enhance the capacity of the institutions, organizations, and staff involved in State and local workforce development activities by providing services such as—

(1) training for members of the local workforce development boards;

(2) training for front-line staff of any local education or training service provider or one-stop career center;

(3) technical assistance regarding managing systemic change;

(4) customer service training;

(5) organization of peer-to-peer network for training, technical assistance, and information sharing;

(6) organizing a best practices database covering the various workforce development system components; and

(7) training for State and local staff on the principles of quality management and decentralizing decisionmaking.

SEC. 220. PERFORMANCE STANDARDS FOR UNIFIED SERVICE DELIVERY AREAS.

(a) IN GENERAL.—The Governor of each State that implements an integrated workforce development system under section 203(b) may, in consultation with the State Council, the local workforce development boards in the State, and employees of any of the job training programs included in the integrated system or the employee organizations of such employees, make adjustments to existing performance standards for programs in such system in the unified service delivery area of the State.

(b) CRITERIA.—Criteria developed pursuant to subsection (a) may include such factors as—

(1) placement, retention, and earnings of participants in unsubsidized employment, including—

(A) earnings at 1, 2, and 4 quarters after termination from the program; and

(B) comparability of wages 1 year after termination from the program with wages prior to participation in the program;

(2) acquisition of skills pursuant to a skill standards and skill certification system endorsed by the National Skill Standards Board established pursuant to section 503 of the National Skill Standards Act of 1994;

(3) the satisfaction of participants and employers with services provided and employment outcomes; and

(4) the quality of services provided and the level of services provided to hard-to-serve populations, such as low-income individuals and older workers.

(c) ADJUSTMENTS.—Each Governor of a State that implements an integrated workforce development system under section 203(b) shall, within parameters established by the National Board, and after consultation with the workforce development boards in the State, prescribe adjustments to the performance criteria prescribed under subsections (a) and (b) for the unified service delivery areas based on—

(1) specific economic, geographic, and demographic factors in the State and in regions within the State; and

(2) the characteristics of the population to be served, including the demonstrated difficulties in serving special populations.

(d) USE OF CRITERIA.—The performance criteria developed pursuant to this section shall be utilized in lieu of similar criteria for programs receiving Federal funding included in the integrated system of the State, to the extent determined by the State Council subject to the approval of the National Board.

Subtitle C—Local Level Activities

SEC. 231. WORKFORCE DEVELOPMENT BOARDS.

(a) ESTABLISHMENT.—In each State receiving an implementation grant under section 203(b), and subject to subsection (b) of this section, the local elected officials of each unified service delivery area shall establish a workforce development board to administer the workforce development assistance provided by all the programs in the integrated workforce development system in such area.

(b) EXCEPTION.—States with a single unified delivery area with contiguous borders shall not be subject to the requirement of subsection (a).

(c) MEMBERSHIP.—

(1) IN GENERAL.—Each workforce development board shall be comprised of—

(A) representatives of business and industry, who shall constitute a majority of the board and who shall be business leaders in the unified service delivery area;

(B)(i) representatives of State and local organized labor organizations, who shall be selected from among individuals nominated by recognized State labor federations; and

(ii) representatives of community-based organizations, who shall be selected from among those individuals nominated by officers of such organizations;

(C) representatives of educational institutions;

(D) community leaders, such as leaders of—

(i) economic development agencies;

(ii) human service agencies and institutions;

(iii) veterans organizations; and

(iv) entities providing job training;

(E) representatives of nongovernmental organizations that have a history of successfully protecting the rights of individuals with disabilities or older persons; and

(F) a local elected official, who shall be a nonvoting member.

(2) SPECIAL RULE.—The representatives described in paragraph (1)(B) shall comprise not less than 33 percent of the membership of the Board.

(d) NOMINATIONS.—

(1) BUSINESS AND INDUSTRY REPRESENTATIVES.—

(A) IN GENERAL.—The representatives of business and industry under paragraph (1) of subsection (c) shall be selected by local elected officials from among individuals nominated by general purpose business organizations after consultation with, and receiving recommendations from, other business organizations in the unified service delivery area.

(B) DEFINITION.—For purposes of this paragraph, the term ''general purpose business organization'' means an organization that admits to membership any for-profit business operating within the unified service delivery area.

(2) LABOR REPRESENTATIVES.—The representatives of organized labor under subsection (c)(1)(B)(i) shall be selected from among individuals recommended by recognized State and local labor federations.

(3) OTHER MEMBERS.—The members of the workforce development board described in subparagraphs (A), (D), and (E) of subsection (c)(1) shall be selected by chief local elected officials in accordance with subsection (e) from individuals recommended by interested organizations.

(4) EXPERTISE.—The State Council and Governor of each State shall ensure that the workforce development board and the staff of the State Council have sufficient expertise to effectively carry out the duties and functions of existing local boards described under the laws relating to the applicable program.

(e) APPOINTMENT PROCESS.—In the case of a unified service delivery area—

(1) in which there is one unit of general local government, the chief elected official of such unit shall determine the number of members to serve on the workforce development board and appoint the members to such board from the individuals nominated or recommended under subsection (d); and

(2) in which there are 2 or more units of general local government, the chief elected officials of such units shall determine the number of members to serve on the workforce development board and appoint the members to such board from the individuals nominated or recommended under subsection (d), in accordance with an agreement entered into by such units of general local government or, in the absence of such an agreement, by the Governor of the State in which the unified service delivery area is located.

(f) TERMS.—Each workforce development board shall establish, in its bylaws, terms to be served by its members, who may serve until the successors of such members are appointed.

(g) VACANCIES.—Any vacancy on a workforce development board shall be filled in the same manner as the original appointment was made.

(h) REMOVAL FOR CAUSE.—Any member of a workforce development board may be removed for cause in accordance with procedures established by the workforce development board.

(i) CHAIRPERSON.—Each workforce development board shall select a chairperson, by a majority vote of the members of the board, from among the members of the workforce development board who are from business or industry. The term of the chairperson shall be determined by the board.

(j) DUTIES.—Each workforce development board—

(1) shall—

(A) prepare a workforce development board policy blueprint in accordance with section 232;

(B) issue an annual unified service delivery area report card in accordance with section 233;

(C) review and comment on the local plans for all programs included in the integrated workforce development system of the State and operating within the unified service delivery area, prior to the submission of such plans to the appropriate State Council, or the relevant Federal agency, if no State approval is required;

(D) oversee the operations of the one-stop career center established in the unified service delivery area under section 234, including the responsibility to—

(i) designate one-stop career center operators within the unified service delivery area consistent with selection criteria specified in section 214(a)(11);

(ii) develop and approve the budgets and annual operating plans of the one-stop career centers;

(iii) establish annual performance standards, customer service quality criteria, and outcome measures for the one-stop career centers, consistent with measures developed pursuant to sections 220;

(iv) assess the results of programs and services;

(v) ensure that services and skills provided through the centers are of high quality and are relevant to labor market demands; and

(vi) determine priorities for client services from Federal funding sources in the system;

(E) develop a strategy to disseminate consumer reports produced under section 215 to workers, jobseekers, and employers, and other individuals in the unified service delivery area; and

(2) may apply to the Secretary for a matching grant pursuant to section 404 in the amount of 50 percent of the cost of establishing innovative models of workplace training and upgrading of incumbent workers.

(k) ADMINISTRATION.—

(1) IN GENERAL.—Each local workforce development board shall have the authority to receive and disburse funds made available for carrying out the provisions of this Act and shall employ its own staff, independent of local programs and service providers.

(2) FUNDING.—Each workforce development board shall receive a portion of its funding from the implementation grant of the State, with additional funds made available from participating programs.

(l) CONFLICT OF INTEREST.—No member of a workforce development board shall cast a vote on the provision of services by that member (or any organization which that member directly represents) or vote on any matter that would provide direct financial benefit to such member.

SEC. 232. WORKFORCE DEVELOPMENT BOARD POLICY BLUEPRINT.

(a) IN GENERAL.—Each workforce development board shall prepare and submit to the

State Council a biennial report, to be known as the workforce development board policy blueprint, except that in States with a single unified service delivery area, the additional elements required in the regional blueprint shall be incorporated into the State Blueprint.

(b) REQUIREMENTS.—The workforce development board policy blueprint shall—

(1) include a list of the key industries and industry clusters of small- to mid-size firms that are most critical to the current and future economic competitiveness of unified service delivery area;

(2) identify the workforce development needs of the critical industries and industry clusters;

(3) summarize the capacity of local education and training providers to respond to the workforce development needs;

(4) indicate how the local workforce development programs intend to strategically deploy resources available from implementation grants and existing programs operating in the unified service delivery area to better meet the workforce development needs of critical industries and industry clusters in the unified service delivery area and enhance program performance;

(5) include a plan to develop one-stop career centers, as described in section 234, including an estimate of the costs in personnel and other resources to develop a network adequate to provide universal access to such centers in the local labor market;

(6) describe how services will be maintained to all groups served by the participating programs in accordance with their legislative intent, including hard-to-serve populations;

(7) identify actions for building the capacity of the workforce development system in the unified service delivery area; and

(8) report on the level and recent changes in earned income of workers in the local labor market, in relation to State and national levels, by occupation and industry.

(c) USE IN OTHER REPORTS.—The workforce development board policy blueprint may be utilized in lieu of local planning reports required by any other Federal law for any program included in the integrated workforce development system, subject to the approval of the State Council.

SEC. 233. REPORT CARD.

(a) IN GENERAL.—Each workforce development board shall annually prepare and submit to the State Council a unified service delivery area report card in accordance with this section. The report card shall describe the performance of all workforce development programs and service providers, including the one-stop career centers, operating in the area that is included in the integrated workforce development system. In States with a single unified service delivery area, the State Council shall prepare the report card.

(b) REQUIREMENTS.—The report card shall—

(1) report on the relationship between services provided and the local labor market needs as described in the workforce development board policy blueprint;

(2) using the quality assurance system information established pursuant to section 215, include an analysis of employment-related, and other outcomes achieved by the programs and service providers operating in the area;

(3) identity the performance of the one-stop career centers;

(4) detail the economic and demographic characteristics of individuals served compared to the characteristics of the general population of the unified service delivery area, and the jobseekers, workers, and businesses of such area; and

(5) assess the level of services to hard-to-serve populations in relation to the number served and the outcomes for those during the preceding 3 years.

SEC. 234. ONE-STOP CAREER CENTERS.

(a) ESTABLISHMENT.—Each workforce development board receiving funds under an implementation grant awarded under section 203(b) shall develop and implement a network of one-stop career centers in the unified service delivery area of the workforce development board. The one-stop career centers shall provide jobseekers, workers, and businesses universal access to a comprehensive array of quality employment, education, and training services.

(b) PROCEDURES.—Each workforce development board shall, in conjunction with local elected official or officials in the unified service delivery area, and consistent with criteria specified in section 214(a)(11), select a method for establishing one-stop career centers.

(c) ELIGIBLE ENTITIES.—Each entity within the unified service delivery area that performs the functions specified in subsections (e) and (f) for any of the programs in the integrated workforce development system shall be eligible to be selected as a one-stop career center.

(d) PERIOD OF SELECTION.—Each one-stop career center operator shall be designated for two-year periods. Every 2 years, one-stop career center designations shall be reevaluated by the workforce development board based on performance indicated in the unified service delivery area report card and other criteria established by the workforce development board and the State Council.

(e) BROKERAGE SERVICES TO INDIVIDUALS.—Each one-stop career center shall make available to the public, at no cost—

(1) outreach to make individuals aware of, and encourage the use of, services available from workforce development programs operating in the unified service delivery area;

(2) intake and orientation to the information and services available through the one-stop career center;

(3) preliminary assessments of the skill levels (including appropriate testing) and service needs of individuals, including—

(A) basic skills;

(B) occupational skills;

(C) prior work experience;

(D) employability;

(E) interests;

(F) aptitude; and

(G) supportive service needs;

(4) job search assistance, including resume and interview preparation and workshops;

(5) information relating to the supply, demand, price, and quality of job training services available in each unified service delivery area in the State pursuant to section 501(c);

(6) information relating to eligibility requirements and sources of financial assistance for entering the programs described in 501(c)(2)(C); and

(7) referral to appropriate job training, employment, and employment-related education or support services in the unified service delivery area.

(f) BROKERAGE SERVICES TO EMPLOYERS.—Each one-stop career center shall provide to each requesting employer—

(1) information relating to supply, demand, price, and quality of job training services available in each unified service delivery area in the State, consistent with the consumer reports described in section 215;

(2) customized screening and referral of individuals for employment;

(3) customized assessment of skills of the current workers of the employer;

(4) an analysis of the skill needs of the employer; and

(5) other specialized employment and training services.

(g) CONFLICTS.—Any entity that performs one-stop career center functions shall be prohibited from making an education and training referral to itself.

(h) FEES.—

(1) IN GENERAL.—Except as provided in paragraph (2), each one-stop career center may charge fees for the services described in subsection (f), subject to approval by the workforce development board.

(2) LIMITATION.—No fee may be charged for any service that an individual would be eligible to receive at no cost under a participating program.

(3) INCOME.—Income received by a one-stop career center from the fees collected shall be used by the workforce development board to expand or enhance one-stop career centers available within the unified service delivery area.

(i) CORE DATA ELEMENTS AND COMMON DEFINITIONS.—Each one-stop career center shall adopt the core data elements and common definitions as specified section 204(b), and updated by the National Board.

(j) OPERATING AGREEMENTS.—

(1) IN GENERAL.—Each one-stop career center operator shall enter into a written agreement with the workforce development board concerning the operation of the center.

(2) APPROVAL.—The agreement shall—

(A) be subject to the approval of—

(i) the local chief elected official or officials;

(ii) the State Council; and

(iii) the Governor of the State in which the center is located; and

(B) shall address—

(i) the services to be provided;

(ii) the role that local officials of the United States Employment Service will play in the operation of one stop career centers in the unified service delivery area;

(iii) the financial and nonfinancial contributions to be made to the centers from funds made available pursuant to section 203(b) and all participating workforce development programs;

(iv) methods of administration;

(v) procedures to be used to ensure compliance with statutory requirements of the programs in the integrated workforce development system; and

(vi) other elements, as required by the workforce development board or the State Council under section 214(a).

SEC. 235. CAPACITY BUILDING.

(a) IN GENERAL.—Each workforce development board shall identify actions to be taken for building the capacity of the workforce development system in such unified service delivery, except that in States with a single unified delivery area, the State Council shall be responsible for carrying out the activities under this section.

(b) FUNDING.—The State Council shall make funds available to each workforce development board for capacity building activities from funds made available under section 203(b) and any other funds within the integrated workforce development budget of the State. For the activities described in subsection (c), the workforce development board may also submit requests to the State Council to redirect a portion of training and technical assistance resources available from any of the workforce development programs included in the integrated system within the unified service development area of the workforce development board.

(c) TYPES OF ACTIVITIES.—Capacity building activities may include—

(1) training of workforce development board members;

(2) staff training;

(3) technical assistance regarding managing systemic change;

(4) customer service training;

(5) organization of peer-to-peer network for training, technical assistance, and information sharing;

(6) organizing a best practices database covering the various system activities; and

(7) training for local staff on the principles of quality management and decentralized decisionmaking.

TITLE III—ENHANCING INDIVIDUAL CHOICE THROUGH TRAINING ACCOUNTS

SEC. 301. PURPOSE.

It is the purpose of this title to promote the establishment of a market-driven system for the provision of services that will enhance the quality and range of choices available to individuals for obtaining appropriate education and training.

SEC. 302. ESTABLISHMENT.

(a) IN GENERAL.—Each State receiving an implementation grant pursuant to section 203(b) shall establish a training account system for the provision of education and training that meets the requirements of this title.

(b) DEFINITION.—For purposes of this title, the term ''education and training'' means the services described in clauses (v) and (ix) of section 204(b)(1)(C) and such other services as the Secretary, in consultation with the Secretary of Education, the Secretary of Health and Human Services, and the National Board, determines are appropriate.

SEC. 303. PARTICIPATION OF WORKFORCE DEVELOPMENT PROGRAMS.

(a) DISLOCATED WORKERS.—Notwithstanding the Job Training Partnership Act, each State that receives an implementation grant pursuant to section 203(b) shall use the funds made available under title III of the Job Training Partnership Act and the funds appropriated under section 3(a) to provide education and training under title III of such Act only through the training account system established pursuant to this title. Notwithstanding section 315 of such Act, not less than 60 percent of the funds available to the State under such title III shall be used to carry out the training account system.

(b) ADDITIONAL PROGRAMS.—Beginning 1 year or later after a State has commenced administration of the training account system described in subsection (a), the State may provide education and training through the training account system to adults eligible to participate in other workforce development programs if—

(1) the State—

(A) identifies the additional workforce development programs in the State blueprint developed pursuant to section 214(a) or in an amendment to such blueprint; and

(B) describes how such programs will be integrated into such system; and

(2) not less than two-thirds of the voting members of the National Workforce Development Board approves the inclusion of the programs identified pursuant to paragraph (1) into the training account system established in the State.

SEC. 304. ADMINISTRATION.

(a) APPLICATION TO ESTABLISH ACCOUNT.—

(1) IN GENERAL.—An individual who is eligible to receive education and training under a workforce development program participating in the training account system pursuant to this title may apply to establish a training account only at a one-stop career center established under section 234.

(2) DUTIES OF CAREER CENTERS.—The career center shall—

(A) assist such individual in completing the application;

(B) provide information relating to the operation of the training account system; and

(C) ensure that such individual is aware of consumer information available in the center relating to providers of education and training, local occupations in demand, and other appropriate labor market factors.

(b) DURATION; AMOUNT OF ACCOUNT.—

(1) DURATION.—Upon approval of an application submitted pursuant to subsection (a), an individual may be provided a training account for a maximum of 2 years within any 5-year period.

(2) AMOUNT OF ACCOUNT.—The total amount deposited into a training account for an individual for any fiscal year shall be equal to the greater of the maximum amount of a Pell grant established—

(1) pursuant to paragraphs (2)(A) and (3)(A) of section 401(b) of the Higher Education Act of 1965 for such year; or

(2) by an appropriation Act for such year.

(c) USE OF FUNDS.—An account established under subsection (b) may be used by an individual to pay for education and training provided by a service provider meeting the eligibility requirements described in section 305.

(d) ADMINISTRATIVE PROCEDURES.—Not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Education, and the Secretary of Health and Human Services shall issue regulations applicable to the administration of a training account under this title that, consistent with the other provisions of this title, specify—

(1) the application requirements relating to a training account;

(2) the method of payment to providers from a training account, including appropriate payment schedules and appropriate payment for education or training in which an individual enrolled but did not complete;

(3) the financial and management information systems to be used to administer the training accounts;

(4) the Federal, State, and local roles with respect to oversight of the training account system and enforcement of the requirements of this title;

(5) the manner in which the costs of administering the training account system will be determined and apportioned;

(6) the performance-based information to be submitted by eligible providers of education and training and procedures for verifying the accuracy of such information; and

(7) such other procedures or conditions the Secretary determines are necessary to ensure the effective implementation of the training account system.

(e) DESCRIPTION OF SYSTEM IN STATE BLUEPRINT.—The State blueprint developed pursuant to section 214(a) shall include a description of how the State will administer the training account system and will ensure compliance with the requirements of this title.

SEC. 305. ELIGIBILITY REQUIREMENTS FOR PROVIDERS OF EDUCATION AND TRAINING SERVICES.

(a) ELIGIBILITY REQUIREMENTS.—A provider of education and training services shall be eligible to receive funds from a training account under this title if such provider—

(1) is either—

(A) eligible to participate in programs under title IV of the Higher Education Act of 1965; or

(B) determined to be eligible under the procedures described in subsection (b); and

(2) uses the common definitions and performance-based information described in section 204(b).

(b) ALTERNATIVE ELIGIBILITY PROCEDURE.—

(1) IN GENERAL.—The Governor of each State receiving an implementation grant pursuant to section 203(b) shall establish an alternative eligibility procedure for providers of education and training services in such State that desire to receive funds from a training account under this title, but are not eligible to participate in programs under title IV of the Higher Education Act of 1965. Such procedure shall establish minimum acceptable levels of performance for such providers based on factors and guidelines developed by the Secretary, after consultation with the Secretary of Education. Such factors shall be comparable in rigor and scope to those provisions of part H of such title of such Act that are used to determine an institution of higher education's eligibility to participate in programs under such title as are appropriate to the type of provider seeking eligibility under this subsection and the nature of the education and training services to be provided.

(2) LIMITATION.—Notwithstanding paragraph (1), if the participation of an institution of higher education in any of the programs under title IV of the Higher Education Act of 1965 is terminated, such institution shall not be eligible to receive funds under this Act for a period of 2 years beginning on the date of such termination.

(c) ADMINISTRATION.—

(1) STATE AGENCY.—Upon the recommendation of the State Council, the Governor of each State receiving an implementation grant pursuant to section 203(b) shall designate a State agency or agencies to collect, verify, and disseminate the performance-based information submitted by eligible providers.

(2) APPLICATION.—A provider of education and training services that desires to be eligible to receive funds under this title shall submit to the State agency or agencies the information required under paragraph (1) at such time and in such form as such State agency or agencies may require.

(3) LIST OF ELIGIBLE PROVIDERS.—The State agency or agencies shall compile a list of eligible providers, accompanied by the performance-based information submitted, and disseminate such list and information to the one-stop career centers in the State.

SEC. 306. EVALUATION AND RECOMMENDATIONS.

The National Workforce Development Board shall evaluate the administration and effectiveness of the training account system in enhancing individual choice and promoting high-quality education and training and shall include the evaluation, accompanied by recommendations, in the National Report Card developed pursuant to section 202(c)(1) and the joint resolution to the President and the Congress pursuant to section 104(b).

SEC. 307. REPORT RELATING TO INCOME SUPPORT.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) many dislocated workers and economically disadvantaged adults are unable to enroll in long-term job training because such workers and adults lack income support after unemployment compensation is exhausted;

(2) evidence suggests that long-term job training is among the most effective adjustment service in assisting dislocated workers and economically disadvantaged adults to obtain employment and enhance wages; and

(3) there is a need to identify options relating to how income support may be provided to enable dislocated workers and economically disadvantaged adults to participate in long-term job training.

(b) REPORT.—Not later than 120 days after the date of enactment of this Act, the Secretary of Labor shall submit to the Congress a report that—

(1) examines the need for income support to enable dislocated workers and economically disadvantaged adults to participate in long-term job training;

(2) identifies options relating to how income support can be provided to such workers and adults; and

(3) contains such recommendations as the Secretary of Labor determines are appropriate.

TITLE IV—PRIVATE-PUBLIC LINKAGES

SEC. 401. PURPOSE.

The purpose of this title is to begin to more explicitly link federally funded workforce development programs with training practices and systems utilized by workers and firms in the private sector.

SEC. 402. INCENTIVES TO ENCOURAGE WORKER TRAINING.

Not later than 180 days after the date of enactment of this Act, the National Board shall make recommendations to the appropriate committees of Congress and the President on what measures can be taken, including changes in the tax codes—

(1) to encourage employers and workers to invest in training and skills upgrading;

(2) to encourage employers to hire and train hard-to-serve individuals; and

(3) to provide income support to enable jobseekers and workers to participate in long-term training programs.

SEC. 403. LABOR DAY REPORT ON PRIVATE-PUBLIC TRAINING PRACTICES.

Beginning on September 1, 1996, and in each succeeding year thereafter, the National Board shall issue a report that—

(1) analyzes how businesses in the United States are—

(A) restructuring the workplace to provide continuous learning for the employees of such businesses;

(B) improving the skills and abilities of the front-line workers of such businesses; and

(C) integrating public workforce development programs into private sector training systems;

(2) highlights innovative approaches that other countries are taking to encourage firms to invest in training the front-line workers of such firms and to ensure that publicly funded workforce development programs in such countries are relevant to the training needs of workers and firms in the private sector;

(3) reports on the progress being made by the National Skills Standards Board established pursuant to section 503 of the National Skill Standards Act and the degree to which publicly funded education and training providers throughout the United States are incorporating industry-based skill standards developed by the Board into program offerings of such programs; and

(4) makes recommendations to Congress and the President on ways to improve linkages between federally funded industrial modernization programs and federally funded workforce development programs.

SEC. 404. MATCHING GRANTS TO ENCOURAGE INCUMBENT WORKER TRAINING.

(a) PURPOSE.—The purpose of this section is to establish a program to award competitive matching grants to assist local workforce development boards respond to the training needs of front-line workers in the communities in which such boards are located.

(b) APPLICATION.—Each local workforce development board seeking a grant under this section shall submit an application to the State Council of the State in which such board is located, at such time, in such manner, and containing such information as the Secretary may prescribe. Not later than 30 days after receiving an application, the State Council shall review and forward the application, with comments, to the National Board and the Secretary.

(c) SELECTION OF GRANTEES.—

(1) IN GENERAL.—The Secretary, with the advice of the National Board, shall award a grant under this section only if the Secretary determines, from the grant application, that the grant will be used to maintain or enhance the competitive position of local industries that are committed to making the investments necessary to develop the skills of their workers.

(2) CRITERIA.—In awarding grants under this section, the Secretary shall take into account—

(A) the policy priorities and training needs of local industries identified in the local workforce development policy blueprints;

(B) whether there is a demonstrated need for skill upgrading to maintain firm or industry competitiveness;

(C) whether the application contains proposals for training that will directly lead to increased earnings of front-line workers;

(D) whether the labor organizations representing such front-line workers support the grant proposal;

(E) initiatives by firms or firm partnerships to develop high performance work organizations;

(F) whether the grant proposal meets the training needs of small- and medium-sized firms;

(G) whether the grant proposal is focused on workers with substantial firm or industry tenure; and

(H) whether the proposed industry activities are integrated with private sector activities under the School-to-Work Opportunities Act of 1994.

(d) USE OF FUNDS.—Grants awarded under this section shall be used for skill enhancement and training activities that may include—

(1) basic skills;

(2) occupational skills;

(3) statistical process control training;

(4) total quality management techniques;

(5) team building and problem solving skills; and

(6) other training or activities that will result in the increased likelihood of job retention, higher wages, or increased firm competitiveness.

(e) FUNDING.—

(1) COST SHARE.—

(A) FEDERAL SHARE.—A grant awarded under this section shall be in an amount equal to 50 percent of the cost of carrying out the grant proposal.

(B) LOCAL SHARE.—As a condition to receiving Federal funds under this section, local businesses, industry associations, and worker organizations shall provide funding in an amount equal to 50 percent of the cost of carrying out the grant proposal.

(2) LIMITATIONS.—

(A) USE OF FUNDS.—Amounts awarded under this section shall not be used to pay the wages of workers during the training of such workers.

(B) ADDITIONAL FUNDING.—Each recipient of funds under this section shall certify that such funds shall supplement and not supplant other public or private funds otherwise spent on worker training.

TITLE V—INTEGRATED LABOR MARKET INFORMATION SYSTEM

SEC. 501. INTEGRATED LABOR MARKET INFORMATION.

(a) FINDINGS.—The Congress finds that accurate, timely, and relevant data for the Nation, States, and localities are required to achieve Federal domestic policy goals, such as—

(1) economic growth and productivity through—

(A) career planning and successful job training and job searching by youth and adults; and

(B) efficient hiring, effective worker training, and appropriate location and organization of work by employers;

(2) accountability, through planning and evaluation, in workforce development and job placement programs funded by the Federal Government or developed by other public or private entities;

(3) equity and efficiency in the allocation of Federal funds; and

(4) greater understanding of local labor market dynamics through the support of research.

(b) PURPOSE.—The purpose of this title is to provide for the development, maintenance, and continuous improvement of a nationwide integrated system for the collection, analysis, and dissemination of labor market information.

(c) SYSTEM.—

(1) DEVELOPMENT.—The Secretary, in cooperation with the National Board, the State Councils, where appropriate, and the Governors, shall oversee and ensure the development, maintenance, and continuous improvement of a nationwide integrated system of labor market information that will—

(A) promote comprehensive workforce development planning, evaluation, and service integration;

(B) meet and be responsive to the customer needs of jobseekers, employers, and public officials at all government levels who develop economic and social policy, allocate funds, plan and implement workforce development systems, are involved in career planning or exploration, and deliver integrated services;

(C) serve as the foundation for automated information delivery systems that provide easy access to labor market, occupational and career information; and

(D) meet the Federal domestic policy goals specified in section (a).

(2) INFORMATION TO BE INCLUDED.—The integrated system described in paragraph (1) shall include statistical data from survey and projection programs and data from administrative reporting systems which, taken together, shall enumerate, estimate, and project the supply of and demand for labor at national, State, and local levels in a timely manner, including data on—

(A) labor market demand, such as—

(i) profiles of occupations that describe job duties, education, and training requirements, skills, wages, benefits, working conditions, and the industrial distribution of occupations;

(ii) current and projected employment opportunities and trends, by industry and occupation, including growth projections by industry, and growth and replacement need projections by occupation;

(iii) job openings, job locations, hiring requirements, and application procedures;

(iv) profiles of industries and employers in the local labor market describing the nature of the work performed, employment skill and experience requirements, specific occupations, wages, hours, and benefits, and hiring patterns;

(v) industries, occupations, and geographic locations facing significant change or dislocation; and

(vi) information maintained in a longitudinal manner on the quarterly earnings, establishment, industry affiliation, and geographic location of employment for all individuals for whom such information is collected by the States;

(B) labor supply, such as—

(i) educational attainment, training, skills, skill levels, and occupations of the population;

(ii) demographic, socioeconomic characteristics, and current employment status of the

population, including self-employed, part-time, and seasonal workers;

(iii) jobseekers, including their education and training, skills, skill levels, employment experience, and employment goals;

(iv) the number of workers displaced by permanent layoffs and plant closings by industry, occupation, and geographic location; and

(v) current and projected training completers who have acquired specific occupational or work skills and competencies; and

(C) consumer information, which shall be current, comprehensive, localized, automated, and in a form useful for immediate employment, entry into training and education programs, and career exploration, including—

(i) job openings, locations, hiring requirements, application procedures, and profiles of employers in the local labor market describing the nature of the work performed, employment requirements, wages, benefits, and hiring patterns;

(ii) jobseekers, including their education and training, skills, skill levels, employment experience, and employment goals;

(iii) the labor market experiences, in terms of wages and annual earnings, by industry and occupation, of workers in local labor markets, by sex and racial or ethnic group, including information on hard-to-serve populations;

(iv) education courses, training programs, and job placement programs, including information derived from statistically based performance evaluations and their user satisfaction ratings; and

(v) eligibility for funding and other assistance in job training, job search, income support, supportive services, and other employment services.

(3) TECHNICAL STANDARDS.—The integrated labor market information system shall use common standards that will include—

(A) standard classification and coding systems for industries, occupations, skills, programs, and courses;

(B) nationally standardized definitions of terms consistent with subsections (b), (c), and (d) of section 204 and with paragraph (2);

(C) a common system for designating geographic areas consistent with the unified service delivery areas;

(D) data standards and quality control mechanisms; and

(E) common schedules for data collection and dissemination.

(4) AVAILABILITY OF INFORMATION.—Data generated by the labor market information system including information on quarterly employment and earnings, together with matched data on individuals who have participated in a federally supported job training activity, shall be made available to the National Board for use in the preparation of the National Report Card. Aggregate level information shall be made available to consumers in automated information delivery systems.

(5) DISSEMINATION, TECHNICAL ASSISTANCE, AND RESEARCH.—The Secretary, in cooperation with the National Board, the Governors, and State Councils, where appropriate, shall oversee the development, maintenance, and continuous improvement of—

(A) dissemination mechanisms for data and analysis, including mechanisms that may be standardized among the States;

(B) programs of technical assistance and staff development for States and localities, including assistance in adopting and utilizing automated systems and improving the access, through electronic and other means, to labor market information; and

(C) programs of research and demonstration, on ways to improve the products and processes authorized by this section.

SEC. 502. RESPONSIBILITIES OF THE NATIONAL BOARD.

(a) IN GENERAL.—The National Board shall plan, review, and evaluate the Nation's integrated labor market information system.

(b) DUTIES.—The National Board shall—

(1) be responsible for providing policy guidance;

(2) evaluate the integrated labor market information system and ensure the cooperation of participating agencies; and

(3) recommend to the Secretary needed improvements in Federal, State, and local information systems to support the development of an integrated labor market information system.

SEC. 503. RESPONSIBILITIES OF THE SECRETARY.

(a) IN GENERAL.—The Secretary shall manage the investment in an integrated labor market information system by—

(1) reviewing all requirements for labor market information across all programs within the system;

(2) developing a comprehensive annual budget, including funds at the Federal level, funds allotted to States by formula, and funds supplied to the States by contracts with departmental entities;

(3) administering grants allotted to States by formula;

(4) negotiating and executing contracts with the States;

(5) coordinating the activities of Federal workforce development agencies responsible for collecting the statistics and program administrative data that comprise the integrated system and disseminating labor market information at the National, State, regional, and local levels; and

(6) ensuring that standards are designed to meet the requirements of chapter 35 of title 44, United States Code, and are coordinated and consistent with other appropriate Federal standards established by the Bureau of Labor Statistics and other statistical agencies.

(b) REQUIREMENTS.—In carrying out the duties of the Secretary under this section, the Secretary shall—

(1) in consultation with the States and the private sector, define a common core set of labor market information data elements as specified in section 501(c)(2) that will be consistently available across States in an integrated labor market information system; and

(2) ensure that data is sufficiently timely and locally detailed for use, including uses specified in subsections (b) and (c)(2) of section 501.

(c) ANNUAL PLAN.—

(1) IN GENERAL.—The Secretary shall annually prepare and submit to the National Board for review, a plan for improving the Nation's integrated labor market information system. The Secretary shall also submit the plan, together with the comments and recommendations of the National Board, to the President and Congress.

(2) CONTENTS.—The plan shall describe the budgetary needs of the labor market information system, and shall describe the activities of such Federal agencies with respect to data collection, analysis, and dissemination for each fiscal year succeeding the fiscal year in which the plan is developed. The plan shall—

(A) establish goals for system development and improvement based on information needs for achieving economic growth and productivity, accountability, fund allocation equity, and an understanding of labor market characteristics and dynamics;

(B) specify the common core set of data that shall be included in the integrated labor market information system;

(C) describe the current spending on integrated labor market information activities from all sources, assess the adequacy of the funds and identify the specific budget needs of the Federal and State workforce development agencies with respect to implementing and improving an integrated labor market information system and the activities of such agencies with respect to data compilation, analysis, and dissemination for each fiscal year in which the plan is developed;

(D) develop a budget for an integrated labor market information system that accounts for all funds in subparagraph (C) and any new funds made available pursuant to this Act, and describes the relative allotments to be made for—

(i) the operation of the cooperative statistical programs under section 501(c)(2);

(ii) ensuring that technical standards are met pursuant to section 501(c)(3); and

(iii) consumer information and analysis, matching data, dissemination, technical assistance, and research under paragraphs (2)(C), (4), and (5) of section 501(c);

(E) describe the existing system, information needs, and the development of new data programs, analytical techniques, definitions and standards, dissemination mechanisms, governance mechanisms, and funding processes to meet new needs;

(F) summarize the results of an annual review of the costs to the States of meeting contract requirements for data production, including a description of how the budget request for an integrated labor market information system will cover such costs;

(G) describe how the State Councils will be reimbursed for carrying out the duties for labor market information;

(H) recommend methods to simplify and integrate automated client intake and eligibility determination systems across workforce development programs to permit easy determination of eligibility for funding and other assistance in job training, job search, income support, supportive services, and other reemployment services; and

(I) provide for the involvement of States in developing the plan by holding formal consultations conducted in cooperation with representatives of the Governor or State Council, where appropriate, pursuant to a process established by the National Board.

(d) ASSISTANCE FROM OTHER AGENCIES.—The Secretary may receive assistance from member and other Federal agencies (such as the Bureau of Labor Statistics and the Employment and Training Administration of the Department of Labor, the Administration on Children and Families of the Department of Health and Human Services, and the Office of Adult and Vocational Education and the National Center for Education Statistics of the Department of Education) to assist in the collection, analysis, and dissemination of labor market information, and in the provision of training and technical assistance to users of information, including States, employers, youth, and adults.

SEC. 504. RESPONSIBILITIES OF GOVERNORS.

(a) DESIGNATION OF STATE AGENCY.—The Governor of each State and the State Council, where appropriate, shall designate one State agency to be the agency responsible for—

(1) the management and oversight of a statewide comprehensive integrated labor market information system; and

(2) developing a State unified labor market information budget on an annual basis.

(b) REQUIREMENTS.—As a condition of receiving Federal financial assistance under this title, the Governor or State Council, where appropriate, shall—

(1) develop, maintain, and continuously improve a comprehensive integrated labor market information system, which shall—

(A) include the data specified in section 501(c)(2);

(B) be responsive to the needs of the State and the localities of such State for planning and evaluative data, including employment and economic analyses and projections, and program outcome data on employment and earnings for the quality assurance system under section 204; and

(C) meet Federal standards under chapter 35 of title 44, United States Code, and other appropriate Federal standards established by the Bureau;

(2) ensure the performance of contract and grant responsibilities for data compilation, analysis, and dissemination;

(3) conduct such other data collection, analysis, and dissemination activities as will ensure the availability of comprehensive State and local labor market information;

(4) coordinate the data collection, analysis, and dissemination activities of other State and local agencies, with particular attention to State education, economic development, human services, and welfare agencies, to ensure complementary and compatibility among data; and

(5) cooperate with the National Board and the Secretary by making available, as requested, data for the evaluation of programs covered by the labor market information and the quality assurance systems under section 204.

(c) NONINTERFERENCE WITH STATE FUNCTIONS.—Nothing in this Act shall limit the ability of the State agency designated under this section to conduct additional data collection, analysis, and dissemination activities with funds derived from sources other than this Act.

THE WORKFORCE DEVELOPMENT ACT—OVERVIEW

The federal government currently spends billions each year on a wide array of different job training programs. There is widespread consensus that these programs are not collectively doing a good enough job of preparing workers for high skill jobs in an increasingly competitive world economy.

This bill takes immediate action to streamline and reform current job training programs. In addition, over the next four years states will be encouraged to experiment with creative new approaches to transform federally-funded job training efforts from a collection of free standing bureaucratically-driven programs into an integrated and accountable market-driven workforce development system.

After examining lessons learned from the experimentation taking place in the states, Congress will act upon recommendations to create a new system to help workers to compete in the 21st century economy.

TITLE I STREAMLINING AND CONSOLIDATION

This title immediately repeals 15 duplicative or outmoded programs and encourages states to compete for grants to set up integrated workforce development system that will, over time, include one-stop career centers and voucher programs for a wide range of adult training programs.

This title establishes an expedited wavier authority process to allow states and communities to waive programmatic requirements that may impede the ability of those that are willing to embark on the challenge of building a more integrated workforce development system.

This title also establishes a clear timetable and process for taking action on the lessons learned from the experiments undertaken by the states. By June 1, 1999, a tripartite National Board must submit a joint resolution to the President and Congress containing recommendations for a new public/private workforce development system suitable for the needs of the 21st century. To ensure that Congress acts on these recommendations, twenty separate programs with more than $4 billion in funding will sunset September 30, 1999. The National Board will itself be sunsetted after if issues this joint resolution.

TITLE II MARKET BUILDING ACTIVITIES

This title establishes a framework at the federal, state, and local levels for key stakeholders to work cooperatively to build the information, accountability, and brokerage systems needed to transform currently federally funded job training programs into a market-driven workforce development system.

At the federal level, new streamlined accountability, labor market information and management systems will replace the myriad of existing federal monitoring and compliance systems currently utilized by separate categorical programs. All states will receive grants to develop these new systems which will, for the first time, give policy makers and individuals a clear sense of how well each program is doing in preparing and placing people in jobs. Each year the National Board will issue a National Report Card documenting the performance of the nation's workforce development system.

States will be given the opportunity to compete for multi-year implementation grants to experiment with new approaches to building a market-driven workforce development system. States that receive these grants will create a new tripartite State Workforce Development Council to replace the multiple existing boards created by separate federal job training programs. These Council's responsibilities will include developing a strategic plan that identifies ways to integrate existing job training, education and economic development programs to meet the needs of critical industries in the state; and developing a quality assurance system to provide consumer reports on the supply, demand, price and quality of job training services throughout the state.

At the local level, private sector led boards will be established to bring coherence to job training activities at the labor market level. These boards will identify the training needs of critical industries in their region, and develop strategies to redeploy public and private training resources to respond to these needs. These boards will also be responsible for establishing a network of one-stop career centers to provide local jobseekers, workers, and businesses universal access to a comprehensive array of quality employment services.

TITLE III ENHANCING INDIVIDUAL CHOICE

This title will promote the establishment of a market-driven workforce development system by establishing training accounts that make vouchers available to individuals to allow them to choose the education and training service most appropriate for their own career advancement.

States that receive implementation grants to establish market-driven workforce development systems will initially establish training accounts from which dislocated workers can receive vouchers. States will also have the option, over time, of converting additional training programs into a voucher system, subject to the approval of the National Board.

TITLE IV PRIVATE-PUBLIC LINKAGES

This title take steps to begin to explicitly link federally funded workforce development programs with training practices and systems utilized by workers and firms in the private sector.

These steps include: recommending changes in the tax codes to encourage employers and workers to invest in training and skills upgrading for both existing workers and hard-to-serve individuals; analyzing how businesses and labor in the United States are restructuring the workplace to provide continuous learning for their employees; overseeing the degree to which publicly funded education and training providers throughout the United States are incorporating industry-based skill standards into their program offerings; and making matching grants available on a competitive basis to encourage firms to develop innovative approaches to upgrade the skills of their frontline workers.

TITLE V LABOR MARKET INFORMATION

This title establishes a comprehensive labor market information system to provide accurate, timely data to improve the functioning of local labor markets. These new information systems will allow job seekers, workers and firms to determine where the growth industries are in their communities, what skills jobs in these industries require, and which local training providers are successfully meeting the training needs of these industries.

FUNDING

This bill authorizes funding of $250 million in fiscal year 1996—$160 million for the market building activities identified in Title II and the matching grants for incumbent worker training in Title IV; and the remaining $90 million for the development of the integrated labor market information system described in Title V. The funds are not new spending, but are cost savings realized from streamlining activities undertaken in Title I.

By Mr. HATCH:

S. 181. A bill to amend the Internal Revenue Code, of 1986 to provide tax incentives to encourage small investors, and for other purposes; to the Committee on Finance.

S. 182. A bill to amend the Internal Revenue Code of 1986 to encourage investment in the United States by reforming the taxation of capital gains, and for other purposes; to the Committee on Finance.

CAPITAL GAINS TAX LEGISLATION

Mr. HATCH. Mr. President, I rise today to introduce two pieces of capital gains tax legislation that will significantly change and improve America's capital formation, tax fairness, and saving rate. These bills are alternative solutions to reform a tax code that discourages investment and unfairly taxes investors on gains caused solely by inflation. Enactment of either of these bills would strengthen this Nation's precarious economic condition by stimulating economic growth and creating new jobs.

These bills are the Small Investors Tax Relief Act of 1995 and the Capital Formation and Jobs Creation Act of 1995.

Mr. President, the first bill, the Small Investors Tax Relief Act of 1995 [SITRA], features three simple provisions that solve several problems that face America's small investors. First, it gives every individual an annual exemption from capital gains of $10,000

per year. This amount is doubled on a joint return and the thresholds are indexed for inflation. This provision will encourage lower- and middle-income taxpayers to save and invest in stocks, real estate, or a new business. It will also unlock billions of dollars of unrealized capital gains in this country and put it to work creating new jobs.

Second, SITRA provides an annual exemption from tax for the first $1,000 of interest and dividends earned by individuals each year. The exemption threshold is $2,000 for joint returns and is also indexed for inflation. This provision will provide a tremendous incentive for taxpayers to invest, rather than spend, their dollars. Our current tax law actually discourages savings by taxing every cent of earnings from interest and dividends. The result is a miserably low saving rate for the United States. All of our major trading partners enjoy a higher saving rate than does than the United States. Yet, our long-term prosperity demands a higher rate of savings, according to practically every economist. This bill will go a long way toward providing the encouragement that is now lacking for taxpayers to save money.

Finally, SITRA would provide for indexing the bases of most capital assets to eventually eliminate the unfair taxation of gains caused solely by inflation. There is nothing fair about having to pay tax on inflationary gains. The tax on inflationary capital gains is not a tax on income or even on the increase in the real value of the asset. It is purely a tax on capital very much like the property tax, but only assessed when the property is sold.

Mr. President, I am also introducing today the Capital Formation and Jobs Creation Act of 1995. This bill is identical to the capital gains tax bill included in H.R. 9, which is part of the Contract With America, introduced last week by Congressman BILL ARCHER. I commend Congressman ARCHER, the new chairman of the Ways and Means Committee, for his expertise and many years of leadership in the area of capital gains taxation and I look forward to working with him on this issue.

This bill is also very simple. First, it would provide a deduction of 50 percent of net capital gains realized. Thus, only half of a taxpayer's capital gains would be subject to taxation. Second, it would also index the bases of capital assets to ensure that inflationary gains are eliminated. Finally, it would allow a capital loss deduction for losses suffered on a sale or exchange of a taxpayer's principal residence.

Mr. President, the debate about whether to cut the tax on capital gains has been very loud, long, and partisan. Our colleagues have heard much from both sides of the issue for many years. For the first time in several years, however, there is a realistic possibility that Congress will pass legislation this year to lower the tax on capital gains.

The two bills I am introducing today offer different approaches to increasing economic growth, creating jobs, and enhancing fairness to taxpayers. I urge my colleagues to take a look at these bills as we consider how to best improve our Tax Code this year. I will have more to say on the need for capital gains tax reductions and the different approaches of these two bills in the days to come. My main purpose in introducing these bills today is to get these ideas before my colleagues and before the Nation. I ask unanimous consent that the text of the Small Investors Tax Relief Act of 1995 and the Capital Formation and Jobs Creation Act of 1995 be printed in the RECORD.

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

S. 181

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Small Investors Tax Relief Act of 1995''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. EXEMPTION OF CERTAIN INTEREST AND DIVIDEND INCOME FROM TAX.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to amounts specifically excluded from gross income) is amended by inserting after section 115 the following new section:

''SEC. 116. PARTIAL EXCLUSION OF DIVIDENDS AND INTEREST RECEIVED BY INDIVIDUALS.

''(a) EXCLUSION FROM GROSS INCOME.—Gross income does not include the sum of the amounts received during the taxable year by an individual as—

''(1) dividends from domestic corporations, or

''(2) interest.

''(b) LIMITATIONS.—

''(1) MAXIMUM AMOUNT.—The aggregate amount excluded under subsection (a) for any taxable year shall not exceed $1,000 ($2,000 in the case of a joint return).

''(2) CERTAIN DIVIDENDS EXCLUDED.—Subsection (a)(1) shall not apply to any dividend from a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organization) or section 521 (relating to farmers' cooperative associations).

''(3) INDEXING FOR INFLATION.—In the case of any taxable year beginning after 1995—

''(A) the $1,000 amount under paragraph (1) shall be increased by an amount equal to—

''(i) $1,000, multiplied by

''(ii) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the taxable year begins, except that subparagraph (B) thereof shall be applied by substituting '1994' for '1992', and

''(B) the $2,000 amount under paragraph (1) shall be increased to an amount equal to twice the amount to which the $1,000 amount is increased to under subparagraph (a).

If the dollar amount determined after the increase under subparagraph (A) is not a multiple of $100, such dollar amount shall be rounded to the next lowest multiple of $100.

''(c) SPECIAL RULES.—For purposes of this section—

''(1) DISTRIBUTIONS FROM REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—Subsection (a) shall apply with respect to distributions by—

''(A) regulated investment companies to the extent provided in section 854(c), and

''(B) real estate investment trusts to the extent provided in section 857(c).

''(2) DISTRIBUTIONS BY A TRUST.—For purposes of subsection (a), the amount of dividends and interest properly allocable to a beneficiary under section 652 or 662 shall be deemed to have been received by the beneficiary ratably on the same date that the dividends and interest were received by the estate or trust.

''(3) CERTAIN NONRESIDENT ALIENS INELIGIBLE FOR EXCLUSION.—In the case of a nonresident alien individual, subsection (a) shall apply only—

''(A) in determining the tax imposed for the taxable year pursuant to section 871(b)(1) and only in respect of dividends and interest which are effectively connected with the conduct of a trade or business within the United States, or

''(B) in determining the tax imposed for the taxable year pursuant to section 877(b).''

(b) CLERICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 115 the following new item:

''Sec. 116. Partial exclusion of dividends and interest received by individuals.''

(2) Paragraph (2) of section 265(a) is amended by inserting before the period at the end thereof the following: '', or to purchase or carry obligations or shares, or to make deposits, to the extent the interest thereon is excludable from gross income under section 116''.

(3) Subsection (c) of section 584 is amended by adding at the end the following new sentence:

''The proportionate share of each participant in the amount of dividends or interest received by the common trust fund and to which section 116 applies shall be considered for purposes of such section as having been received by such participant.''

(4) Subsection (a) of section 643 is amended by inserting after paragraph (6) the following new paragraph:

''(7) DIVIDENDS OR INTEREST.—There shall be included the amount of any dividends or interest excluded from gross income pursuant to section 116.''

(5) Section 854 is amended by adding at the end the following new subsection:

''(c) TREATMENT UNDER SECTION 116.—

''(1) IN GENERAL.—For purposes of section 116, in the case of any dividend (other than a dividend described in subsection (a)) received from a regulated investment company which meets the requirements of section 852 for the taxable year in which it paid the dividend—

''(A) the entire amount of such dividend shall be treated as a dividend if the aggregate dividends and interest received by such company during the taxable year equal or exceed 75 percent of its gross income, or

''(B) if subparagraph (A) does not apply, a portion of such dividend shall be treated as a dividend (and a portion of such dividend shall be treated as interest) based on the portion of the company's gross income which consists of aggregate dividends or aggregate interest, as the case may be.

For purposes of the preceding sentence, gross income and aggregate interest received shall each be reduced by so much of the deduction allowable by section 163 for the taxable year as does not exceed aggregate interest received for the taxable year.

''(2) NOTICE TO SHAREHOLDERS.—The amount of any distribution by a regulated investment company which may be taken into account as a dividend for purposes of the exclusion under section 116 shall not exceed the amount so designated by the company in a written notice to its shareholders mailed not later than 45 days after the close of its taxable year.

''(3) DEFINITIONS.—For purposes of this subsection—

''(A) the term 'gross income' does not include gain from the sale or other disposition of stock or securities, and

''(B) the term 'aggregate dividends received' includes only dividends received from domestic corporations other than dividends described in section 116(b)(2).

In determining the amount of any dividend for purposes of subparagraph (B), the rules provided in section 116(c)(1) (relating to certain distributions) shall apply.''

(6) Subsection (c) of section 857 of such Code is amended to read as follows:

''(c) LIMITATIONS APPLICABLE TO DIVIDENDS RECEIVED FROM REAL ESTATE INVESTMENT TRUSTS.—

''(1) IN GENERAL.—For purposes of section 116 (relating to an exclusion for dividends and interest received by individuals) and section 243 (relating to deductions for dividends received by corporations), a dividend received from a real estate investment trust which meets the requirements of this part shall not be considered as a dividend.

''(2) TREATMENT AS INTEREST.—In the case of a dividend (other than a capital gain dividend, as defined in subsection (b)(3)(C)) received from a real estate investment trust which meets the requirements of this part for the taxable year in which it paid the dividend—

''(A) such dividend shall be treated as interest if the aggregate interest received by the real estate investment trust for the taxable year equals or exceeds 75 percent of its gross income, or

''(B) if subparagraph (A) does not apply, the portion of such dividend which bears the same ratio to the amount of such dividend as the aggregate interest received bears to gross income shall be treated as interest.

''(3) ADJUSTMENTS TO GROSS INCOME AND AGGREGATE INTEREST RECEIVED.—For purposes of paragraph (2)—

''(A) gross income does not include the net capital gain,

''(B) gross income and aggregate interest received shall each be reduced by so much of the deduction allowable by section 163 for the taxable year (other than for interest on mortgages on real property owned by the real estate investment trust) as does not exceed aggregate interest received by the taxable year, and

''(C) gross income shall be reduced by the sum of the taxes imposed by paragraphs (4), (5), and (6) of section 857(b).

''(4) NOTICE TO SHAREHOLDERS.—The amount of any distribution by a real estate investment trust which may be taken into account as interest for purposes of the exclusion under section 116 shall not exceed the amount so designated by the trust in a written notice to its shareholders mailed not later than 45 days after the close of its taxable year.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to amounts received after December 31, 1994, in taxable years ending after such date.

SEC. 3. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

''SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

''(a) GENERAL RULE.—

''(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Except as provided in paragraph (2), if an indexed asset which has been held for more than 1 year is sold or otherwise disposed of, then, for purposes of this title, the indexed basis of the asset shall be substituted for its adjusted basis.

''(2) EXCEPTION FOR DEPRECIATION, ETC.—The deduction for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

''(b) INDEXED ASSET.—

''(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

''(A) stock in a corporation,

''(B) tangible property (or any interest therein), which is a capital asset or property used in the trade or business (as defined in section 1231(b)), and

''(C) the principal residence of the taxpayer (within the meaning of section 1034).

''(2) CERTAIN PROPERTY EXCLUDED.—For purposes of this section, the term 'indexed asset' does not include—

''(A) CREDITOR'S INTEREST.—Any interest in property which is in the nature of a creditor's interest.

''(B) OPTIONS.—Any option or other right to acquire an interest in property.

''(C) NET LEASE PROPERTY.—In the case of a lessor, net lease property (within the meaning of subsection (h)(1)).

''(D) CERTAIN PREFERRED STOCK.—Stock which is preferred as to dividends and does not participate in corporate growth to any significant extent.

''(E) STOCK IN CERTAIN CORPORATIONS.—Stock in—

''(i) an S corporation (within the meaning of section 1361),

''(ii) a personal holding company (as defined in section 542), and

''(iii) a foreign corporation.

''(3) EXCEPTION FOR STOCK IN FOREIGN CORPORATION WHICH IS REGULARLY TRADED ON NATIONAL OR REGIONAL EXCHANGE.—Clause (iii) of paragraph (2)(E) shall not apply to stock in a foreign corporation the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, or any domestic regional exchange for which quotations are published on a regular basis other than—

''(A) stock of a foreign investment company (within the meaning of section 1246(b)), and

''(B) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

''(c) INDEXED BASIS.—For purposes of this section—

''(1) INDEXED BASIS.—The indexed basis for any asset is—

''(A) the adjusted basis of the asset, multiplied by

''(B) the applicable inflation ratio.

''(2) APPLICABLE INFLATION RATIO.—The applicable inflation ratio for any asset is the percentage arrived at by dividing—

''(A) the CPI for the calendar year preceding the calendar year in which the disposition takes place, by

''(B) the CPI for the calendar year preceding the calendar year in which the asset was acquired by the taxpayer (or, in the case of an asset acquired before 1995, the CPI for 1993).

The applicable inflation ratio shall not be taken into account unless it is greater than 1. The applicable inflation ratio for any asset shall be rounded to the nearest one-tenth of 1 percent.

''(3) CPI.—The CPI for any calendar year shall be determined under section 1(f)(4).

''(4) SECRETARY TO PUBLISH TABLES.—The Secretary shall publish tables specifying the applicable inflation ratio for each calendar year.

''(d) SPECIAL RULES.—For purposes of this section—

''(1) TREATMENT AS SEPARATE ASSET.—In the case of any asset, the following shall be treated as a separate asset:

''(A) A substantial improvement to property.

''(B) In the case of stock of a corporation, a substantial contribution to capital.

''(C) Any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

''(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—

''(A) IN GENERAL.—The applicable inflation ratio shall be appropriately reduced for calendar months at any time during which the asset was not an indexed asset.

''(B) CERTAIN SHORT SALES.—For purposes of applying subparagraph (A), an asset shall be treated as not an indexed asset for any short sale period during which the taxpayer or the taxpayer's spouse sells short property substantially identical to the asset. For purposes of the preceding sentence, the short sale period begins on the day after the substantially identical property is sold and ends on the closing date for the sale.

''(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

''(4) SECTION CANNOT INCREASE ORDINARY LOSS.—To the extent that (but for this paragraph) this section would create or increase a net ordinary loss to which section 1231(a)(2) applies or an ordinary loss to which any other provision of this title applies, such provision shall not apply. The taxpayer shall be treated as having a long-term capital loss in an amount equal to the amount of the ordinary loss to which the preceding sentence applies.

''(5) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (a)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

''(6) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

''(e) CERTAIN CONDUIT ENTITIES.—

''(1) REGULATED INVESTMENT COMPANIES; REAL ESTATE INVESTMENT TRUSTS; COMMON TRUST FUNDS.—

''(A) IN GENERAL.—Stock in a qualified investment entity shall be an indexed asset for any calendar month in the same ratio as the fair market value of the assets held by such entity at the close of such month which are indexed assets bears to the fair market value of all assets of such entity at the close of such month.

''(B) RATIO OF 90 PERCENT OR MORE.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 90 percent or more, such ratio for such month shall be 100 percent.

''(C) RATIO OF 10 PERCENT OR LESS.—If the ratio for any calendar month determined under subparagraph (A) would (but for this

subparagraph) be 10 percent or less, such ratio for such month shall be zero.

''(D) VALUATION OF ASSETS IN CASE OF REAL ESTATE INVESTMENT TRUSTS.—Nothing in this paragraph shall require a real estate investment trust to value its assets more frequently than once each 36 months (except where such trust ceases to exist). The ratio under subparagraph (A) for any calendar month for which there is no valuation shall be the trustee's good faith judgment as to such valuation.

''(E) QUALIFIED INVESTMENT ENTITY.—For purposes of this paragraph, the term 'qualified investment entity' means—

''(i) a regulated investment company (within the meaning of section 851),

''(ii) a real estate investment trust (within the meaning of section 856), and

''(iii) a common trust fund (within the meaning of section 584).

''(2) PARTNERSHIPS.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

''(3) SUBCHAPTER S CORPORATIONS.—In the case of an electing small business corporation, the adjustment under subsection (a) at the corporate level shall be passed through to the shareholders.

''(f) DISPOSITIONS BETWEEN RELATED PERSONS.—

''(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

''(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

''(A) persons bearing a relationship set forth in section 267(b), and

''(B) persons treated as single employer under subsection (b) or (c) of section 414.

''(g) TRANSFERS TO INCREASE INDEXING ADJUSTMENT OR DEPRECIATION ALLOWANCE.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is—

''(1) to secure or increase an adjustment under subsection (a), or

''(2) to increase (by reason of an adjustment under subsection (a)) a deduction for depreciation, depletion, or amortization,

the Secretary may disallow part or all of such adjustment or increase.

''(h) DEFINITIONS.—For purposes of this section—

''(1) NET LEASE PROPERTY DEFINED.—The term 'net lease property' means leased real property where—

''(A) the term of the lease (taking into account options to renew) was 50 percent or more of the useful life of the property, and

''(B) for the period of the lease, the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is 15 percent or less of the rental income produced by such property.

''(2) STOCK INCLUDES INTEREST IN COMMON TRUST FUND.—The term 'stock in a corporation' includes any interest in a common trust fund (as defined in section 584(a)).

''(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''

(b) ADJUSTMENT TO APPLY FOR PURPOSES OF DETERMINING EARNINGS AND PROFITS.—Subsection (f) of section 312 (relating to effect on earnings and profits of gain or loss and of receipt of tax-free distributions) is amended by adding at the end thereof the following new paragraph:

''(3) EFFECT ON EARNINGS AND PROFITS OF INDEXED BASIS.—

''For substitution of indexed basis for adjusted basis in the case of the disposition of certain assets after December 31, 1994, see section 1022(a)(1).''

(c) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of such chapter 1 is amended by inserting after the item relating to section 1021 the following new item:

''Sec. 1022. Indexing of certain assets for purposes of determining gain or loss.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions after December 31, 1994.

SEC. 4. REDUCTION IN CAPITAL GAINS TAX FOR INDIVIDUALS.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by adding at the end thereof the following new section:

''SEC. 1203. CAPITAL GAINS DEDUCTION FOR INDIVIDUALS.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction for the taxable year an amount equal to the annual capital gains deduction (if any) determined under subsection (b).

''(b) ANNUAL CAPITAL GAINS DEDUCTION.—

''(1) IN GENERAL.—For purposes of subsection (a), the annual capital gains deduction determined under this subsection is the lesser of—

''(A) the net capital gain for the taxable year, or

''(B) $10,000 ($20,000 in the case of a joint return).

''(2) COORDINATION WITH EXCLUSION FOR GAIN FROM SMALL BUSINESS STOCK.—For purposes of paragraph (1)(A), net capital gain shall be determined without regard to any gain from the sale or exchange of qualified small business stock (as defined in section 1202(c)) held for more than 5 years.

''(3) CERTAIN INDIVIDUALS NOT ELIGIBLE.—This subsection shall not apply to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

''(4) ANNUAL DEDUCTION NOT AVAILABLE FOR SALES TO RELATED PERSONS.—The amount of the net capital gain taken into account under paragraph (1)(A) shall not exceed the amount of the net capital gain determined by not taking into account gains and losses from sales and exchanges to any related person (as defined in section 267(f)).

''(5) INDEXING FOR INFLATION.—In the case of any taxable year beginning after 1995—

''(A) the $10,000 amount under paragraph (1)(B) shall be increased by an amount equal to—

''(i) $10,000, multiplied by

''(ii) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the taxable year begins, except that subparagraph (B) thereof shall be applied by substituting '1994' for '1992', and

''(B) the $20,000 amount under paragraph (1)(B) shall be increased to an amount equal to twice the amount determined under subparagraph (A) for the taxable year.

If the dollar amount determined after the increase under this paragraph is not a multiple of $100, such dollar amount shall be rounded to the next lowest multiple of $100.

''(c) SECTION NOT TO APPLY TO ESTATES OR TRUSTS.—No deduction shall be allowed under this section to an estate or trust.

''(d) SPECIAL RULES.—

''(1) DEDUCTION AVAILABLE ONLY FOR SALES OR EXCHANGES AFTER DECEMBER 31, 1994.—The amount of the net capital gain taken into account under subsection (b)(1)(A) shall not exceed the amount of the net capital gain determined by only taking into account gains and losses from sales and exchanges after December 31, 1994.

''(2) SPECIAL RULE FOR PASS-THRU ENTITIES.—

''(A) IN GENERAL.—In applying this section with respect to any pass-thru entity, the determination of when the sale or exchange occurs shall be made at the entity level.

''(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-thru entity' means—

''(i) a regulated investment company,

''(ii) a real estate investment trust,

''(iii) an S corporation,

''(iv) a partnership,

''(v) an estate or trust, and

''(vi) a common trust fund.''

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 62 is amended by inserting after paragraph (15) the following new paragraph:

''(16) CAPITAL GAINS DEDUCTION.—The deduction allowed by section 1203.''

(2) Paragraph (2) of section 172(d) is amended by inserting ''and the deduction provided by section 1203'' after ''1202''.

(3)(A) Section 220 (relating to cross reference) is amended to read as follows:

''SEC. 220. CROSS REFERENCES.

''(1) For deduction for net capital gains in the case of a taxpayer other than a corporation, see section 1203.

''(2) For deductions in respect of a decedent, see section 691.''

(B) The table of sections for part VII of subchapter B of chapter 1 is amended by striking ''reference'' in the item relating to section 220 and inserting ''references''.

(4) Paragraph (4) of section 691(c) is amended by inserting ''1203,'' after ''1202,''.

(5) The second sentence of paragraph (2) of section 871(a) is amended by inserting ''or 1203'' after ''1202''.

(c) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

''Sec. 1203. Capital gains deduction for individuals.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after December 31, 1994, in taxable years ending after such date.

S. 182

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Capital Formation and Job Creation Act of 1995''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. 50 PERCENT CAPITAL GAINS DEDUCTION.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended to read as follows:

''PART I—TREATMENT OF CAPITAL GAINS

''Sec. 1201. Capital gains deduction.

''SEC. 1201. CAPITAL GAINS DEDUCTION.

''(a) GENERAL RULE.—If for any taxable year a taxpayer has a net capital gain, 50

percent of such gain shall be a deduction from gross income.

''(b) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.

''(c) COORDINATION WITH TREATMENT OF CAPITAL GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—For purposes of this section, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

''(d) TRANSITIONAL RULE.—

''(1) IN GENERAL.—In the case of a taxable year which includes January 1, 1995—

''(A) the amount taken into account as the net capital gain under subsection (a) shall not exceed the net capital gain determined by only taking into account gains and losses properly taken into account for the portion of the taxable year on or after January 1, 1995, and

''(B) if the net capital gain for such year exceeds the amount taken into account under subsection (a), the rate of tax imposed by section 1 on such excess shall not exceed 28 percent.

''(2) SPECIAL RULES FOR PASS-THRU ENTITIES.—

''(A) IN GENERAL.—In applying paragraph (1) with respect to any pass-thru entity, the determination of when gains and losses are properly taken into account shall be made at the entity level.

''(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-thru entity' means—

''(i) a regulated investment company,

''(ii) a real estate investment trust,

''(iii) an S corporation,

''(iv) a partnership,

''(v) an estate or trust, and

''(vi) a common trust fund.''

(b) DEDUCTION ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 is amended by inserting after paragraph (15) the following new paragraph:

''(16) LONG-TERM CAPITAL GAINS.—The deduction allowed by section 1201.''

(c) TECHNICAL AND CONFORMING CHANGES.—

(1) Section 13113 of the Revenue Reconciliation Act of 1993 (relating to 50-percent exclusion for gain from certain small business stock), and the amendments made by such section, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such section (and amendments) had never been enacted.

(2) Section 1 is amended by striking subsection (h).

(3) Paragraph (1) of section 170(e) is amended by striking ''the amount of gain'' in the material following subparagraph (B)(ii) and inserting ''50 percent of the amount of gain''.

(4)(A) Paragraph (2) of section 172(d) is amended to read as follows:

''(2) CAPITAL GAINS AND LOSSES.—

''(A) LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation, the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets.

''(B) DEDUCTION UNDER SECTION 1201.—The deduction under section 1201 shall not be allowed.''

(B) Subparagraph (B) of section 172(d)(4) is amended by striking ''paragraphs (1) and (3)'' and inserting ''paragraphs (1), (2)(B), and (3)''.

(5) Paragraph (4) of section 642(c) is amended to read as follows:

''(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1201 (relating to deduction for excess of capital gains over capital losses). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income).''

(6) Paragraph (3) of section 643(a) is amended by adding at the end the following new sentence: ''The deduction under section 1201 (relating to deduction of excess of capital gains over capital losses) shall not be taken into account.''

(7) Paragraph (4) of section 691(c) is amended by striking ''sections 1(h), 1201, and 1211'' and inserting ''sections 1201 and 1211''.

(8) The second sentence of section 871(a)(2) is amended by inserting ''such gains and losses shall be determined without regard to section 1201 (relating to deduction for capital gains) and'' after ''except that''.

(9) Subsection (d) of section 1044 is amended by striking the last sentence.

(10)(A) Paragraph (2) of section 1211(b) is amended to read as follows:

''(2) the sum of—

''(A) the excess of the net short-term capital loss over the net long-term capital gain, and

''(B) one-half of the excess of the net long-term capital loss over the net short-term capital gain.''

(B) So much of paragraph (2) of section 1212(b) as precedes subparagraph (B) thereof is amended to read as follows:

''(2) SPECIAL RULES.—

''(A) ADJUSTMENTS.—

''(i) For purposes of determining the excess referred to in paragraph (1)(A), there shall be treated as short-term capital gain in the taxable year an amount equal to the lesser of—

''(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b), or

''(II) the adjusted taxable income for such taxable year.

''(ii) For purposes of determining the excess referred to in paragraph (1)(B), there shall be treated as short-term capital gain in the taxable year an amount equal to the sum of—

''(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b) or the adjusted taxable income for such taxable year, whichever is the least, plus

''(II) the excess of the amount described in subclause (I) over the net short-term capital loss (determined without regard to this subsection) for such year.''

(11) Paragraph (1) of section 1402(i) is amended by inserting '', and the deduction provided by section 1201 shall not apply'' before the period at the end thereof.

(12) Section 12 is amended by striking paragraph (4) and redesignating the following paragraphs accordingly.

(13) Paragraph (2) of section 527(b) is hereby repealed.

(14) Subparagraph (D) of section 593(b)(2) is amended by adding ''and'' at the end of clause (iii), by striking '', and'' at the end of clause (iv) and inserting a period, and by striking clause (v).

(15) Paragraph (2) of section 801(a) is hereby repealed.

(16) Subsection (c) of section 831 is amended by striking paragraph (1) and redesignating the following paragraphs accordingly.

(17)(A) Subparagraph (A) of section 852(b)(3) is amended by striking '', determined as provided in section 1201(a), on'' and inserting ''of 17.5 percent of''.

(B) Clause (iii) of section 852(b)(3)(D) is amended—

(i) by striking ''65 percent'' and inserting ''82.5 percent'', and

(ii) by striking ''section 1201(a)'' and inserting ''subparagraph (A)''.

(18) Clause (ii) of section 857(b)(3)(A) is amended by striking ''determined at the rate provided in section 1201(a) on'' and inserting ''of 17.5 percent of''.

(19) Paragraph (1) of section 882(a) is amended by striking ''section 11, 55, 59A, or 1201(a)'' and inserting ''section 11, 55, or 59A''.

(20) Subsection (b) of section 904 is amended by striking paragraphs (2)(B), (3)(B), (3)(D), and (3)(E).

(21) Subsection (b) of section 1374 is amended by striking paragraph (4).

(22) Subsection (b) of section 1381 is amended by striking ''or 1201''.

(23) Subsection (e) of section 1445 is amended—

(A) in paragraph (1) by striking ''35 percent (or, to the extent provided in regulations, 28 percent)'' and inserting ''17.5 percent (or, to the extent provided in regulations, 19.8 percent)'', and

(B) in paragraph (2) by striking ''35 percent'' and inserting ''17.5 percent''.

(24) Clause (i) of section 6425(c)(1)(A) is amended by striking ''or 1201(a)''.

(25) Clause (i) of section 6655(g)(1)(A) is amended by striking ''or 1201(a)''.

(26)(A) The second sentence of section 7518(g)(6)(A) is amended—

(i) by striking ''during a taxable year to which section 1(h) or 1201(a) applies'', and

(ii) by striking ''28 percent (34 percent'' and inserting ''19.8 percent (17.5 percent''.

(B) The second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936 is amended—

(i) by striking ''during a taxable year to which section 1(h) or 1201(a) of such Code applies'', and

(ii) by striking ''28 percent (34 percent'' and inserting ''19.8 percent (17.5 percent''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after December 31, 1994.

(2) CONTRIBUTIONS.—The amendment made by subsection (c)(3) shall apply only to contributions on or after January 1, 1995.

(3) WITHHOLDING.—The amendment made by subsection (c)(23) shall apply only to amounts paid after the date of the enactment of this Act.

SEC. 3. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

''SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

''(a) GENERAL RULE.—

''(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Except as otherwise provided in this subsection, if an indexed asset which has been held for more than 1 year is sold or otherwise disposed of, for purposes of this title the indexed basis of the asset shall be substituted for its adjusted basis.

''(2) EXCEPTION FOR DEPRECIATION, ETC.—The deduction for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

''(b) INDEXED ASSET.—

''(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

''(A) stock in a corporation, and

''(B) tangible property (or any interest therein),

which is a capital asset or property used in the trade or business (as defined in section 1231(b)).

''(2) CERTAIN PROPERTY EXCLUDED.—For purposes of this section, the term 'indexed asset' does not include—

''(A) CREDITOR'S INTEREST.—Any interest in property which is in the nature of a creditor's interest.

''(B) OPTIONS.—Any option or other right to acquire an interest in property.

''(C) NET LEASE PROPERTY.—In the case of a lessor, net lease property (within the meaning of subsection (i)(3)).

''(D) CERTAIN PREFERRED STOCK.—Stock which is fixed and preferred as to dividends and does not participate in corporate growth to any significant extent.

''(E) STOCK IN FOREIGN CORPORATIONS.—Stock in a foreign corporation.

''(F) STOCK IN S CORPORATIONS.—Stock in an S corporation.

''(3) EXCEPTION FOR STOCK IN FOREIGN CORPORATION WHICH IS REGULARLY TRADED ON NATIONAL OR REGIONAL EXCHANGE.—Paragraph (2)(E) shall not apply to stock in a foreign corporation the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, the national market system operated by the National Association of Securities Dealers, or any domestic regional exchange for which quotations are published on a regular basis other than—

''(A) stock of a foreign investment company (within the meaning of section 1246(b)),

''(B) stock in a passive foreign investment company (as defined in section 1296), and

''(C) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

''(4) TREATMENT OF AMERICAN DEPOSITORY RECEIPTS.—For purposes of this section, an American depository receipt for stock in a foreign corporation shall be treated as stock in such corporation.

''(c) INDEXED BASIS.—For purposes of this section—

''(1) GENERAL RULE.—The indexed basis for any asset is—

''(A) the adjusted basis of the asset, multiplied by

''(B) the applicable inflation ratio.

''(2) APPLICABLE INFLATION RATIO.—The applicable inflation ratio for any asset is the percentage arrived at by dividing—

''(A) the gross domestic product deflator for the calendar quarter in which the disposition takes place, by

''(B) the gross domestic product deflator for the calendar quarter in which the asset was acquired by the taxpayer (or, if later, the calendar quarter ending on December 31, 1994).

The applicable inflation ratio shall never be less than 1. The applicable inflation ratio for any asset shall be rounded to the nearest 1/1000.

''(3) GROSS DOMESTIC PRODUCT DEFLATOR.—The gross domestic product deflator for any calendar quarter is the implicit price deflator for the gross domestic product for such quarter (as shown in the first revision thereof).

''(d) SHORT SALES.—

''(1) IN GENERAL.—In the case of a short sale of an indexed asset with a short sale period in excess of 1 year, for purposes of this title, the amount realized shall be an amount equal to the amount realized (determined without regard to this paragraph) multiplied by the applicable inflation ratio. In applying subsection (c)(2) for purposes of the preceding sentence, the date on which the property is sold short shall be treated as the date of acquisition and the closing date for the sale shall be treated as the date of disposition.

''(2) SHORT SALE OF SUBSTANTIALLY IDENTICAL PROPERTY.—If the taxpayer or the taxpayer's spouse sells short property substantially identical to an asset held by the taxpayer, the asset held by the taxpayer and the substantially identical property shall not be treated as indexed assets for the short sale period.

''(3) SHORT SALE PERIOD.—For purposes of this subsection, the short sale period begins on the day after property is sold and ends on the closing date for the sale.

''(e) TREATMENT OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

''(1) ADJUSTMENTS AT ENTITY LEVEL.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the adjustment under subsection (a) shall be allowed to any qualified investment entity (including for purposes of determining the earnings and profits of such entity).

''(B) EXCEPTION FOR QUALIFICATION PURPOSES.—This section shall not apply for purposes of sections 851(b) and 856(c).

''(2) ADJUSTMENTS TO INTERESTS HELD IN ENTITY.—

''(A) IN GENERAL.—Stock in a qualified investment entity shall be an indexed asset for any calendar month in the same ratio as the fair market value of the assets held by such entity at the close of such month which are indexed assets bears to the fair market value of all assets of such entity at the close of such month.

''(B) RATIO OF 90 PERCENT OR MORE.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 90 percent or more, such ratio for such month shall be 100 percent.

''(C) RATIO OF 10 PERCENT OR LESS.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 10 percent or less, such ratio for such month shall be zero.

''(D) VALUATION OF ASSETS IN CASE OF REAL ESTATE INVESTMENT TRUSTS.—Nothing in this paragraph shall require a real estate investment trust to value its assets more frequently than once each 36 months (except where such trust ceases to exist). The ratio under subparagraph (A) for any calendar month for which there is no valuation shall be the trustee's good faith judgment as to such valuation.

''(3) QUALIFIED INVESTMENT ENTITY.—For purposes of this subsection, the term 'qualified investment entity' means—

''(A) a regulated investment company (within the meaning of section 851), and

''(B) a real estate investment trust (within the meaning of section 856).

''(f) OTHER PASS-THRU ENTITIES.—

''(1) PARTNERSHIPS.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

''(2) S CORPORATIONS.—In the case of an S corporation, the adjustment made under subsection (a) at the corporate level shall be passed through to the shareholders.

''(3) COMMON TRUST FUNDS.—In the case of a common trust fund, the adjustment made under subsection (a) at the trust level shall be passed through to the participants.

''(g) DISPOSITIONS BETWEEN RELATED PERSONS.—

''(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

''(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

''(A) persons bearing a relationship set forth in section 267(b), and

''(B) persons treated as single employer under subsection (b) or (c) of section 414.

''(h) TRANSFERS TO INCREASE INDEXING ADJUSTMENT.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is to secure or increase an adjustment under subsection (a), the Secretary may disallow part or all of such adjustment or increase.

''(i) SPECIAL RULES.—For purposes of this section:

''(1) TREATMENT AS SEPARATE ASSET.—In the case of any asset, the following shall be treated as a separate asset:

''(A) A substantial improvement to property.

''(B) In the case of stock of a corporation, a substantial contribution to capital.

''(C) Any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

''(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—The applicable inflation ratio shall be appropriately reduced for periods during which the asset was not an indexed asset.

''(3) NET LEASE PROPERTY DEFINED.—The term 'net lease property' means leased property where—

''(A) the term of the lease (taking into account options to renew) was 50 percent or more of the useful life of the property, and

''(B) for the period of the lease, the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is 15 percent or less of the rental income produced by such property.

''(4) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

''(5) SECTION CANNOT INCREASE ORDINARY LOSS.—To the extent that (but for this paragraph) this section would create or increase a net ordinary loss to which section 1231(a)(2) applies or an ordinary loss to which any other provision of this title applies, such provision shall not apply. The taxpayer shall be treated as having a long-term capital loss in an amount equal to the amount of the ordinary loss to which the preceding sentence applies.

''(6) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (a)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

''(7) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

''(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of chapter 1 is amended by inserting after the item relating to section 1021 the following new item:

''Sec. 1022. Indexing of certain assets for purposes of determining gain or loss.''

(c) ADJUSTMENT TO APPLY FOR PURPOSES OF DETERMINING EARNINGS AND PROFITS.—Subsection (f) of section 312 (relating to effect on earnings and profits of gain or loss and of receipt of tax-free distributions) is amended by adding at the end thereof the following new paragraph:

''(3) EFFECT ON EARNINGS AND PROFITS OF INDEXED BASIS.—

''For substitution of indexed basis for adjusted basis in the case of the disposition of certain assets, see section 1022(a)(1).''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions after December 31, 1994, in taxable years ending after such date.

SEC. 4. CAPITAL LOSS DEDUCTION ALLOWED WITH RESPECT TO SALE OR EXCHANGE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Subsection (c) of section 165 (relating to limitation on losses of individuals) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ''; and'', and by adding at the end the following new paragraph:

''(4) losses arising from the sale or exchange of the principal residence (within the meaning of section 1034) of the taxpayer.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales and exchanges after December 31, 1994, in taxable years ending after such date.

By Mr. ABRAHAM:

S. 183. A bill to provide that pay for Members of Congress shall be reduced whenever total expenditures of the Federal Government exceed total receipts in any fiscal year, and for other purposes; to the Committee on Governmental Affairs.

THE CONGRESSIONAL FISCAL RESPONSIBILITY ACT

● Mr. ABRAHAM. Mr. President, I introduce S. 183, the Congressional Fiscal Responsibility Incentive Act, which provides that the salary of Members of Congress be reduced by 10 percent whenever the Federal Government is unable to balance the budget at the close of a fiscal year. If further provides that such a reduced salary level remain in effect until the Government is successful in achieving a balanced budget. The bill's requirements would ''sunset,'' however, upon passage of a balanced budget constitutional amendment by both Houses of the Congress.

It is a fundamental responsibility of Government to live within its means. When it fails to do so, damaging economic consequences result—either in terms of increased levels of inflation, higher interest rates, or diminished levels of capital for private investment. The principal reason for the Federal Government failing to balance its budget is that Members of Congress find it difficult to resist temptations to spend more money than they are willing to raise from taxpayers. There is strong political incentive for Members to engage in deficit spending. On the one hand, they reap the benefits of such spending by pleasing individuals who are its beneficiaries. On the other hand, they do not have to displease other individuals who would otherwise have to pay higher taxes to support the spending.

This political incentive structure encourages deficit spending and the negative economic consequences which flow from such spending. In part, I support the balanced budget constitutional amendment because I believe that it would alter these incentives. However, until such time as the balanced budget amendment is passed by both Houses of the Congress I would propose a more limited restructuring of incentives. The proposed legislation would hold Members collectively responsible for year-end deficits by reducing their pay.

Such a pay reduction is premised upon the fact that the Congress has failed in an essential responsibility when it has failed to legislate a balanced budget. By demonstrating an inability to contain its appetite for spending, the Congress has acted irresponsibly by imposing upon the present and future generations of the American people the burdens of deficit spending. As a result, the long-term fiscal stability of the country which Members of Congress have been selected to govern is eroded. The disincentive toward deficit spending contained in S. 183, while admittedly an imprecise counterweight to the political incentives which operate in favor of deficit spending, at least balances to some degree the calculus of forces confronting Members who are tempted by the lure of deficit spending.

Section 1 of S. 183 sets forth in short title, the Congressional Fiscal Responsibility Incentive Act. Section 2(a) defines the essential procedures by which a determination is made at the end of each fiscal year whether or not a balanced budget has been achieved. If it has not been achieved, the 10 percent pay cut takes effect immediately. Such a reduction in pay is maintained until it is determined, by the same procedures, that a balanced budget has been achieved for a subsequent fiscal year. Section 2(b) sets forth procedures designed to ensure that the objectives of this legislation are not undermined in various ways. It would require that measures to increase congressional pay not be combined in bills laden with other subjects and it would require that a explicit rollcall vote be cast on pay increases. Finally, section 3 would have the proposed legislation take effect in connection with the first fiscal year beginning after its enactment. It would also ''sunset'' the legislation upon the passage of a balanced budget constitutional amendment by both Houses of the Congress. Under this amendment, a balanced budget would become the norm and further deficit spending would require the express support of a three-fifths super majority of each House of the Congress.

Mr. President, S. 183 is not a panacea for our current fiscal problems. However, until such time as a balanced budget amendment is placed into the Constitution, it would effect a small but potentially important step toward more responsible Government.●

By Mr. HATFIELD:

S. 184. A bill to establish an Office for Rare Disease Research in the National Institutes of Health, and for other purposes; to the Committee on Labor and Human Resources.

THE OFFICE FOR RARE DISEASE RESEARCH ACT OF 1995

● Mr. HATFIELD. Mr. President, last October, I was distressed as I confronted two painful losses: the death of a very dear friend of mine, Eric Lopez, and the demise of my legislation to create an Office for Rare Disease Research at the National Institutes of Health. It was devastating yet apt that both were lost at the same time, because it was Eric and his rare debilitating disease, Epidermolysis bullosa, that originally inspired me to introduce this legislation.

I am proud to announce that the National Institute of Arthritis, Musculoskeletal and Skin Diseases will rename the National Registry of Epidermolysis bullosa in honor of Eric Lopez. His courage and perseverance helped to raise the public's awareness of this disease through the establishment of the Dystrophic Epidermolysis Bullosa Research Association, known as DEBRA.

Eric personalized the plight of a large group of Americans afflicted by rare diseases. Last session, my legislation passed the Senate but ran out of time in the House. We were so close to enacting this bill that we cannot justify its dissolution now. In the memory of Eric and many others like him, let us endorse this legislation with unanimous consent.

Diseases are labeled as rare when less than 200,000 people are afflicted; however, grouped together, these diseases affect over 10 to 20 million Americans. Collectively, the term ''rare'' appears to be a misnomer. A large portion of our population is battling diseases that are not only extremely difficult to diagnose but also difficult to treat and almost impossible to cure. These individuals exist as islands without answers, without support systems, and paramount, without hope. Ambiguous symptoms involving multiple organ systems lead to years of frustration in testing and misdiagnosis for the sufferers. The medical profession also shares in this frustration as the information to aid in diagnosis is nonexistent or scarce at best. There are currently no centers of research, information, or support for the patient or the physician. In today's environment of progressive health care, this is a travesty.

Research is the most vital aspect of medicine, as we look to discovering cures. NIH has 20 Institutes of research that are centered around groups of diseases or organ systems. Rarely do these separate organizations communicate and coordinate research initiatives. Obviously, such a fragmented approach further worsens the status of research on multisystemic diseases, such as the rare diseases, and lends itself to repetition and duplicationof projects. Unlike the larger, more visible diseases such as heart and kidney

disease, oftentimes the rare diseases are lost in the bureaucratic shuffle.

My legislation avoids the establishment of yet another bureaucratic center by delineating and defining the duties of the already existing Office of the Director of NIH. Foremost, the Office will formulate a strategic plan for rare disease research which will support research, award grants and contracts, and coordinate efforts among Institutes and other Federal agencies. Identification of present research projects, both private and Federal, and of opportunities and needs for future research will assist in preventing unnecessary duplication. Coordination among the Institutes will facilitate research efforts and thereby increase the effectiveness of every Federal dollar expended.

In addition, the bill establishes a National Advisory Council on Rare Disease Research, which will be composed of individuals appointed by the Director of the NIH. The Council will review and assess research needs, priorities, and funding to advise the NIH on the development and implementation of the strategic research plan.

Finally, my legislation establishes a national research database, accessible to both medical professionals and the public. This will connect researchers with patients for clinical trials, provide physicians and individuals with information on trials, and connect patients with support groups. This database will provide the necessary information to cohesively plan an attack on these diseases.

In these times of tightening fiscal resources, Federal expenditures need to be stringently examined for worthiness and applicability to the majority of population. Despite the inability to put a dollar value on human suffering, it is still our duty as legislators to address and hopefully diminish it. The legislation I reintroduce today has the merits of assisting many Americans in desperate need and, not necessity by requiring further expenditure of Federal dollars. The funding for this program was included in the appropriations bill for NIH in fiscal year 1995 and, therefore, is already available. This is an ideal opportunity to demonstrate that humanitarianism can coexist with financial acumen. Let us open this congressional session with a bipartisan triumph and enact this legislation as soon as possible.

I ask for unanimous consent that the text of the bill, along with a letter from the National Organization of Rare Disorders be placed in the RECORD.

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

S. 184

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 ''Office for Rare Disease Research Act of 1995''.

SEC. 2. ESTABLISHMENT OF OFFICE FOR RARE DISEASE RESEARCH.

Part A of title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end thereof the following new section:

''SEC. 404F. OFFICE FOR RARE DISEASE RESEARCH.

''(a) ESTABLISHMENT.—There is established within the Office of the Director of the National Institutes of Health an office to be known as the Office for Rare Disease Research (in this section referred to as the 'Office'). The Office shall be headed by a director, who shall be appointed by the Director of the National Institutes of Health.

''(b) PURPOSE.—The purpose of the Office is to promote and coordinate the conduct of research on rare diseases through a strategic research plan and to establish and manage a rare disease research clinical database.

''(c) ADVISORY COUNCIL.—The Secretary shall establish an advisory council for the purpose of providing advice to the director of the Office concerning carrying out the strategic research plan and other duties under this section. Section 222 shall apply to such council to the same extent and in the same manner as such section applies to committees or councils established under such section.

''(d) DUTIES.—In carrying out subsection (b), the director of the Office shall—

''(1) develop a comprehensive plan for the conduct and support of research on rare diseases;

''(2) coordinate and disseminate information among the institutes and the public on rare diseases;

''(3) support research training and encourage the participation of a diversity of individuals in the conduct of rare disease research;

''(4) identify projects or research on rare diseases that should be conducted or supported by the National Institutes of Health;

''(5) develop and maintain a central database on current government sponsored clinical research projects for rare diseases;

''(6) determine the need for registries of research subjects and epidemiological studies of rare disease populations; and

''(7) prepare biennial reports on the activities carried out or to be carried out by the Office and submit such reports to the Secretary and the Congress.''.

NATIONAL ORGANIZATION FOR RARE DISORDERS, INC.,
New Fairfield, CT, November 30, 1994.

Hon. MARK O. HATFIELD,
Hart Senate Office Building,
Washington, DC.

Attention: Meagan Sexauer.

DEAR SENATOR HATFIELD: The National Organization for Rare Disorders (NORD) fully supports your effort to enact legislation to create the Office for Rare Disease Research at NIH. As you know, creation of a central office to coordinate the various research activities on behalf of these diseases was the primary recommendation of the National Commission on Orphan Diseases. The Commission's report was submitted to Congress in 1989, and until now Congress has not acted upon those recommendations.

The scope of the orphan disease problem is enormous. There are more than 5,000 of these disorders, each one affecting fewer than 200,000 Americans. Combined together all rare disorders touch the lives of an estimated 20 million Americans. They cripple, maim and kill thousands of people every year, yet little research is being pursued on most of these illnesses. The National Institutes of Health (NIH) support the vast majority of biomedical research on rare disorders because there is little interest in the private sector to pursue development of treatments that have such limited commercial value due to their small potential markets.

The various institutes of NIH are responsible for research on diseases that effect specific body systems. Yet many rare diseases cross the boundaries of each institutes' responsibilities. For example, a rare disease may have neurological and immunological components (NINDS and NIAID), dermatological symptoms (NIAMS), effect infants and children (NICHD) and be inherited (NIGMS and the Human Genome Center). An Office for Rare Disease Research at NIH would coordinate these various research efforts in order to avoid duplication and waste of precious resources. It would also develop and operate a rare disease clinical database so that patients and physicians could locate research projects relevant to their disease. Conversely, since 47% of rare disease researchers complain that it is difficult to locate a sufficient number of patients to participate in clinical protocols, the Office and the database would greatly alleviate this problem.

Senator Hatfield, so much of public policy is directed toward ''major'' health threats; rare disorders are treated as if they are ''minor'' problems. The suffering is quite real, the morbidity and mortality is immeasurable, and the hopelessness of knowing that research is not being pursued is devastating not only to 20 million patients but to their families and friends. The suffering of these people is not ''minor,'' and the frustrations of rare disease scientists is compelling. When they cannot get funding for their research, when they cannot find a commercial sponsor to market a new treatment, when they cannot locate patients for clinical trials, they are forced to change their focus and move to diseases that have more chance of attracting funds.

The Office of Rare Disease Research will provide hope and comfort to masses of Americans with rare disorders who continue to fall through the cracks of biomedical research, and a safe haven for scientists who have devoted their careers to these devastating illnesses. It will also signify for the first time that the federal government, through a carefully planned and coordinated program, is determined to eradicate orphan diseases.

Very truly yours,

ABBEY S. MEYERS,
President.●

By Mr. BUMPERS:

S. 185. A bill to transfer the Fish Farming Experimental Laboratory in Stuttgart, Arkansas, to the Department of Agriculture, and for other purposes; to the Committee on Environment and Public Works.

THE STUTTGART NATIONAL AQUACULTURE RESEARCH CENTER ACT OF 1995

Mr. BUMPERS. Mr. President, today I am introducing legislation to transfer the Fish Farming Experimental Laboratory in Stuttgart, AR, from the Department of the Interior to the Department of Agriculture. This legislation also requires that the name of the lab be changed to the Stuttgart National Aquaculture Research Center.

This Fish Farming Experimental Laboratory was established under the Fish and Rice Rotation Act of 1958, with a mandate to conduct research related to the commercial production and harvesting of warm water fish. When the lab was established, there

was little or no information available to commercial fish farmers about warm water aquaculture. Thanks in large part to the lab, which has pioneered research in such areas as fish nutrition, water quality management and fish disease prevention, commercial fish farming is now one of the fastest growing industries in the country.

Originally, the legislation creating the lab, provided that it be administered by the Department of Agriculture. However, because the Department of the Interior already had an established fisheries program, Congress placed the program under the Department of the Interior's Fish and Wildlife Service. In retrospect, this decision was a mistake. The Department of Agriculture, not the Department of the Interior has become the lead Federal agency in the research, development, and promotion of commercial aquaculture. While the Department of the Interior is involved in the aquaculture arena, its emphasis is more conservation related.

My belief that the Department of the Interior is no longer the appropriate agency to administer the lab was confirmed when during an internal reorganization the Stuttgart lab was transferred from the Fish and Wildlife Service to the National Biological Survey [NBS]. As my colleagues know, the NBS is charged with developing an inventory of plant and animal species and their habitats. A worthy endeavor, but one that is in no way related to the lab's statutory mission of developing methods for the commercial production of aquatic species. I believe it is only a matter of time before the staff and the resources of the lab are redirected toward research efforts that are more in keeping with the mission of the NBS.

I have expressed my concerns to Secretary of the Interior Bruce Babbitt, who agrees with me that the Department of Agriculture is a much more appropriate place for the Stuttgart lab. The Department of Agriculture recognizes that private commercial aquaculture is an important and growing component of the U.S. economy and is committed to providing a broad range of services to it. I have no doubt that the Fish Farming Experimental Laboratory can complement and enhance the Department's existing and growing aquaculture program.

Mr. President, I hope my colleagues will support this legislation and I look forward to its speedy passage.

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

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

S. 185

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Stuttgart National Aquaculture Research Center Act of 1995''.

SEC. 2. TRANSFER OF FUNCTIONS TO THE SECRETARY OF AGRICULTURE.

(A) TITLE OF PUBLIC LAW 85–342.—The title of Public Law 85–342 (16 U.S.C. 778 et seq.) is amended by striking ''Secretary of the Interior'' and inserting ''Secretary of Agriculture''.

(b) AUTHORIZATION.—The first section of Public Law 85–342 (16 U.S.C. 778) is amended—

(1) by striking ''Secretary of the Interior'' and all that follows through ''directed'' and inserting ''Secretary of Agriculture is authorized and directed'';

(2) by striking ''station and stations'' and inserting ''1 or more centers''; and

(3) in paragraph (5), by striking ''Department of Agriculture'' and inserting ''Secretary of the Interior''.

(c) AUTHORITY.—Section 2 of Public Law 85–342 (16 U.S.C. 778a) is amended by striking '', the Secretary'' and all that follows through ''authorized'' and inserting '', the Secretary of Agriculture is authorized.''

(d) ASSISTANCE.—Section 3 of Public Law 85–342 (16 U.S.C. 778b) is amended—

(1) by striking ''Secretary of the Interior'' and inserting ''Secretary of Agriculture''; and

(2) by striking ''Department of Agriculture'' and inserting ''Secretary of the Interior''.

SEC. 3. TRANSFER OF FISH FARMING EXPERIMENTAL LABORATORY TO DEPARTMENT OF AGRICULTURE.

(A) DESIGNATION OF STUTTGART NATIONAL AQUACULTURE RESEARCH CENTER.—

(1) IN GENERAL.—The Fish Farming Experimental Laboratory in Stuttgart, Arkansas, shall be known and designated as the ''Stuttgart National Aquaculture Research Center''.

(2) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the laboratory referred to in paragraph 1 shall be deemed to be a reference to the ''Stuttgart National Aquaculture Research Center''.

(b) TRANSFER OF LABORATORY TO THE DEPARTMENT OF AGRICULTURE.—Subject to section 1531 of title 31, United States Code, not later than 90 days after the date of enactment of this Act, there are transferred to the Department of Agriculture—

(1) the personnel employed in connection with the laboratory referred to in subsection (a);

(2) the assets, liability, contracts, and real and personal property of the laboratory;

(3) the records of the laboratory; and

(4) the unexpended balance of appropriations, authorizations, allocations and other funds employed, held, arising from, available to, or to be made available in connection with the laboratory.

ADDITIONAL COSPONSORS

S. 1

At the request of Mr. KEMPTHORNE, the names of the Senator from Illinois [Mr. SIMON] and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 1, a bill to curb the practice of imposing unfunded Federal mandates on States and local governments; to strengthen the partnership between the Federal Government and State, local, and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate funding, in a manner that may displace other essential governmental priorities; and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations; and for other purposes.

S. 9

At the request of Mr. DASCHLE, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 9, a bill to direct the Senate and the House of Representatives to enact legislation on the budget for fiscal years 1996 through 2003 that would balance the budget by fiscal year 2003.

S. 22

At the request of Mr. DOLE, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 22, a bill to require Federal agencies to prepare private property taking impact analyses.

S. 131

At the request of Mr. LIEBERMAN, the names of the Senator from New Mexico [Mr. DOMENICI], the Senator from California [Mrs. FEINSTEIN], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 131, a bill to specifically exclude certain programs from provisions of the Electronic Funds Transfer Act.

AMENDMENTS SUBMITTED

CONGRESSIONAL ACCOUNTABILITY ACT

MCCONNELL AMENDMENT NO. 8

Mr. MCCONNELL proposed an amendment to amendment No. 4, proposed by Mr. FORD, to the bill S. 2 to make certain laws applicable to the legislative branch of the Federal Government; as follows:

1. On line 7 of the first page, strike from paragraph (a): ''or House of Representatives'';

2. On line 10 of the first page, strike from paragraph (b): ''Committee on House Oversight of the House of Representatives and the'';

3. On line 9 of the second page, strike from subparagraph (2) of paragraph (c): ''the House of Representatives and'';

4. On line 8 of the first page, strike from paragraph (a): ''Government'' and substitute ''office for which the travel was performed''.

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I would like to announce that the Small Business Committee will hold a full committee organizational meeting on Wednesday, January 11, 1995, at 4 p.m. in room 428A of the Russell Senate Office Building. For further information, please call Louis Taylor, staff director

of the Small Business Committee at 224–5175.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. STEVENS. Mr. President, I wish to announce that the Committee on rules and Administration will meet to organize on Thursday, January 12, 1995, at 9:30 a.m., in SR–301. At this meeting the committee will adopt its rules of procedure and consider pending administrative business.

For further information regarding this meeting, please contact Christine Ciccone of the Rules Committee staff on 224–8921.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on January 9, 1995, at 3:30 p.m. on legislation on telecommunications reform.

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

NOTICE OF INTENTION TO AMEND THE STANDING RULES OF THE SENATE

Mr. WELLSTONE. Mr. President, pursuant to rule 5, paragraph 1 of the Standing Rules of the Senate, I hereby give written notice of my intention to amend the Standing Rules of the Senate; as follows:

At the appropriate place, insert the following:

SEC. . RECORDED VOTES ON APPROPRIATIONS BILLS IN THE SENATE.

Rule XVI of the Standing Rules of the Senate is amended by adding at the end the following:

''9. An appropriations bill or appropriations bill conference report shall be voted on by the Senate by a roll call vote.''.

ADDITIONAL STATEMENTS

ALASKA WETLANDS CONSERVATION CREDIT PROCEDURES ACT

• Mr. STEVENS. Mr. President, on January 4 I introduced S. 49, the Alaska Wetlands Conservation Credit Procedures Act. The bill was not printed at that point in the RECORD so I now ask that it be printed.

The bill follows:

S. 49

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 ''Alaska Wetlands Conservation Credit Procedures Act of 1994''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) according to the U.S. Fish and Wildlife Service, approximately 170,200,000 acres of wetlands existed in Alaska in the 1780's and approximately 170,000,000 acres of wetlands exist now, representing a loss rate of less than one-tenth of 1 percent through human and natural processes;

(2) according to the U.S. Fish and Wildlife more than 221 million acres of wetlands existed at the time of Colonial America in the area that is now the contiguous United States and 117 million of those acres, roughly 53 percent, have been filled, drained, or otherwise removed from wetland status;

(3) Alaska contains more wetlands than any other State, and more wetlands than all other States combined;

(4) eighty-eight percent of Alaska's wetlands are publicly owned, whereas only 26 percent of the wetlands in the contiguous 48 States are in public ownership;

(5) approximately 98 percent of all Alaskan communities, including 200 of 209 remote villages in Alaska, are located in or adjacent to wetlands;

(6) approximately 62 percent of all federally designated wilderness lands, 70 percent of all Federal park lands, and 90 percent of all Federal refuge lands are located in Alaska, thus providing protection to approximately 60 million acres of wetlands;

(7) more than 60 million acres of wetland are conserved in some form by land designations that restrict utilization or degradation of wetlands;

(8) 104 million acres of land were granted to the State of Alaska at statehood for purposes of economic development;

(9) approximately 43 million acres of land were granted to Native Alaskans through regional and village corporations and native allotments for their use and between 45 percent and 100 percent of each Native corporations' land is categorized as wetlands;

(10) development of basic community infrastructure in Alaska, where approximately 75 percent of the nonmountainous areas are wetlands, is often delayed sometimes prevented by the wetlands regulatory program for minimal identifiable environmental benefit;

(11) the 1899 Rivers and Harbors Act formerly regulated disposition of dredge spoils in navigable waters, which did not include wetlands, to keep navigable waters free of impairments;

(12) the 1972 Clean Water Act formed the basis for a broad expansion of Federal jurisdiction over wetlands by modifying the definition of ''navigable waters' to include all ''waters in the United States'';

(13) in 1975, a U.S. District Court ordered the Corps to publish revised regulations concerning the scope of the section 404 program, regulations that expanded the scope of the program to include the discharge of dredged and fill material into wetlands;

(14) the wetlands regulatory program was expanded yet again by regulatory action to include isolated wetlands, those that are not adjacent to navigable waters, and such an expansion formed the basis for burdensome intrusions on the property rights of Alaskans, Alaskan Native Corporations, the State of Alaska, and property owners in Alaska;

(15) expansion of the wetlands regulatory program in this manner is beyond what the Congress intended when it passed the Clean Water Act and the expansion has placed increasing and unnecessary economic and administrative burdens on private property owners, small businesses, city governments, State governments, farmers, ranchers, and other for negligible environmental benefit associated with wetland permits;

(16) for Alaska, a State with substantial conserved wetlands and less than 1 percent private, noncorporate land ownership, the burdens of the current wetlands regulatory program unnecessarily inhibit reasonable community growth and environmentally benign, sensitive resource development;

(17) Alaska villages, municipalities, boroughs, city governments, and Native organizations are experiencing increasing frustration with the constraints of the wetlands regulatory program because it interferes with the location of community centers, airports, sanitation systems, roads, schools, industrial areas, and other critical community infrastructure;

(18) policies that purport to achieve ''no net loss'' of wetlands reflect a Federal response to the 53 percent loss of the wetlands base in the South 48, a calculation that excludes Alaska wetlands;

(19) total wetlands loss in Alaska is less than one-tenth of 1 percent of the total wetlands acreage in Alaska;

(20) individual landowners in Alaska have experienced devaluations of up to 97 percent of their property value due to wetlands regulations and the tax base of many communities has diminished by those regulations.

SEC. 3 AMENDMENT TO THE FEDERAL WATER POLLUTION CONTROL ACT.

The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) is amended—

(a) in section 101(a) (33 U.S.C. 1251(a)) by—

(1) striking ''and'' at the end of paragraph (6);

(2) striking the period at the end of paragraph (7) and inserting in lieu thereof ''; and''; and

(3) adding the following new paragraphs:

''(8) it is the national policy to—(A) achieve a balance between wetlands conservation and adverse economic impacts on local, regional, and private economic interests and (B) to eliminate the regulatory taking of private property by the regulatory program authorized under section 404;

''(9) it is the national policy to encourage localized wetlands planning, without mandating it and by providing funds to encourage it, and such planning shall allow local political subdivisions and local governments to apply differential standards for the issuance of wetlands permits based on factors that include the relative amount of conserved wetlands habitat and the wetlands loss rate in the State in which such political subdivision or local government is located; and

''(10) it is the national policy that compensatory mitigation on wetlands or potential wetlands located outside the boundaries of a State shall not be required, requested, or otherwise utilized to offset impacts to wetlands inside that State.''.

(b) in section 404(b) (33 U.S.C. 1344(b)) by inserting immediately after ''anchorage'' the following: ''; provided however, that the guidelines adopted pursuant to clause (1) for a State with substantial conserved wetlands areas—

''(A) shall not include requirements or standards for mitigation to compensate for wetlands loss and adverse impacts to wetlands;

''(B) may include requirements or standards for minimization of adverse impacts to wetlands; and

''(C) may include standards or requirements for avoidance of impacts only if the permit applicant is not required to establish that upland alternative sites do not exists.''.

(c) in section 404(e) (33 U.S.C. 1344(e)) by inserting at the end the following new paragraph—

''(3) Notwithstanding the requirements of paragraphs (1)and (2), at the request of a State with substantial conserved wetlands areas, the Secretary shall issue general permits for such States and the requirements under which such general permits are issued

shall contain a regulatory standard for discharge of dredged or fill material into navigable waters in such State, including wetlands, that is no greater than the standard under subsection (b).''.

(d) in section 404(f)(1) (33 U.S.C. 1344(f)(1)) by—

(1) striking the comma at the end of subparagraph (F) and inserting in lieu thereof a semicolon; and

(2) adding the following new subparagraphs—

''(G) associated with airport safety (ground and air) in a State with substantial conserved wetlands areas, and in any case associated with airport safety (gound and air) when the Secretary of Transportation determines that it is advisable for public safety reasons and deems it necessary;

''(H) for construction and maintenance of log transfer facilities associated with log transportation activities;

''(I) for construction of tailings impoundments utilized for treatment facilities (as determined by the development document) for the mining subcategory for which the tailings impoundment is constructed;

''(J) for construction of ice pads and ice roads and for purposes of snow storage and removal,''.

(e) by adding at the end of section 404 (33 U.S.C. 1344) the following new subsections—

''(s) DEFINITIONS.—For purposes of this section the term—

''(1) 'conserved wetlands' means wetlands that are located in the National Park System, National Wildlife Refuge System, National Wilderness System, the Wild and Scenic River System, and other similar Federal conservation systems, combined with wetlands located in comparable types of conservation systems established under State and local authority within State and local land use systems.

''(2) 'economic base lands' means lands conveyed to, selected by, or owned by Alaska Native entities pursuant to the Alaska Native Claims Settlement Act, Public Law 92–203, as amended, or the Alaska Native Allotment of 1906 (34 stat. 197), and lands conveyed to, selected by, or owned by the State of Alaska pursuant to the Alaska Statehood Act, Public Law 85–508, as amended.

''(3) 'State with substantial conserved wetlands areas' means any State which—

''(A) contains at least 15 acres of wetlands for each acre of wetlands filled, drained, or otherwise converted within such State (based upon wetlands loss statistics reported in the 1990 U.S. Fish and Wildlife Service Wetlands Trends Report to Congress entitled 'Wetlands Losses In the United States 1780's to 1980's'); or

''(B) the Secretary of the Army determines has sufficient conserved wetlands areas to provide adequate wetlands conservation in such State, based on the policies set forth in this Act.

''(t) ALASKA NATIVE AND STATE OF ALASKA LANDS.—

''(1) IN GENERAL.—The Secretary shall issue individual and general permits pursuant to the standards and requirements of subsections (a) and (b) for a State with substantial conserved wetlands areas.

''(2) PERMIT CONSIDERATIONS.—For permits issued pursuant to this section for economic base lands, in addition to the requirements in subsections (a) and (b), the Secretary shall—

''(A) balance the standards and policies of this Act against the obligations of the United States to allow economic base lands to be beneficially used to create and sustain economic activity;

''(B) with respect to Alaska Native lands, give substantial weight to the social and economic needs of Alaska Natives; and

''(C) account for regional differences in the abundance and value of wetlands.

''(3) GENERAL PERMITS.—For permits issued under this section on lands owned by Alaska villages, the Secretary shall issue general permits for disposition of dredged and fill material for critical infrastructure including water and sewer systems, airports, roads, communication sites, fuel storage sites, landfills, housing, hospitals, medical clinics, schools, and other community infrastructure in rural Alaska villages without a determination that activities authorized by such a general permit cause only minimal adverse environmental effects when performed separately and will have only minimal cumulative adverse effects on the environment.

''(4) OTHER CONSIDERATIONS.—The Secretary shall consult with and provide assistance to Alaska Natives (including Alaska Native Corporations) and the State of Alaska regarding promulgation and administration of policies and regulations under this section.''.●

TAX EXPENDITURE CONTROL ACT

● Mr. BRADLEY. Mr. President, the bill that I have sent to the desk makes a very simply point. We can spend money just as easily through the Tax Code as we can through the appropriations process or through the creation of mandatory spending programs.

I think we should be honest about the hundreds of billions of dollars that we spend each year through tax expenditures. Spending is spending, whether it comes in the form of a Government check or in the form of a special exception from the tax rates that apply to everyone else.

Tax expenditures or tax loopholes allow some taxpayers to lower their taxes and leave the rest of us paying higher taxes than we otherwise would pay. By requiring that Congress establish specific targets for tax expenditures as part of the budget reconciliation process, this bill simply places tax expenditures under the same budgetary scrutiny as all other spending programs.

Tax spending does not, as some would say, simply allow people to keep more of what they earned. Rather, it gives them a special exception from the rules that oblige everyone to share in the responsibility of the national defense and protecting the young, the aged, and the infirmed.

Mr. President, we all have been heartened by the recent drops in projected budget deficits. Recent CBO figures show the deficit dropping to $166 billion in 1996, largely due to the success we had in passing the largest deficit reduction package during the 103d Congress.

However, we cannot rest on that success. Although it was a good downpayment on deficit reduction, it is not enough. Even if we succeed in reducing the deficit further by cutting discretionary spending, we will not even begin to touch the national debt.

We cannot afford to be timid, Mr. President. Our children's way of life is dependent upon our acting on the Federal deficit today and tomorrow and every year thereafter until we restore fiscal sanity to our budget. We cannot wait until we grow our way out of the debt. And we should not and cannot wait until deficits start drifting up in the latter half of this decade before we do something.

The Congressional Budget Office tells us that the national debt held by the public will rise from approximately $3.5 trillion to roughly $6 trillion in 2004. At that time, the national debt will equal almost 55 percent of our gross domestic product. By 2004, interest payments on that debt will be approximately $334 billion, or over 3 percent of our gross domestic product. One recent report stated that these interest payments will cost each of today's children over $130,000 in extra taxes over the course of their lifetime. Our national debt is nothing less than a mortgage on our Nation's, and our children's future.

Mr. President, let us not kid ourselves. Addressing our burgeoning debt will not be easy. If it was, we would have done it years ago. Balancing the budget is going to require sacrifice from every American. It also means that we are going to have to take a hard look at what we spend the taxpayers' money on. And that means all of our spending programs, tax expenditures included.

Today, I am introducing legislation that requires Congress, in our budget resolution process, to simply establish targets for reducing tax expenditures, just as we do for other spending items. Those targets would be enforced through a separate line in our budget reconciliation instructions for reductions in tax expenditures. We already do this for other entitlement programs. There is no reason not to do so for tax expenditures. The Senate would pass a budget resolution asking the Finance Committee to reduce tax expenditures, for example, by $10 billion a year or $20 billion or whatever the Senate decides is prudent. It would be up to the Finance Committee to meet those targets through the reconciliation process.

This separate tax expenditure target would not replace our current revenue targets. Instead, it would simply ensure that the committee would take at least that specified amount from tax expenditures. Or, in other words, we would ensure that the committee would not raise the targeted amount from rate increases or excise tax increases.

I expect to hear from those who will say that I am trying to increase taxes. I strongly disagree. I am simply trying to draw the Senate's attention to the very targeted spending we do through the Tax Code, spending that is not subject to the annual appropriations process; spending that is not subject to the Executive order capping the growth of mandatory spending;spending that is rarely ever debated on the floor of the Senate once it becomes part of the Tax Code. The preferential deductions or credits or depreciation schedules or

timing rules that we provide through the Tax Code are simply entitlement programs under another guise. Many of them make sense, Mr. President. And I would be the first to admit that. Many, however, probably could not stand the light of day if we had to vote on them as direct spending programs.

Given our critical need for deficit reduction, tax spending should not be treated any better or worse than other programs. It should not be protected any more than Social Security payments or crop price support payments or Medicare payments or welfare payments.

What am I really talking about? I am talking about letting wealthy taxpayers rent their homes for 2 weeks a year without having to report any income. That is already in the Tax Code. I am talking about providing production subsidies in excess of the dollars invested for the production of lead, uranium and asbestos—three poisons on which we spend millions of dollars each year just trying to clean up. That is already in the code. I am talking about tax credits for clean-fuel vehicles, cancelation of indebtedness income for farmers or real estate developers, special amortization periods for timber companies' reforestation efforts, industrial development bonds for airports or docks, special treatment of capital construction funds for shipping companies, et cetera.

Mr. President, before we see a long line of people coming down to defend these programs that I just mentioned, let me be clear that this bill does not pinpoint any specific expenditures. It simply requires that these programs be treated in a manner similar to other entitlement programs.

The Joint Tax Committee estimates the revenue lost from these tax expenditures each year. While interaction effects make it difficult to pinpoint exact costs—how one tax expenditure interacts with another—the Joint Tax Committee list will add up to over $425 billion in 1995. Unchecked, this list will grow by $60 billion to over $485 billion by 1999. Perhaps more interesting, however, are the administration's estimates of what the ''outlay equivalents'' for these tax expenditures are each year, in other words what they would cost us if they were transformed into direct spending programs, as opposed to hidden spending programs in the Tax Code. The administration's estimate for outlay equivalents in 1994 added up to $550 billion; by 1998, this amount is expected to grow to over $660 billion. At a time when we are properly talking about other spending cuts, I do not believe that tax expenditures should be out of bounds.

I am not suggesting that we eliminate all these programs. In fact, many of them I support. All I am suggesting is we put them under the same scrutiny that we put on other entitlement programs.

If we are serious about deficit reduction—and for our Nation's future I sincerely hope that we are—then every segment of spending will have to be examined. We will not do it through discretionary spending cuts alone. Indeed, what is an area of the budget that is shrinking in terms of gross national product. We will not be able to do it through entitlement cuts alone. In order to achieve equitable, lasting deficit reduction, we will meet to consider tax expenditures as well.

I urge all my colleagues to support this bill.

I list Mr. DASCHLE and Mr. KERRY as original sponsors. I ask unanimous consent to have the text of the bill printed in the RECORD.

The bill follows:

S. 98

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 ''Tax Expenditure Control Act of 1995''.

SEC. 2. TAX EXPENDITURES INCLUDED IN BUDGET RESOLUTION.

Section 301 of the Congressional Budget Act of 1974 is amended—

(1) in subsection (a)(2) by inserting after ''Federal revenues'', both places it appears, the following: ''and tax expenditures (including income tax expenditures or other equivalent base narrowing tax provisions applying to other Federal taxes)''; and

(2) in subsection (a)(4) by inserting after ''budget outlays,'' the following: ''tax expenditures (including income tax expenditures or other equivalent base narrowing tax provisions applying to other Federal taxes),''.

SEC. 3. TAX EXPENDITURE ANALYSIS IN REPORT ACCOMPANYING BUDGET RESOLUTION.

Section 301(e)(1) of the Congressional Budget Act of 1974 is amended by inserting after ''revenues'' the following: ''and tax expenditures''.

SEC. 4. RECONCILIATION MAY INCLUDE TAX EXPENDITURE CHANGES.

Section 310(a)(2) of the Congressional Budget Act of 1974 is amended by inserting after ''revenues'' the following: ''and tax expenditures''.

SEC. 5. CONGRESSIONAL BUDGET OFFICE REPORT.

Section 202(f)(1) of the Congressional Budget Act of 1974 is amended in the matter following subparagraph (B) by striking ''and budget outlays'' and inserting '', budget outlays, and tax expenditures''.

SEC. 6. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date of enactment of this Act.●

NORTHERN MICHIGAN UNIVERSITY NCAA DIVISION II WOMEN'S VOLLEYBALL CHAMPIONS

● Mr. LEVIN. Mr. President, I want to recognize and congratulate the Northern Michigan University women's volleyball team on their winning the 1994 NCAA Division II Volleyball Championship on December 5, 1994.

This marks the second straight year the Wildcats have won the NCAA Division II Championship and their third straight appearance in the finals. The championship victory capped a 32–4 record with an .875 winning percentage.

The Wildcats became only the third team in NCAA Division II history to win back-to-back championships, and are still the only school in the eastern time zone to win an NCAA volleyball championship.

The members and coaches of the 1994 national champion Northern Michigan University Wildcats are: Kathy Jewell, Rachel Dyrek, Jennie Long, April Evans, Liu Jun, Joy Hanzal, Becky Smith, Emily Carrick, Heather Long, Kim Falkenhagen, Erin Hamilton, Pauline Schuette, Kris Backstrom, Jill Heinrich, Jennifer Hansmann, Head coach Mark Rosen, assistant coach Leisa Rosen, and student assistant Kelly Brown.

Mr. President on behalf of the Senate and the people of Michigan, I congratulate the players and coaches of the Northern Michigan University women's volleyball team.●

TRIBUTE TO THE UNIVERSITY OF COLORADO FOOTBALL TEAM

● Mr. BROWN. Mr. President, I rise to recognize and congratulate the University of Colorado football team on a great season. The CU Buffaloes finished their season with 11 wins and 1 loss. On January 2, 1995, they became the Fiesta Bowl champions, earning the No. 3 ranking in the Nation.

Mr. President, Colorado won as a team but, three individuals deserve special recognition for their accomplishments. First, congratulation to CU tailback Rashaan Salaam who rushed for 2,055 yards this past season. Rashaan is only the fourth person in collegiate football history to attain this mark. He has received honors including being named All-American, All-Big Eight, and the NCAA rushing champion for 1994. In December, Rashaan became the first CU Buffalo to receive the coveted Heisman Trophy. Next, CU quarterback Kordell Stewart has earned acknowledgment for his on-the-field leadership of the CU Buffaloes for the past two seasons. Korell holds 38 school records, including the most total offensive yards by a player, total passing yards, and most touchdown passes thrown. He also is the Big Eight Conference all-time total offense record holder by gaining 7,770 passing and rushing yards. The final notable individual is head coach Bill McCartney. Through Coach McCartney's leadership and motivation the CU Buffaloes football program has become one of the strongest in the Nation.

This was Bill McCartney's 13th and final season as head coach. He retires as the winningest coach in Colorado's 104-year history. Bill McCartney coached the Buffaloes to three Big Eight championships and a national title during the 1990–91 season. I wish all the best to Rashaan Salaam, Kordell Stewart, and Bill McCartney in the future.

It gives the people of the State of Colorado great pride to see the CU

Buffaloes attain this level of excellence.●

MEASURE PLACED ON CALENDAR—S. 169

The PRESIDING OFFICER. The clerk will read a bill for the second time.

The bill clerk read as follows:

A bill (S. 169) to curb the practice of imposing unfunded Federal mandates on States and local governments; to strengthen the partnership between the Federal Government and State, local and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate funding, in a manner that may displace other essential governmental priorities; and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations; and for other purposes.

Mr. GRASSLEY. Mr. President, I object to further consideration at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Senate Resolution 4, 95th Congress, Senate Resolution 448, 96th Congress, and Senate Resolution 127, 98th Congress, as amended by Senate Resolution 100, 101st Congress, appoints the following Senators to the Select Committee on Indian Affairs:

The Senator from Arizona [Mr. MCCAIN]; the Senator from Alaska [Mr. MURKOWSKI]; the Senator from Mississippi [Mr. COCHRAN]; the Senator from Washington [Mr. GORTON]; the Senator from New Mexico [Mr. DOMENICI]; the Senator from Kansas [Mrs. KASSEBAUM]; the Senator from Oklahoma [Mr. NICKLES]; the Senator from Wyoming [Mr. THOMAS]; the Senator from Utah [Mr. HATCH]; the Senator from Hawaii [Mr. INOUYE]; the Senator from North Dakota [Mr. CONRAD]; the Senator from Nevada [Mr. REID]; the Senator from Illinois [Mr. SIMMON]; the Senator from Hawaii [Mr. AKAKA]; the Senator from Minnesota [Mr. WELLSTONE]; the Senator from North Dakota [Mr. DORGAN]; and the Senator from Colorado [Mr. CAMPBELL].

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to section 1024, title XV, United States Code, appoints the following Senators to the Joint Economic Committee:

The Senator from Delaware [Mr. ROTH]; the Senator from Florida [Mr. MACK]; the Senator from Idaho [Mr. CRAIG]; the Senator from Utah [Mr. BENNETT]; the Senator from Pennsylvania [Mr. SANTORUM]; the Senator from Minnesota [Mr. GRAMS]; the Senator from New Mexico [Mr. BINGAMAN]; the Senator from Maryland [Mr. SARBANES]; the Senator from Massachusetts [Mr. KENNEDY]; and the Senator from Virginia [Mr. ROBB].

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

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

The clerk will call the roll.

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

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

ORDERS FOR TOMORROW

Mr. GRASSLEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Tuesday, January 10. I further ask unanimous consent that following the recognition of the two leaders, the Journal of proceedings be approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with and the morning hour be deemed to have expired.

I further ask unanimous consent that there be a period for the transaction of morning business, not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein up to 5 minutes each.

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

ORDER OF PROCEDURE

Mr. GRASSLEY. Mr. President, at 10 a.m., the Senate will resume consideration of S. 2, the congressional coverage bill. Several amendments remain to be debated. Therefore, Senators should be on notice that rollcall votes are expected throughout Tuesday's session of the Senate but will occur not prior to 2:15 p.m.

RECESS AT 12:30 P.M

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate stand in recess from 12:30 p.m. on Tuesday, January 10, until 2:15 p.m. in order for the weekly party caucuses to meet.

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

ADJOURNMENT UNTIL TOMORROW AT 9:30 A.M.

Mr. GRASSLEY. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment in accordance with the previous order.

There being no objection, the Senate, at 7:07 p.m., adjourned until Tuesday, January 10, 1995, at 9:30 a.m.