

The bill (S. 1995) was deemed read the third time and passed, as follows:

S. 1995

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

**SECTION 1. CONSTRUCTION OF MUSEUM CENTER.**

The Board of Regents of the Smithsonian Institution is authorized to construct the Smithsonian Institution National Air and Space Museum Dulles Center at Washington Dulles International Airport.

**SEC. 2. LIMITATION ON USE OF FUNDS.**

No appropriated funds may be used to pay any expense of the construction authorized by section 1.

**MUTUAL AID AGREEMENT BETWEEN BRISTOL, VA, AND BRISTOL, TN**

Mr. GRASSLEY. I ask unanimous consent that the Senate now proceed to the consideration of House Joint Resolution 166 which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 166) granting consent of Congress to the mutual aid agreement between the city of Bristol, Virginia, and the city of Bristol, Tennessee.

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

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

Mr. GRASSLEY. I ask unanimous consent that the resolution be deemed read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at their appropriate place in the RECORD.

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

The joint resolution (H.J. Res. 166) was deemed read the third time, and passed.

**MEASURE READ THE FIRST TIME—S. 2006**

Mr. GRASSLEY. Mr. President, it is my understanding S. 2006, introduced today by Senator HATCH, is at the desk and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2006), to clarify the intent of Congress with respect to the Federal carjacking prohibition.

Mr. GRASSLEY. I now ask for its second reading, and I object to my own request on behalf of the Senators on the Democratic side of the aisle.

The PRESIDING OFFICER. The objection is heard.

The bill will be read the second time on the next legislative day.

**MEASURE READ FOR THE FIRST TIME—S. 2007**

Mr. FORD. Mr. President, I understand that S. 2007, introduced today by Senator BIDEN, is at the desk and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2007) to clarify the intent of Congress with respect to the Federal carjacking prohibition.

Mr. FORD. Now, Mr. President, I ask for its second reading, and I will object to my own request on behalf of Senators on the Republican side of the aisle.

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

The bill will be read for the second time on the next legislative day.

**ORDERS FOR THURSDAY, AUGUST 1, 1996**

Mr. GRASSLEY. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:30 a.m. on Thursday, August 1; that immediately following the prayer, the Journal of proceedings be deemed approved to date; the morning hour be deemed to have expired; the time for the two leaders be reserved for their use later in the day, and the Senate immediately proceed to the consideration of the conference report to accompany H.R. 3734, the reconciliation bill, with the reading of the report having been waived.

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

**PROGRAM**

Mr. GRASSLEY. Tomorrow morning the Senate will begin consideration of the reconciliation bill under a statutory 10-hour time limitation. It is hoped the Senate will be able to yield back some of that time to allow us to complete action on that important conference report in a reasonable amount of time.

Senators can expect votes throughout the day and into the evening, and the Senate may also be asked to consider any other appropriation matters or conference reports that become available.

**ORDER FOR ADJOURNMENT**

Mr. GRASSLEY. As long as there is no further business to come before the Senate tonight, I ask the Senate stand in adjournment under the previous order following my own remarks and the remarks of Senator WELLSTONE.

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

**ELECTRONIC FUNDS TRANSFER PAYMENTS**

Mr. GRASSLEY. Mr. President, I want to take a few minutes to an-

nounce a temporary tax victory for small business taxpayers. The IRS has made a failed attempt to implement new rules for payroll tax deposits. These rules would require many employers to make their biweekly payroll tax deposits electronically.

On July 12, I authored a letter to Treasury Secretary Rubin and IRS Commissioner Margaret Milner Richardson. This letter discussed problems that employers and banks are having in understanding new payroll tax deposit rules and methods.

First, my letter asks Secretary Rubin to address specific questions posed by employers and their banks. Employers and their banks have a growing series of questions about the new procedures. Many of these center around the degree of access that IRS has to bank customers' accounts. Second, the letter reminds the Secretary that he has authority under the law to provide some regulatory relief for small businesses.

Mr. President, I ask unanimous consent that the text of my letter be printed in the RECORD.

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

U.S. SENATE,

Washington, DC, July 12, 1996.

Secretary ROBERT E. RUBIN,  
Department of the Treasury,  
Washington, DC.

DEAR SECRETARY RUBIN: This letter is to express our great concern of the impact upon small businesses and their banks of new Electronic Fund Transfer (EFT) rules. We hope that you will act in accordance with Congressional intent to ensure that the regulations do not create hardships for small businesses. We also wish that you will answer specific questions posed by our constituents working in the banking industry.

**SMALL BUSINESS CONCERNS**

Because the current EFT rules create new and significant burdens for small businesses, and because the tax code specifically allows for exceptions from the EFT rules for small businesses, we request that you take immediate action to clarify the necessary exceptions well in advance of the January 1, 1997 effective date.

Small employers presently utilize the Federal tax deposit (FTD) coupon system and their local bank to make periodic payroll tax deposits with the Federal government. Internal Revenue Code Section 6302(h) seeks to reduce paperwork by replacing the FTD coupon system with an electronic fund transfer system. However, Congress intended, as set out in section 6302(h) and its legislative history, that the regulations prescribe exemptions and alternatives to the EFT rules for small businesses. To date, these exemptions and alternatives have not been promulgated.

As a result, employers and their banks are confused. The current regulations seem to require EFT compliance by all employers that had made employment tax deposits exceeding \$50,000 in 1995. In anticipation of the approaching effective date, the Internal Revenue Service has begun the process of educating employers of their new EFT compliance requirements. Nonetheless, small and rural employers know that the Congress intended that they be exempt, and they are eager to see the intended exemptions.

In part, the legislative history of the new law prescribes the following.

"The Committee [on Finance] intends that the regulations do not create hardships for small businesses."

"The provision grants the Secretary considerable flexibility in drafting the regulations and, the Committee [on Finance] urges the Secretary to take into account the needs of small employers, including possible exemptions for the very smallest of businesses from the new electronic transfer system."

Small businesses will suffer unintended hardships if your agency is unable to clarify the exemptions in advance of the effective date. It seems that many small businesses will need their banks to affect these new EFT transactions. Because their banks may view this as a new and different service, those banks may find it necessary to require small businesses to pay added fees. Also, because EFT transactions can involve a new variety of either debit or credit transactions, some small business persons are adverse to allowing the IRS the ability to deduct funds from their business accounts without what some may deem as an adequate "paper trail". Employers that do not need to comply should be spared the anxiety of the rule change.

Again, since the tax code anticipates exemptions for small and rural businesses, we request that you act promptly to define those exemptions in order to spare these employers the expense and anxiety of attempting to comply. Because employer penalties are involved, and the compliance date is approaching, we think that this requires your immediate attention.

#### BANK CONCERNS

Small businesses are not the only ones concerned about the pending EFT rules. Although Iowa banks support efforts to modernize our banking system and increase the use of EFT, they have commented on potential problems arising from implementation of these regulations. Since small businesses are not governed by Internal Revenue Service Regulation E (except sole proprietorships), banks question whether proper notice and disclosure requirements will be in place. The following are a list of unanswered questions raised by banks.

(1) What degree of access to bank customers' accounts is provided to the Internal Revenue Service? Do the regulations give the Internal Revenue Service open access to a bank customer's account? What protections are in place to guard against unfettered access and use of information in the customer's account?

(2) A business may authorize a specific transfer to be made for the purpose of paying depository taxes. However, if penalties are assessed by the Internal Revenue Service, would the bank then have the authority or requirement to withdraw additional monies without the customer's approval from the customer's bank account to pay these penalties?

(3) Who is responsible for notifying businesses of transactions involving the bank account?

Iowa banks maintain that these are only several of many unanswered questions about the practical applications of the new regulations. Small businesses, banks, and the Internal Revenue Service all have an interest in assuring the proper and appropriate implementation of the regulations. Properly promulgating efficient and effective regulations that do not devastate either small businesses or banks requires cooperation amongst all of the parties concerned. Two of the three interested parties, small businesses and banks, have expressed important and pressing concerns. We believe that these questions and concerns should be addressed before implementing regulations that pose

unnecessary or burdensome requirements on small business taxpayers or their banks.

Thank you in advance for your prompt and considerate attention to these matters. Because taxpayers in our state are eager to clarify these new rules, and because of the coming effective date of January 1, 1997, we would appreciate your efforts to make your response to us before August 23, 1996.

Sincerely,

CHARLES E. GRASSLEY,  
*United States Senator.*  
GREG GANSKE,  
*Member of Congress.*

Mr. GRASSLEY. Mr. President, 2 weeks ago, Secretary Rubin responded by letter that he appreciated my efforts to inform him of the problems, and that he was reviewing the matter.

Today, IRS Commissioner Margaret Milner Richardson announced that the IRS was suspending the 10 percent penalty for 6 months. The IRS had originally intended employers who had deposited \$50,000 or more last year to begin to follow the new electronic funds rules by January 1, 1997. Now, though employers are still encouraged to comply, no penalty will be imposed for failure to change deposit methods until after July 1, 1997.

Mr. President, though only a temporary reprieve, this is a victory for small business employers, and I am proud of my part.

I welcome the efforts of Treasury and IRS to make a better second try at educating taxpayers. In my view, taxpayers are the consumers of the services provided by Treasury and the IRS. I think that good customer service sometimes includes a good second try.

I am also enthusiastic about the potential for Electronic Funds Transfers or EFT. For large and medium sized employers, EFT could become more efficient and cost effective than the present coupon FTD system. Some small businesses may realize similar economies. Other small businesses should be allowed alternatives.

The Treasury Department has also said that it will soon be responding to the questions that were posed in my letter. The response will be in the form of answers to some of the most common questions.

Though that response is still forthcoming, I think that the will allay some of the fears that employers and banks have posed. In part, the IRS seems to have simply done a poor job in its initial effort at education. However, I am waiting for the official response before determining how completely or adequately it answers all of my concerns.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### A BROKEN AGREEMENT ON A JUDICIAL NOMINATION

Mr. WELLSTONE. Mr. President, earlier tonight, at the time of our last vote, I was notified that we had an agreement—and let us call it kind of a code of honor—that Ann Montgomery, a very fine judge, who will be a great judge on the Federal district court in Minnesota, would be confirmed here tonight in the Senate.

Mr. President, for really many, many months now, picking up with intensity in the last several months and the last several weeks, I have been in intensive discussions with the majority leader, whom I think has been operating in very good faith. I felt as if I had received a very firm commitment from him—I believe his word is his bond—that while there had been some "soft hold" put on Judge Montgomery, actually at the beginning of this week or by the middle of this week—it was to be tonight—we would move her nomination forward.

Mr. President, much to my amazement, after we had an agreement with a clear understanding that this would happen, at the last second one of my colleagues, the Senator from Texas, Senator HUTCHISON, objects. And when the minority leader, Senator DASCHLE, asks her why, there is no response at all.

Mr. President, let me just say that it is my firm hope that tomorrow we will have this resolved, and if a Senator has a "soft hold" on Judge Montgomery, then we should—and I certainly hope the majority leader will do this. I feel as if he had made the commitment to move this nomination forward. Then let us move this forward for a vote.

I did not ask for unanimous consent. If we need to have a vote, I would be pleased to debate with any Senator the merits of this nomination. Judge Montgomery has received just outstanding support and unbelievable recommendations from across the broadest possible spectrum of the legal community; support from myself and support from my colleague, Senator GRAMS from Minnesota.

So, Mr. President, let me just be crystal clear about it. What is so unfortunate is that here you have a fine judge who has been waiting to be district judge, has been waiting and waiting and waiting and waiting. I was just, I say to my colleague from Iowa, picking up the phone to call her. I had just dialed it to say, "I want you to know the long wait is over. Tonight will be the night. Tell your family. Tell your children."

This is outrageous. And I would appreciate it if my colleagues would have the courage to simply defend whatever positions they take, not just announce a hold at the last second and then have nothing to say.

Mr. President, I am confident that we will resolve this. I believe the majority leader has given me his word. I think his word is good. I know it is good. But