

surviving family members and friends of all homicide victims who are in need of such assistance.

The Metro Detroit Chapter is celebrating its 16th anniversary this year. They have tirelessly helped hundreds of families and friends in Michigan. They also reach out to families and friends outside of Michigan whose loved ones were murdered here. The nation's second Sibling Group was founded by the Metro Detroit Chapter for the unique needs of brothers and sisters who suffer the violent death of a sibling.

POMC's dedication to help the families and friends of those who have died by violence is commendable. POMC has made a significant impact in easing the difficult times many people have encountered while improving the legal system and the rights of the victims of crime.

I want to express my congratulations to POMC, Inc. Metro Detroit Chapter for their tremendous accomplishments. I also wish them much success in their continued work on behalf of our families and our communities.●

#### WATERFORD SENIOR CENTER 25TH ANNIVERSARY

● Mr. ABRAHAM. Mr. President, I rise today to honor the Waterford Senior Center which is celebrating its 25th Anniversary of serving the local senior population on Thursday, October 22, 1998.

The mission of the center has been to offer services, administer programs, and sponsor activities for older adults which are designed to enhance the independence and dignity of their lives.

The center has served as a focal point for older adults in the community and has proven that it will continue its tireless dedication to the Waterford area seniors for many years to come.

I want to express to the Waterford Senior Center my congratulations and best wishes on their 25th anniversary. I wish them many more years of success.●

#### CLOVER TECHNOLOGIES GRAND OPENING

● Mr. ABRAHAM. Mr. President, I rise today to honor Clover Technologies as they celebrate the Grand Opening Ceremonies for their new 93,000 square foot headquarters in Wixom, Michigan.

Established in 1952, Clover Technologies' new headquarters makes Clover one of the largest employers in Wixom with over 400 employees.

With the high-tech industry playing an increasingly important role in the Michigan economy, expansions such as this serve as a testament to the competitiveness of Michigan-based industries in the global market. Clover Technologies has proven that the right combination of quality and dedication can lead to a prosperous future.

The vision and leadership of Clover have made them an industry leader, and have enabled them, the employees

of Clover, and others in the community to continue sharing in the American Dream.

Their worldwide commitment to excellence in the automotive industry and customer service is to be commended.

I want to express my congratulations to Clover Technologies on the dedication of their new headquarters, and wish them the best in their future endeavors.●

#### STANBRIDGE 50TH WEDDING ANNIVERSARY

● Mr. ABRAHAM. Mr. President, I rise today to honor Donald and Shirley Stanbridge on the occasion of their 50th Wedding Anniversary. They were married on November 5, 1948.

Don and Shirley were introduced by Shirley's mother in 1945 and began dating shortly thereafter. Don entered the service in 1946 and asked for Shirley's hand in marriage in 1947. They have resided in St. Clair Shores, Michigan, for 45 years where they raised two children, and now enjoy three grandchildren.

Throughout their fifty years together they have dedicated themselves to their family, their church—Bethlehem Lutheran Church in Eastpointe and now St. Thomas Lutheran Church in Roseville, and their local community.

A long and successful marriage is truly a cause for celebration, well worthy of recognition by the United States Senate. The Stanbridge's commitment to each other and their family is commendable and a great contribution to the tradition of strong American families.

Martin Luther once wrote: There is no more lovely, friendly and charming relationship, communion or company than a good marriage." They are blessed to enjoy the special bond of a strong, enduring marriage.

I want to express my congratulations and happy anniversary to Donald and Shirley Stanbridge on this day, November 5, 1998, and I wish them many more years of joy in marriage.●

#### REINVESTMENT AND ENVIRONMENTAL RESTORATION ACT OF 1998—S. 2566

The text of the bill (S. 2566), introduced on October 7, 1998, is as follows:

*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 "Reinvestment and Environmental Restoration Act of 1998."

##### TITLE I—COASTAL IMPACT ASSISTANCE

##### SECTION 101. SHORT TITLE.

This title may be cited as the "Coastal Conservation and Impact Assistance Act of 1998".

##### SEC. 102. AMENDMENT TO OUTER CONTINENTAL SHELF LANDS ACT.

The Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 629), as amend-

ed, is amended to add at the end thereof a new Title VII as follows:

##### "SEC. 701. FINDINGS.

"The Congress finds and declares that—  
 "(1) The Nation owns valuable mineral resources that are located both onshore and in the Federal Outer Continental Shelf, and the Federal Government develops these resources for the benefit of the Nation, under certain restrictions designed to prevent environmental damage and other adverse impacts.

"(2) Nonetheless, the development of these mineral resources of the Nation is accompanied by unavoidable environmental impacts and public service impacts in the States that host this development, whether the development occurs onshore or on the Federal Outer Continental Shelf.

"(3) The Federal Government has a responsibility to the States affected by development of Federal mineral resources to mitigate adverse environmental and public service impacts incurred due to that development.

"(4) The Federal Government discharges its responsibility to States where onshore Federal mineral development occurs by sharing 50 percent of the revenue derived from the Federal mineral development in that State pursuant to section 35 of the Mineral Leasing Act.

"(5) Federal mineral development is occurring as far as 200 miles offshore and occurs off the coast of only 6 States, yet section 8(g) of the Outer Continental Shelf Lands Act does not adequately compensate these States for the onshore impacts of the offshore Federal mineral development.

"(6) Federal Outer Continental Shelf mineral development is an important and secure source of our Nation's supply of oil and natural gas.

"(7) Further technological advancements in oil and natural gas exploration and production need to be pursued and encouraged.

"(8) These technological achievements have and will continue to result in new Outer Continental Shelf production having an unparalleled record of excellence on environmental safety issues.

"(9) Additional technological advances with appropriate incentives will further improve new resource recovery and therefore increase revenues to the Treasury for the benefit of all Americans who enjoy programs funded by Outer Continental Shelf moneys.

"(10) The Outer Continental Shelf Advisory Committee of the Department of the Interior, consisting of representatives of coastal States, recommended in October 1997 that Federal mineral revenue derived from the entire Outer Continental Shelf be shared with all coastal States and territories to mitigate onshore impacts from Federal offshore mineral development and for other environmental mitigation; and

"(11) The Nation's Federal mineral resources are a nonrenewable, capital asset of the Nation, with the production and sale of this resource producing revenue for the Nation, a portion of the revenue derived from the production and sale of Federal mineral resources should be reinvested in the Nation through environmental mitigation and public service improvements.

##### "SEC. 702. DEFINITIONS.

"For purposes of this Act:

"(1) The term 'allocable share' means, for a coastal State, that portion of revenue that is available to be distributed to that coastal State under this title. For an eligible political subdivision of a coastal State, such term means that portion of revenue that is available to be distributed to that political subdivision under this title.

"(2) The term 'coastal State' means the population of political subdivisions, as determined by the most recent official data of the

Census Bureau, contained in whole or in part within the designated coastal boundary of a State as defined in a State's coastal zone management program under the Coastal Zone Management Act (16 U.S.C. §1455).

"(3) The term 'coastline' has the same meaning that is has in the Submerged Lands Act (43 U.S.C. §1301 et seq.).

"(4) The term 'eligible political subdivision' means a coastal political subdivision of a coastal State which political subdivision has a seaward boundary that lies within a distance of 200 miles from the geographic center of any leased tract. The Secretary shall annually provide a list of all eligible political subdivisions of each coastal State to the Governor of such State.

"(5) The term 'political subdivision' means the local political jurisdiction immediately below the level of State government, including counties, parishes, and boroughs. If State law recognizes an entity of general government that functions in lieu of, and is not within, a county, parish, or borough, the Secretary may recognize an area under the jurisdiction of such other entities of general government as a political subdivision for purposes of this Act.

"(6) The term 'coastal State' means any State of the United States bordering on the Atlantic Ocean, the Pacific Ocean, the Arctic Ocean, the Bering Sea, the Gulf of Mexico, or any of the Great Lakes, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

"(7) The term 'distance' means minimum great circle distance, measured in statute miles.

"(8) The term 'fiscal year' means the Federal Government's accounting period which begins on October 1st and ends on September 30th, and is designated by the calendar year in which it ends.

"(9) The term 'Governor' means the highest elected official of a coastal State.

"(10) The term 'leased tract' means a tract, leased under section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. §1337) for the purpose of drilling for, developing and producing oil and natural gas resources, which is a unit consisting of either a block, a portion of a block, a combination of blocks and/or portions of blocks, as specified in the lease, and as depicted on an Outer Continental Shelf Official Protraction Diagram.

"(11) The term 'revenues' means all moneys received by the United States as bonus bids, rents, royalties (including payments for royalty taken in kind and sold), net profit share payments, and related late-payment interest from natural gas and oil leases issued pursuant to the Outer Continental Shelf Lands Act.

"(12) The term 'Outer Continental Shelf' means all submerged lands lying seaward and outside of the area of 'lands beneath navigable waters' as defined in section 2(a) of the Submerged Lands Act (43 U.S.C. §1301(a)), and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

"(13) The term 'Secretary' means the Secretary of the Interior or the Secretary's designee.

**"SEC. 702. IMPACT ASSISTANCE FORMULA AND PAYMENTS.**

"(a) ESTABLISHMENT OF FUND.—(1) There is established in the Treasury of the United States a fund which shall be known as the 'Outer Continental Shelf Impact Assistance Fund' (referred to in this Act as 'the Fund'). The Secretary shall deposit in the Fund 27 percent of the revenues from each leased tract or portion of a leased tract lying seaward of the zone defined and governed by section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. §1337(g)), or lying with-

in such zone but to which section 8(g) does not apply, the geographic center of which lies within a distance of 200 miles from any part of the coastline of any coastal State.

"(2) The Secretary of the Treasury shall invest moneys in the Fund that are excess to expenditures at the written request of the Secretary, in public debt securities with maturities suitable to the needs of the Fund, as determined by the Secretary, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

"(b) PAYMENT TO STATES.—Notwithstanding section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. §1338), the Secretary shall, without further appropriation, make payments in each fiscal year to coastal States and to eligible political subdivisions equal to the amount deposited in the Fund for the prior fiscal year, together with the portion of interest earned from investment of the funds which corresponds to that amount (reduced by any refunds paid under section 705(c)). Such payments shall be allocated among the coastal States and eligible political subdivisions as provided in this section.

"(c) DETERMINATION OF STATES' ALLOCABLE SHARES.—

"(1) ALLOCABLE SHARE FOR EACH STATE.—For each coastal State, the Secretary shall determine the State's allocable share of the total amount of the revenues deposited in the Fund for each fiscal year using the following weighted formula:

"(A) 25 percent of the State's allocable share shall be based on the ratio of such State's shoreline miles to the shoreline miles of all coastal States.

"(B) 25 percent of the State's allocable share shall be based on the ratio of such State's coastal population to the coastal population of all coastal States.

"(C) 50 percent of the State's allocable share shall be computed based upon Outer Continental Shelf production. If any portion of a coastal State lies within a distance of 200 miles from the geographic center of any leased tract, such State shall receive 50 percent of its allocable share based on the Outer Continental Shelf oil and gas production offshore of such State. Such part of its allocable share shall be inversely proportional to the distance between the nearest point on the coastline of such State and the geographic center of each leased tract or portion of the leased tract (to the nearest whole mile), as determined by the Secretary.

"(2) MINIMUM STATE SHARE.—

"(A) IN GENERAL.—The allocable share of revenues determined by the Secretary under this subsection for each coastal State with an approved coastal management program (as defined by the Coastal Zone Management Act (16 U.S.C. §1451) or which is making satisfactory progress toward one shall not be less than 0.50 percent of the total amount of the revenues deposited in the Fund for each fiscal year. For any other coastal State the allocable share of such revenues shall not be less than 0.25 percent of such revenues.

"(B) RECOMPUTATION.—Where one or more coastal States' allocable shares, as compared under paragraph (1), are increased by any amount under this paragraph, the allocable share for all other coastal States shall be recomputed and reduced by the same amount so that not more than 100 percent of the amount deposited in the fund is allocated to all coastal States. The reduction shall be divided pro rata among such other coastal States.

"(d) PAYMENTS TO STATES AND POLITICAL SUBDIVISIONS.—Each coastal State's allocable share shall be divided between the State

and political subdivision in that State as follows:

"(1) 40 percent of each State's allocable share, as determined under subsection (c), shall be paid to the State;

"(2) 40 percent of each State's allocable share, as determined under subsection (c), shall be paid to the eligible political subdivisions in such State, with the funds to be allocated among the eligible political subdivisions using the following weighted formula:

"(A) 50 percent of an eligible political subdivision's allocable share shall be based on the ratio of that eligible political subdivision's acreage within the State's coastal zone, as defined in an approved State coastal management program (as defined by the Coastal Zone Management Act (16 U.S.C. §1451)), to the entire acreage within the coastal zone in such State: *Provided, however*, That if the State in which the eligible subdivision is located does not have an approved coastal management program, then the allocable share shall be based on the ratio of that eligible political subdivision's shoreline miles to the total shoreline miles in that coastal State.

"(B) 25 percent of an eligible political subdivision's allocable share shall be based on the ratio of such eligible political subdivision's coastal population to the coastal population of all eligible political subdivisions in that State.

"(C) 25 percent of an eligible political subdivision's allocable share shall be based on ratios that are inversely proportional to the distance between the nearest point on the seaward boundary of each such eligible political subdivision and the geographic center of each leased tract or portion of the leased tract (to the nearest whole mile), as determined by the Secretary.

"(3) 20 percent of each State's allocable share, as determined under subsection (c), shall be allocated to political subdivisions in the coastal State that do not qualify as eligible political subdivisions but which are determined by the Governor or the Secretary to have impacts from Outer Continental Shelf related activities and which have an approved plan under this subsection.

"(4) PROJECT SUBMISSION.—Prior to the receipt of funds pursuant to this subsection for any fiscal year, a political subdivision must submit to the Governor of the State in which it is located a plan setting forth the projects and activities for which the political subdivision proposes to expend such funds. Such plan shall state the amounts proposed to be expended for each project or activity during the upcoming fiscal year.

"(5) PROJECT APPROVAL.—(A) Prior to the payment of funds pursuant to this subsection to any political subdivision for any fiscal year, the Governor must approve the plan submitted by the political subdivision pursuant to this subsection and notify the Secretary of such approval. State approval of any such plan shall be consistent with all applicable State and Federal law. In the event the Governor disapproves any such plan, the funds that would otherwise be paid to the political subdivision shall be placed in escrow by the Secretary pending modification and approval of such plan, at which time such funds together with interest thereon shall be paid to the political subdivision.

"(B) A political subdivision that fails to receive approval from the Governor for a plan may appeal to the Secretary and the Secretary may approve or disapprove such plan based on the criteria set forth in section 704: *Provided, however*, That the Secretary shall have no authority to consider an appeal of a political subdivision if the Governor of the State has certified in writing to the Secretary that the State has adopted a State program that by its express terms addresses

the allocation of revenues to political subdivisions.

"(e) TIME OF PAYMENT.—(1) Payments to coastal States and political subdivisions under this section shall be made not later than December 31 of each year from revenues received and interest earned thereon during the immediately preceding fiscal year. Payment shall not commence before the date 12 months following the date of enactment of this Act.

"(2) Any amount in the Fund not paid to coastal States and political subdivisions under this section in any fiscal year shall be disposed of according to the law otherwise applicable to revenues from leases on the Outer Continental Shelf.

**"SEC. 704. USES OF FUNDS.**

"Funds received pursuant to this Act shall be used by the coastal States and political subdivisions for projects and activities, including but not limited to the following:

"(a) air quality, water quality, fish and wildlife, wetlands, or other coastal resources, including shoreline protection and coastal restoration;

"(b) other activities of such State or political subdivision, authorized by the Coastal Zone Management Act of 1972 (16 U.S.C. §1451 et seq.), the provisions of subtitle B of title IV of the Oil Pollution Act of 1990 (104 Stat. 523), or the Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.);

"(c) administrative costs of complying with the provisions of this subtitle;

"(d) uses related to the Outer Continental Shelf Lands Act; and

"(e) mitigating impacts of Outer Continental Shelf activities, including onshore infrastructure and public service needs.

**"SEC. 705. CERTIFICATION; ANNUAL REPORT; REFUNDS.**

"(a) CERTIFICATION.—Not later than 60 days after the end of the fiscal year, any political subdivision receiving moneys from the Fund must certify to the Governor—

"(1) the amount of such funds expended by the political subdivision during the previous fiscal year;

"(2) the amounts expended on each project or activity;

"(3) a general description of how the funds were expended; and

"(4) the status of each project or activity.

"(b) REPORT.—On June 15 of each year, the Governor of each State receiving moneys from the Fund shall account for all moneys so received for the previous fiscal year in a written report to the Secretary and the Congress. This report shall include a description of all projects and activities receiving funds under this Act, including all information required under subsection (a).

"(c) REFUNDS.—In those instances where through judicial decision, administrative review, arbitration, or other means there are royalty refunds owed to entities generating revenues under this Act, 27 percent of such refunds shall be paid from amounts available in the Fund."

**SEC. 103. AMENDMENT TO SECTION 8 OF THE OUTER CONTINENTAL SHELF LANDS ACT.**

The first sentence of section 8(g)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. §1337(g)(2)) is amended by inserting after "three nautical miles" each place it appears the following: "(or in the case of Alabama, nine nautical miles)".

**TITLE II—LAND AND WATER CONSERVATION FUND REFORM**

**SECTION. 201. SHORT TITLE.**

This title may be cited as the "Land and Water Conservation Fund Reform Act of 1998".

**SEC. 202. FINDINGS AND PURPOSE.**

(a) FINDINGS.—The Congress finds the following:

(1) The Land and Water Conservation Fund Act of 1965 embodied a visionary concept—that a portion of the proceeds from Outer Continental Shelf mineral leasing revenues and the depletion of a nonrenewable natural resource should result in a legacy of public places accessible for public recreation and benefit from resources belonging to all people, of all generations, and the enhancement of the most precious and most renewable natural resource of any nation, healthy and active citizens.

(2) The States and local governments were to occupy a pivotal role in accomplishing the purposes of the Land and Water Conservation Fund Act of 1965 and the Act originally provided an equitable portion of funds to the States, and through them, to local governments.

(3) However, because of competition for limited Federal moneys and the need for an annual appropriation, this original intention has been abandoned and, in recent years, the States have not received an equitable proportion of funds.

(4) Nonetheless, with population growth and urban sprawl, the demand for recreation and conservation areas, at the State and local level, including urban localities, remains a high priority for our citizens.

(5) In addition to the demand at the State and local level, there has been an increasing unmet need for Federal moneys to be made available for Federal purposes, with lands identified as important for Federal acquisition not being acquired for several years due to insufficient funds.

(6) A new vision is called for—a vision that encompasses a multilevel national network of parks, recreation and conservation areas that reaches across the country to touch all communities. National parks are not enough; the federal government alone cannot accomplish this. A national vision, backed by realistic national funding support, to stimulate State, local and private sector, as well as Federal efforts, is the only way to effectively address our ongoing outdoor recreation and conservation needs.

(b) PURPOSE.—The purpose of this title is to provide a secure source of funds available for Federal purposes authorized by the Land and Water Conservation Fund Act of 1965 and to revitalize and complement State, local and private commitments envisioned in the Land and Water Conservation Fund Act of 1965 and the Urban Park and Recreation Recovery Act of 1978 by providing grants for State, local and urban recreation and conservation needs.

**SEC. 203. LAND AND WATER CONSERVATION FUND AMENDMENTS.**

(a) REVENUES.—Section 2(c)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §4601-5(c)(1)) is amended as follows:

(1) By inserting "(A)" after "(c)(1)".

(2) By striking "there are authorized" and all that follows and inserting "from 16 percent of the revenues, as that term is defined in the Reinvestment and Environmental Restoration Act of 1998, shall be deposited in the Land and Water Conservation Fund in the Treasury and shall be available, without further appropriation, to carry out this Act for each fiscal year thereafter through September 30, 2015."

(3) By adding at the end the following new subparagraph:

"(B) In those instances where through judicial decision, administrative review, arbitration, or other means there are royalty refunds owed to entities generating revenues available for purposes of this Act, 16 percent of such refunds shall be paid from amounts available under this subsection."

(b) AUTHORIZATION.—Section 2(c)(2) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §4601-5(c)(2)) is amended by

striking "equivalent amounts provided in clause (1)" and inserting "\$900,000,000".

(c) APPROPRIATION.—Section 3 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §4601-6) is amended by striking "Moneys" and inserting "Except as provided under section 4601-5(c)(1), moneys".

(d) ALLOCATION OF FUNDS.—Section 5 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §4601-7) is amended as follows:

(1) by inserting "(a)" at the beginning;

(2) by striking "Those appropriations from the fund" and all that follows; and

(3) by adding at the end the following new subsection:

"(b) Moneys credited to the fund under section 2(c)(1) of this Act (16 U.S.C. §4601-5(c)(1)) for obligation or expenditure may be obligated or expended only as follows—

"(1) 45 percent shall be available for Federal purposes. Notwithstanding section 7 of this Act (16 U.S.C. §4601-9), 25 percent of such moneys shall be made available to the Secretary of Agriculture for the acquisition of lands, waters, or interests, in land or water within the exterior boundaries of areas of the National Forest System or any other land management unit established by an Act of Congress and managed by the Secretary of Agriculture and 75 percent of such moneys shall be available to the Secretary of the Interior for the acquisition of lands, waters, or interests in land or water within the exterior boundaries of areas of the National Park System, National Wildlife Refuge System, or other land management unit established by an Act of Congress: *Provided*, That at least two-thirds of the moneys available under this paragraph for Federal purposes shall be spent east of the 100th meridian.

"(2) 45 percent shall be available for financial assistance to the States under section 6 of this Act (16 U.S.C. §4601-8) distributed according to the following allocation formula:

"(A) 60 percent shall be apportioned equally among the several States;

"(B) 20 percent shall be apportioned on the basis of the ratio which the population of each State bears to the total population of the United States;

"(C) 20 percent shall be apportioned on the basis of the urban population in each State (as defined by Metropolitan Statistical Areas).

"(3) 10 percent shall be available to local governments through the Urban Parks and Recreation Recovery Program (16 U.S.C. §§2501-2514) of the Department of the Interior.

So much, not to exceed 2 percent, of the total of such moneys credited to the fund under section 2(c)(1) of this Act (16 U.S.C. §4601-5(c)) in each fiscal year as the Secretary of the Interior may estimate to be necessary for expenses in the administration and execution of this subsection shall be deducted for that purpose, and such sum is authorized to be made available therefor until the expiration of the next succeeding fiscal year, and within 60 days after the close of such fiscal year the Secretary shall apportion such part thereof as remains unexpended, if any, on the same basis and in the same manner as is provided under paragraphs (1), (2) and (3)."

(e) TRIBES AND ALASKA NATIVE VILLAGE CORPORATIONS.—Subsection 6(b)(5) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §4601-8(b)(5)) is amended as follows:

(1) By inserting "(A)" after "(5)".

(2) By adding at the end the following new subparagraph:

"(B) For the purposes of paragraph (1), all federally recognized Indian tribes and Alaska Native Village Corporations (as defined in section 3(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(j))) shall be treated collectively as 1 State, and shall receive

shares of the apportionment under paragraph (1) in accordance with a competitive grant program established by the Secretary by rule. Such rule shall ensure that in each fiscal year no single tribe or Village Corporation receives more than 10 percent of the total amount made available to all tribes and Village Corporations pursuant to the apportionment under paragraph (1). Funds received by an Indian tribe or Village Corporation under this subparagraph may be expended only for the purposes specified in paragraphs (1) and (3) of subsection (b)."

(f) LOCAL ALLOCATION.—Subsection 6(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §4601-8(b)(5)) is amended by adding at the end the following new paragraph:

"(6) Absent some compelling and annually documented reason to the contrary acceptable to the Secretary, each State (other than an area treated as a State under paragraph (5)) shall make available as grants to local governments at least 50 percent of the annual State apportionment, or an equivalent amount made available from other sources."

(g) MATCH.—Subsection 6(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §4601-8(c)) is amended to read as follows:

"(c) MATCHING REQUIREMENTS.—Payments to any State shall cover not more than 50 percent of the cost of outdoor recreation and conservation planning, acquisition or development projects that are undertaken by the State."

(h) STATE ACTION AGENDA.—Subsection 6(d) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §4601-8(d)) is amended to read as follows:

"(d) STATE ACTION AGENDA REQUIRED.—Each State may define its own priorities and criteria for selection of outdoor recreation and conservation acquisition and development projects eligible for grants under this Act so long as it provides for public involvement in this process and publishes an accurate and current State Action Agenda for Community Recreation and Conservation indicating the needs it has identified and the priorities and criteria it has established. In order to assess its needs and establish its overall priorities, each State, in partnership with its local governments and Federal agencies, and in consultation with its citizens, shall develop a State Action Agenda for Community Recreation and Conservation, within five years of enactment, that meets the following requirements:

"(1) The agenda must be strategic, originating in broad-based and long-term needs, but focused on actions that can be funded over the next 4 years.

"(2) The agenda must be updated at least once every 4 years and certified by the Governor that the State Action Agenda for Community Recreation and Conservation conclusions and proposed actions have been considered in an active public involvement process.

State Action Agendas for Community Recreation and Conservation shall take into account all providers of recreation and conservation lands within each State, including Federal, regional and local government resources and shall be correlated whenever possible with other State, regional, and local plans for parks, recreation, open space and wetlands conservation.

"Each State Action Agenda for Community Recreation and Conservation shall specifically address wetlands within that State as important outdoor recreation and conservation resources. Each State Action Agenda for Community Recreation and Conservation shall incorporate a wetlands priority plan developed in consultation with the State agency with responsibility for fish and

wildlife resources which is consistent with that national wetlands priority conservation plan developed under section 301 of the Emergency Wetlands Resources Act.

"Recovery action programs developed by urban localities under section 1007 of the Urban Park and Recreation Recovery Act of 1978 shall be used by a State as one guide to the conclusions, priorities and action schedules contained in the State Action Agenda for Community Recreation and Conservation. Each State shall assure that any requirements for local outdoor recreation and conservation planning that are promulgated as conditions for grants minimize redundancy of local efforts by allowing, wherever possible, use of the findings, priorities, and implementation schedules of recovery action programs to meet such requirements."

(i) Comprehensive State Plans developed by any State under section 6(d) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §4601-8(d)) before the enactment of this Act shall remain in effect in that State until or State Action Agenda for Community Recreation and Conservation has been adopted pursuant to the amendment made by this subsection, but no later than 5 years after the enactment of this Act.

(j) STATE PLANS.—Subsection 6(e) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §4601-8(e)) is amended—

(1) by striking "State comprehensive plan" at the end of the first paragraph and inserting "State Action Agenda for Community Recreation and Conservation";

(2) by striking "State comprehensive plan" in paragraph (1) and inserting "State Action Agenda for Community Recreation and Conservation"; and

(3) by striking "but not including incidental costs related to acquisition" at the end of paragraph (1).

(k) CONVERSION.—Paragraph 6(f)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §4601-8(f)(3)) is amended by striking the second sentence and inserting: "With the exception of those properties that are no longer viable as an outdoor recreation and conservation facility due to changes in demographics or must be abandoned because of environmental contamination which endanger public health and safety, the Secretary shall approve such conversion only if the State demonstrates no prudent or feasible alternative exists. Any conversion must satisfy any conditions the Secretary deems necessary to assure the substitution of other recreation and conservation properties of at least equal fair market value, or reasonably equivalent usefulness and location and which are in accord with the existing State Action Agenda for Community Recreation and Conservation: *Provided*, That wetland areas and interests therein as identified in the wetlands provisions of the action agenda and proposed to be acquired as suitable replacement property within that same State that is otherwise acceptable to the Secretary shall be considered to be of reasonably equivalent usefulness with the property proposed for conversion."

**SEC. 204. URBAN PARK AND RECREATION RECOVERY ACT OF 1978 AMENDMENTS.**

(a) GRANTS.—Section 1004 of the Urban Park and Recreation Recovery Act (16 U.S.C. §2503) is amended by redesignating subsections (d), (e), and (f) as subsections (f), (g), and (h) respectively, and by inserting the following after subsection (c):

"(d) 'development grants' means matching capital grants to local units of government to cover costs of development and construction on existing or new neighborhood recreation sites, including indoor and outdoor recreation facilities, support facilities, and landscaping, but excluding routine maintenance and upkeep activities;";

"(e) 'acquisition grants' means matching capital grants to local units of government to cover the direct and incidental costs of purchasing new parkland to be permanently dedicated and made accessible for public recreation use;";

(b) ELIGIBILITY.—Subsection 1005(a) of the Urban Park and Recreation Recovery Act (16 U.S.C. §2504) is amended to read as follows:

"(a) Eligibility of general purpose local governments to compete for assistance under this title shall be based upon need as determined by the Secretary. Generally, the list of eligible governments shall include the following:

"(1) All central cities of Metropolitan, Primary or Consolidated Statistical Areas as currently defined by the census.

"(2) All political subdivisions included in Metropolitan, Primary or Consolidated Statistical Areas as currently defined by the census.

"(3) Any other city or town within a Metropolitan Area with a total population of 50,000 or more in the census of 1970, 1980 or 1990.

"(4) Any other county, parish or township with a total population of 250,000 or more in the census of 1970, 1980 or 1990."

(c) MATCHING GRANTS.—Subsection 1006(a) of the Urban Park and Recreation Recovery Act (16 U.S.C. §2505(a)) is amended by striking all through paragraph (3) and inserting the following:

"SEC. 1006.(a) The Secretary is authorized to provide 70 percent matching grants for rehabilitation, innovation, development or acquisition purposes to eligible general purpose local governments upon his approval of applications therefor by the chief executives of such governments.

"(1) At the discretion of such applicants, and if consistent with an approved application, rehabilitation, innovation, development or acquisition grants may be transferred in whole or in part to independent special purpose local governments, private nonprofit agencies or country or regional park authorities; except that, such grantees shall provide assurance to the Secretary that they will maintain public recreation opportunities at assisted areas and facilities owned or managed by them in accordance with section 1010 of this Act.

"(2) Payments may be made only for those rehabilitation, innovation, development, or acquisition projects which have been approved by the Secretary. Such payments may be made from time to time in keeping with the rate of progress toward completion of a project, on a reimbursable basis."

(d) COORDINATION.—Section 1008 of the Urban Park and Recreation Recovery Act (16 U.S.C. §2507) is amended by striking the last sentence and inserting the following: "The Secretary and general purpose local governments are encouraged to coordinate preparation of recovery action programs required by this title with State Action Agendas for Community Recreation and Conservation required by section 6 of the Land and Water Conservation Fund Act of 1965, including the allowance of flexibility in local preparation of recovery action programs so that they may be used to meet State or local qualifications for local receipt of Land and Water Conservation Fund grants or State grants for similar purposes or for other recreation or conservation purposes. The Secretary shall also encourage States to consider the findings, priorities, strategies and schedules included in the recovery action program of their urban localities in preparation and updating of the State Action Agendas for Community Recreation and Conservation, in accordance with the public coordination and citizen consultation requirements of subsection 6(d) of the Land and Water Conservation Fund Act of 1965."

(e) **CONVERSION.**—Section 1010 of the Urban Park and Recreation Recovery Act (16 U.S.C. §2509) is amended by striking the first sentence and inserting the following: “No property acquired or improved or developed under this title shall, without the approval of the Secretary, be converted to other than public recreation uses. The Secretary shall approve such conversion only if the grantee demonstrates no prudent or feasible alternative exists (with the exception of those properties that are no longer a viable recreation facility due to changes in demographics or must be abandoned because of environmental contamination which endanger public health and safety). Any conversion must satisfy any conditions the Secretary deems necessary to assure the substitution of other recreation properties of at least equal fair market value, or reasonably equivalent usefulness and location and which are in accord with the current recreation recovery action program.”

(f) **REPEAL.**—Section 1014 of the Urban Park and Recreation Recovery Act (16 U.S.C. 2513) is repealed.

### TITLE III—WILDLIFE CONSERVATION AND RESTORATION

#### SEC. 301. SHORT TITLE.

This title may be cited as the “Wildlife Conservation and Restoration Act of 1998”.

#### SEC. 302. FINDINGS.

The Congress finds and declares that—

(1) a diverse array of species of fish and wildlife is of significant value to the Nation for many reasons: aesthetic, ecological, educational, cultural, recreational, economic, and scientific;

(2) it should be the objective of the United States to retain for present and future generations the opportunity to observe, understand, and appreciate a wide variety of wildlife;

(3) millions of citizens participate in outdoor recreation through hunting, fishing, and wildlife observation, all of which have significant value to the citizens who engage in these activities;

(4) providing sufficient and properly maintained wildlife associated recreational opportunities is important to enhancing public appreciation of a diversity of wildlife and the habitats upon which they depend;

(5) lands and waters which contain species classified neither as game nor identified as endangered or threatened also can provide opportunities for wildlife associated recreation and education such as hunting and fishing permitted by applicable State or Federal law;

(6) hunters and anglers have for more than 60 years willingly paid user fees in the form of Federal excise taxes on hunting and fishing equipment to support wildlife diversity and abundance, through enactment of the Federal Aid in Wildlife Restoration Act (commonly referred to as the Pittman-Robertson Act) and the Federal Aid in Sport Fish Restoration Act (commonly referred to as the Dingell-Johnson/Wallop-Breaux Act);

(7) State programs, adequately funded to conserve a broader array of wildlife in an individual State and conducted in coordination with Federal, State, tribal, and private landowners and interested organizations, would continue to serve as a vital link in a nationwide effort to restore game and nongame wildlife, and the essential elements of such programs should include conservation measures which manage for a diverse variety of populations of wildlife; and

(8) It is proper for Congress to bolster and extend this highly successful program to aid game and nongame wildlife in supporting the health and diversity of habitat, as well as providing funds for conservation education.

#### SEC. 303. PURPOSES.

The purposes of this title are—

(1) to extend financial and technical assistance to the States under the Federal Aid to Wildlife Restoration Act for the benefit of a diverse array of wildlife and associated habitats, including species that are not hunted or fished, to fulfill unmet needs of wildlife within the States while recognizing the mandate of the States to conserve all wildlife;

(2) to assure sound conservation policies through the development, revision and implementation of wildlife associated recreation and wildlife associated education and wildlife conservation law enforcement;

(3) to encourage State fish and wildlife agencies to create partnerships between the Federal Government, other State agencies, wildlife conservation organizations, and outdoor recreation and conservation interests through cooperative planning and implementation of this title; and

(4) to encourage State fish and wildlife agencies to provide for public involvement in the process of development and implementation of a wildlife conservation and restoration program.

#### SEC. 304. DEFINITIONS.

(a) **REFERENCE TO LAW.**—In this title, the term “Federal Aid in Wildlife Restoration Act” means the Act of September 2, 1937 (16 U.S.C. 669 et seq.), commonly referred to as the Federal Aid in Wildlife Restoration Act or the Pittman-Robertson Act.

(b) **WILDLIFE CONSERVATION AND RESTORATION PROGRAM.**—Section 2 of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669a) is amended by inserting after “shall be construed” in the first place it appears the following: “to include the wildlife conservation and restoration program and”.

(c) **STATE AGENCIES.**—Section 2 of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669a) is amended by inserting “or State fish and wildlife department” after “State fish and game department”.

(d) **CONSERVATION.**—Section 2 is amended by striking the period at the end thereof, substituting a semicolon, and adding the following: “the term ‘conservation’ shall be construed to mean the use of methods and procedures necessary or desirable to sustain healthy populations of wildlife including all activities associated with scientific resources management such as research, census, monitoring of populations, acquisition, improvement and management of habitat, live trapping and translocation, wildlife damage management, and periodic or total protection of a species or population as well as the taking of individuals within wildlife stock or population if permitted by applicable State and Federal law; the term ‘wildlife conservation and restoration program’ shall be construed to mean a program developed by a State fish and wildlife department that the Secretary determines meets the criteria in section 6(d), the projects that constitute such a program, which may be implemented in whole or part through grants and contracts by a State to other State, Federal, or local agencies wildlife conservation organizations and outdoor recreation and conservation education entities from funds apportioned under this title, and maintenance of such projects; the term ‘wildlife’ shall be construed to mean any species of wild, free-ranging fauna including fish, and also fauna in captive breeding programs the object of which is to reintroduce individuals of a depleted indigenous species into previously occupied range; the term ‘wildlife-associated recreation’ shall be construed to mean projects intended to meet the demand for outdoor activities associated with wildlife including, but not limited to, hunting and fishing, such projects as construction or restoration of wildlife viewing areas, observation towers, blinds, platforms, land and

water trails, water access, trailheads, and access for such projects; and the term ‘wildlife conservation education’ shall be construed to mean projects, including public outreach, intended to foster responsible natural resource stewardship.”

(3) **7 PERCENT.**—Subsection 3(a) of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669b(a)) is amended in the first sentence by—

(1) inserting “(1)” after “(beginning with the fiscal year 1975)”; and

(2) inserting after “Internal Revenue Code of 1954” the following: “, and (2) from 7 percent of the revenues, as that term is defined in the Reinvestment Act and Environmental Restoration Act of 1998.”

#### SEC. 305. SUBACCOUNTS AND REFUNDS.

Section 3 of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669b) is amended by adding at the end the following new subsections:

“(c) A subaccount shall be established in the Federal aid to wildlife restoration fund in the Treasury to be known as the ‘wildlife conservation and restoration account’ and the credits to such account shall be equal to the 7 percent of revenues referred to in subsection (a)(2). Amounts in such account shall be invested by the Secretary of the Treasury as set forth in subsection (b) and shall be made available without further appropriation, together with interest, for apportionment at the beginning of fiscal year 2000 and each fiscal year thereafter to carry out State wildlife conservation and restoration programs.

“(d) Funds covered into the wildlife conservation and restoration account shall supplement, but not replace, existing funds available to the States from the sport fish restoration and wildlife restoration accounts and shall be used for the development, revision, and implementation of wildlife conservation and restoration programs and should be used to address the unmet needs for a diverse array of wildlife and associated habitats, including species that are not hunted or fished, for wildlife conservation, wildlife conservation education, and wildlife-associated recreation projects: *Provided*, such funds may be used for new programs and projects as well as to enhance existing programs and projects.

“(e) Notwithstanding subsections (a) and (b) of this Act, with respect to the wildlife conservation and restoration account so much of the appropriation apportioned to any State for any fiscal year as remains unexpended at the close thereof is authorized to be made available for expenditure in that State until the close of the fourth succeeding fiscal year. Any amount apportioned to any State under this subsection that is unexpended or unobligated at the end of the period during which it is available for expenditure on any project is authorized to be re-apportioned to all States during the succeeding fiscal year.

“(f) In those instances where through judicial decision, administrative review, arbitration, or other means there are royalty refunds owed to entities generating revenues available for purposes of this Act, 7 percent of such refunds shall be paid from amounts available under subsection (a)(2).”

#### SEC. 306. ALLOCATION OF SUBACCOUNT RECEIPTS.

Section 4 of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669c) is amended by adding the following new subsection:

“(c)(1) Notwithstanding subsection (a), so much, not to exceed 2 percent, of the revenues covered into the wildlife conservation and restoration account in each fiscal year as the Secretary of the Interior may estimate to be necessary for expenses in the administration and execution of programs carried out under the wildlife conservation and

restoration account shall be deducted for that purpose, and such sum is authorized to be made available therefor until the expiration of the next succeeding fiscal year, and within 60 days after the close of such fiscal year the Secretary of the Interior shall apportion such part thereof as remains unexpended, if any, on the same basis and in the same manner as is provided under paragraphs (2) and (3).

"(2) The Secretary of the Interior, after making the deduction under paragraph (1), shall make the following apportionment from the amount remaining in the wildlife conservation and restoration account:

"(A) to the District of Columbia and to the Commonwealth of Puerto Rico, each a sum equal to not more than 1/2 of 1 percent thereof; and

"(B) to Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, each a sum equal to not more than 1/4 of 1 percent thereof.

"(3) The Secretary of the Interior, after making the deduction under paragraph (1) and the apportionment under paragraph (2), shall apportion the remaining amount in the wildlife conservation and restoration account for each year among the States in the following manner:

"(A) 1/3 which is based on the ratio to which the land area of such State bears to the total land area of all such States; and

"(B) 2/3 of which is based on the ratio to which the population of such State bears to the total population of all such States.

The amounts apportioned under this paragraph shall be adjusted equitably so that no such State shall be apportioned a sum which is less than 1/2 of 1 percent of the amount available for apportionment under this paragraph for any fiscal year or more than 5 percent of such amount."

"(d) WILDLIFE CONSERVATION AND RESTORATION PROGRAMS.—Any State, through its fish and wildlife department, may apply to the Secretary for approval of a wildlife conservation and restoration program or for funds to develop a program, which shall—

"(1) contain provision for vesting in the fish and wildlife department of overall responsibility and accountability for development and implementation of the program; and

"(2) contain provision for development and implementation of—

"(A) wildlife conservation projects which expand and support existing wildlife programs to meet the needs of a diverse array of wildlife species,

"(B) wildlife associated recreation programs, and

"(C) wildlife conservation education projects.

If the Secretary of the Interior finds that an application for such program contains the elements specified in paragraphs (1) and (2), the Secretary shall approve such application and set aside from the apportionment to the State made pursuant to section 4(c) an amount that shall not exceed 90 percent of the estimated cost of developing and implementing segments of the program for the first 5 fiscal years following enactment of this subsection and not to exceed 75 percent thereafter. Not more than 10 percent of the amounts apportioned to each State from this subaccount for the State's wildlife conservation and restoration program may be used for law enforcement. Following approval, the Secretary may make payments on a project that is a segment of the State's wildlife conservation and restoration program as the project progresses but such payments, including previous payments on the project, if any, shall not be more than the United States pro rata share of such project. The

Secretary, under such regulations as he may prescribe, may advance funds representing the United States pro rata share of a project that is a segment of a wildlife conservation and restoration program, including funds to develop such program. For purposes of this subsection, the term 'State' shall include the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands."

(b) FACA.—Coordination with State fish and wildlife department personnel or with personnel of other State agencies pursuant to the Federal Aid in Wildlife Restoration Act or the Federal Aid in Sport Fish Restoration Act shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.). Except for the preceding sentence, the provisions of this title relate solely to wildlife conservation and restoration programs as defined in this title and shall not be construed to affect the provisions of the Federal Aid in Wildlife Restoration Act relating to wildlife restoration projects or the provisions of the Federal Aid in Sport Fish Restoration Act relating to fish restoration and management projects.

#### SEC. 307. LAW ENFORCEMENT AND PUBLIC RELATIONS.

The third sentence of subsection (a) of section 8 of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669g) is amended by inserting before the period at the end thereof: " , except that funds available from this subaccount for a State wildlife conservation and restoration program may be used for law enforcement and public relations".

#### SEC. 308. PROHIBITION AGAINST DIVERSION.

No designated State agency shall be eligible to receive matching funds under this Act if sources of revenue available to it on January 1, 1998, for conservation of wildlife are diverted for any purpose other than the administration of the designated State agency, it being the intention of Congress that funds available to States under this Act be added to revenues from existing State sources and not serve as a substitute for revenues from such sources. Such revenues shall include interest, dividends, or other income earned on the foregoing.

#### LONG-TERM CARE PATIENT PROTECTION ACT OF 1998—S. 2570

The text of the bill (S. 2570), introduced on October 7, 1998, is as follows:

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

#### SEC. 1. ESTABLISHMENT OF PROGRAM TO PREVENT ABUSE OF NURSING FACILITY RESIDENTS.

(a) NURSING FACILITY AND SKILLED NURSING FACILITY REQUIREMENTS.—

(1) MEDICAID PROGRAM.—Section 1919(b), as amended by section 2(a), is amended by adding after paragraph (8) the following new paragraph:

"(9) SCREENING OF NURSING FACILITY WORKERS.—

"(A) BACKGROUND CHECKS ON APPLICANTS.—Subject to subparagraph (B)(ii), before hiring an individual, a nursing facility shall—

"(i) give the individual written notice that the facility is required to perform background checks with respect to applicants;

"(ii) require, as a condition of employment, that such individual—

"(I) provide a written statement disclosing any conviction for a relevant crime or finding of patient or resident abuse;

"(II) provide a statement signed by the individual authorizing the facility to request the search and exchange of criminal records;

"(III) provide in person a copy of the individual's fingerprints; and

"(IV) provide any other identification information the Secretary may specify in regulation;

"(iii) initiate a check of the registry under section 1128F in accordance with regulations promulgated by the Secretary to determine whether such registry contains any disqualifying information with respect to such individual; and

"(iv) if such registry does not contain any such disqualifying information—

"(I) request that the State initiate a State and national criminal background check on such individual in accordance with the provisions of subsection (e)(9); and

"(II) furnish to the State the information described in subclauses (II) through (IV) of clause (ii) not more than 7 days (excluding Saturdays, Sundays, and legal public holidays under section 6103(a) of title 5, United States Code) after completion of the check against the registry initiated under clause (iii).

"(B) PROHIBITION ON HIRING OF ABUSIVE WORKERS.—

"(i) IN GENERAL.—A nursing facility may not knowingly employ any individual who has any conviction for a relevant crime or with respect to whom a finding of patient or resident abuse has been made.

"(ii) PROBATIONARY EMPLOYMENT.—After complying with the requirements of clauses (i), (ii), and (iii) of subparagraph (A), a nursing facility may provide for a probationary period of employment (not to exceed 90 days) for an individual pending completion of the check against the registry described under subparagraph (A)(iii) and the background check described under subparagraph (A)(iv). Such facility shall maintain supervision of the individual during the individual's probationary period of employment.

"(C) REPORTING REQUIREMENTS.—A nursing facility shall report to the State any instance in which the facility determines that an individual has committed an act of resident neglect or abuse or misappropriation of resident property in the course of employment by the facility.

"(D) USE OF INFORMATION.—

"(i) IN GENERAL.—A nursing facility that obtains information about an individual pursuant to clauses (iii) and (iv) of subparagraph (A) may use such information only for the purpose of determining the suitability of the individual for employment.

"(ii) IMMUNITY FROM LIABILITY.—A nursing facility that, in denying employment for an applicant, reasonably relies upon information about an individual provided by the State pursuant to subsection (e)(9) shall not be liable in any action brought by the individual based on the employment determination resulting from the incompleteness or inaccuracy of the information.

"(iii) CRIMINAL PENALTY.—Whoever knowingly violates the provisions of subparagraph (D)(i) shall be fined in accordance with title 18, United States Code, imprisoned for not more than 2 years, or both.

"(E) DEFINITIONS.—As used in this paragraph—

"(i) the term 'conviction for a relevant crime' means any State or Federal criminal conviction for—

"(I) any offense described in paragraphs (1) through (4) of section 1128(a); and

"(II) such other types of offenses as the Secretary may specify in regulations;

"(ii) the term 'finding of patient or resident abuse' means any substantiated finding by a State agency under subsection (g)(1)(C) or a Federal agency that an individual has committed—

"(I) an act of patient or resident abuse or neglect or a misappropriation of patient or resident property; or