SENATE—*Tuesday, May 9, 1995*

(Legislative day of Monday, May 1, 1995)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Let us pray:

Gracious God, our Father, help us to get inside what is happening in others so that we may see things with their eyes, think things with their minds, and feel things with their hearts. Strengthen us to be as kind to others as we wish them to be to us. Empower us by Your Spirit to be as faithful to others as You have been to us in spite of our shortcomings and failures.

Help us to make the same allowances for others as we would wish them to make for us.

Help us to express the same empathy for others as we would want them to have for us, when we hurt.

Help us to have the same respect and tolerance for the beliefs and ideas of others as we would wish them to have for ours.

Help us to understand others as we would wish to be understood.

So we commit this day to seek to be to others the giving and forgiving love You have been to us. Through Him who taught us the secret of serving others. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. THOMAS. Mr. President, this morning the time for the two leaders has been reserved and there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak for up to 5 minutes each.

At the hour of 10:30 a.m., the Senate will begin the first of two stacked rollcall votes. The first vote is on the confirmation of John Deutch, to be Director of the CIA. The second vote is on the motion to invoke cloture on the Coverdell-Dole amendment. Senators should also be aware that they have until 10:15 a.m. to file first- and second-degree amendments to the Coverdell-Dole amendment.

The Senate will recess today between the hours of 12:30 p.m. and 2:15 p.m. for the weekly policy luncheons.

WAIVING MANDATORY LIVE QUORUM

Mr. THOMAS. Mr. President, I now ask unanimous consent that the mandatory live quorum be waived for the purpose of this morning's cloture vote.

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

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to a period of morning business.

The Democratic leader, or his designee, is recognized to speak for up to 20 minutes.

Under the previous order, the Senator from Wyoming [Mr. THOMAS] is recognized to speak for up to 20 minutes.

Under the previous order, the Senator from Michigan [Mr. LEVIN] is recognized to speak for up to 20 minutes.

Under the previous order, the Senator from Pennsylvania [Mr. SANTORUM] is recognized to speak for up to 10 minutes.

FRESHMAN FOCUS

Mr. THOMAS. Mr. President, I would like to use our time this morning as a followup on the freshman focus that we have been carrying on for several weeks and attempt to continue. Some of my colleagues will join later in the morning and then again on Thursday.

As you know, the freshman class has made an effort to talk about the issues that are before the American people, that are before this Congress, and to focus on solving these problems, to focus on the notion that we need to find solutions—solutions that will help us to deliver services more efficiently, will help us to reduce the cost of Government, and will help us to be more effective in dealing with the problems of this country and, at the same time, reduce the size of Government.

So we are interested in exercising the first opportunity that we have had for a number of years to really analyze programs that have been in effect, in many cases, for 30 to 40 years. Frankly, the effort that has been made during that time was simply to add more money to the same program. I think most now would agree that it is time to analyze the effect, the impact, and the product of those programs. And we have, for the first time, a chance to do that.

We have a chance to change some of the efforts that have not succeeded—and there are some—so they are done in a different way. We hope our efforts will help us move forward in the Senate and in the Congress, to solving problems rather than to obstruct or just set down political issues for elections.

Today we want to talk about two issues that are very compelling which are before us and, frankly, issues that we have no alternative other than to solve. One is the budget; the other is Medicare.

Our purpose this week is to talk largely about Medicare. It is clearly related to the budget and, as a result, the two must be talked about together.

Mr. President, Thomas Jefferson said, "The art of government is the art of being honest." I think that is what we are faced with. This matter of Medicare and the budget is not a problem of the Congress, not a problem of those who are trustees; it is a problem for all of us who are citizens of this country, not only for the benefits that it provides, but each of us who must also pay. We need to be honest with one another as to where we are. The idea of covering up problems because it is politically expedient, or the idea that you can shift problems to somebody else because it is an uncomfortable political position simply does not hold. We have to be honest, face the problems, and talk about them. There are clearly some problems in this area of finance.

Let me talk just a minute about the chart. We are into charts around here and it is not a bad idea. It does demonstrate where we are. This particular chart talks about the Medicare hospital insurance trust fund. It talks about the fact that if we do nothing, it will be bankrupt in 7 years. The chart shows the end-of-year trust fund balances up to 1995, and then projects the balances for the years up to 2004. This is not just a chart that is put together for these kinds of purposes. This is a chart that is a result of the Social Security and Medicare Board of Trustees report that was released just a couple of weeks ago—the trustees being at least three or four members from the Cabinet and some public members. They have indicated this fund will be bankrupt in the year 2002 unless we do something. The balance in the health care insurance trust fund was $133 billion in 1994 and will rise to $136 billion in 1995.

In 1996, however, the annual deficits start to erode the balance of $136 billion and will be broke in 2002. So that

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

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is the problem. It is a solvable problem. But it is not one that we can brush under the door, one that we can ignore, or one to make political issues of. It is one that we must indeed solve.

The next chart shows the impact this spending has on the gross domestic product. The blue being Medicare part A; and the yellow part is Medicare part B. Part A is the hospital portion that is funded by payroll taxes. Part B is that portion that is funded by general funds and beneficiary premiums. You can see how it grows. Here is 1970 and, more currently, in 1995; here we are in the year 2020, as a percentage of gross domestic product. This current period is just below 3 percent, doubling in this period of time.

So we clearly have an issue we have to deal with. The alternative is for the program to go broke. The alternative is not to have the services and that, of course, is not acceptable. Unfortunately, the current administration's position is to ignore the problem. It is to say, gee, it is up to the majority to do something about that. I think that is too bad. I think it is going to have to be something that we do collectively, but we can do something about it.

Why are we where we are? Because this program has grown at a rate of about 10 percent per year, and it continues to do so, as opposed to the private sector health care which has been growing at a more moderate rate of about 5 percent a year. This year, it was 4.4 percent and it is on its way down. Yet the Medicare Program continues to go up. Now, some say—and I go back to the political thing—"You Republicans simply want to cut Medicare so you can give tax cuts." That is not true. That is not where we are. The issue is to fix Medicare so that we can continue to have it over a period of time. There simply is not enough money to leave it as it is and just simply fund it without changing it. That is not an alternative. All the money that we have would be in this program.

So the alternative is to find some ways to reduce this growth. What we are talking about doing—and I think you will see generally in the budget, which is not out yet—you will see an effort to reduce it from the 10.5 percent growth to a growth of maybe 7 percent. We will see in the newspapers that they slashed Medicare, cut Medicare. But what we have done is sought to reduce the growth of Medicare, and then we will find some ways to do it more efficiently. There are ways to do that, to give some options. For example, for those elderly who choose to continue as is, that will be an option. For those who would like to move toward some kind of medical savings account, perhaps that will be an option and that would be a choice, and it will be a reduction in the cost of delivering the same medicine.

The point is that we need to be honest with ourselves in terms of what we are doing. This is not a political kind of football or struggle to see who gets political advantage. The real issue is how do you continue to provide services to people who need services and do it in a way that you can, over time, pay for it. That is the issue. Of course, it is part of the budget, because the budget is how much money we can put out to run Government and what kind of benefits we can have.

As for Medicare part B, I suspect there will be an effort to maintain the contributions that are now there—approximately 31 percent instead of 25 percent of the premium that is required to finance it. We have been moving up at 31 percent. We can go back, but if we hold it at 31 percent, the program will continue to be preserved. So there are alternatives. They are not draconian.

This is where we are on Medicare. I think it is an excellent example of our opportunity in this Congress to find some solutions to share with Americans—all of us—the responsibility of making collective decisions, to meet the responsibility of continuing to have programs where there is need, and to do it in a responsible financial way.

Mr. President, I hope that we can go forward with the bona fide discussion of Medicare and a bona fide discussion of balancing the budget. I do not think anybody will suggest that it is going to be painless. It is not painless in your family when you find you have to cut back on the growth of expenditures. It is not painless in your business when you discover that it is necessary to make some changes in order to make it work. But it is very possible. It is very possible.

It can be done by continuing to provide those essential services, doing them in a more efficient way, and we can collectively do that.

I am pleased that my associates from the freshman class will be on the floor, talking about this issue and other issues, urging Members to take advantage of the opportunity and, indeed, the request, if not demand, from voters for change. There has been a demand for change. There will be change. This is our opportunity to do that.

Mr. President, I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Democratic leader is recognized for 20 minutes.

COMPROMISE NEAR

Mr. DASCHLE. I wish the President a good morning. I want to comment briefly on the series of votes that we will be taking this morning. As the distinguished acting majority leader indicated, there will be a cloture vote this morning.

I think in that regard it is important for people to understand the current circumstances. Senator DOLE has offered an amendment. Senator ROCKEFELLER and Senator GORTON have also offered an amendment, a substitute. We will have the opportunity at some point to vote on those.

I would hope people will vote against cloture again this morning simply to preserve the options that we think are going to be very important, if indeed we reach a compromise here. I think we are getting closer now in the last 48 hours to meaningful compromise.

In that regard, let me specifically single out the distinguished Senator from West Virginia for his remarkable efforts to bring people together, to attempt to find a way to resolve the outstanding differences. He and the distinguished Senator from Washington, Senator GORTON, have done an extraordinary job in the last couple of days in addressing many of the concerns that people have raised. I think we are now beginning to come together in a way that will accommodate some of the concerns that have been raised during the last couple of weeks.

I know that others, as well, have concluded that a compromise is within reach. My distinguished colleague from Louisiana, Senator BREAUX, has also been working on ways to accommodate some of these concerns and bring all sides together.

Senator BREAUX and others have in the last couple of days talked with people on both sides of the aisle in an effort to try to reach a compromise on punitive damages, on joint and several liability, on the statute of repose. I think we are at a point now where we may be able to resolve these outstanding issues in a way that will facilitate a compromise and ultimately bring Members to a resolution on this issue.

In order to allow the Senator time to discuss this particular compromise, I would like to yield the balance of my leader time to Senator BREAUX. Again, I commend Senator BREAUX for his effort in this regard. I believe that he may have found a way with which to bridge the differences and provide Members with an opportunity to resolve the many outstanding issues that still exist. With that, Mr. President, I yield the balance of my time to Senator BREAUX.

The PRESIDING OFFICER. There are 17½ minutes remaining.

STANDARD OF FAIRNESS DESIRED

Mr. BREAUX. I thank the distinguished Democratic leader for his comments and his effort in trying to bring about a compromise that makes sense. A lot of people have been working very diligently on this issue of product liability. The Senate and the Congress has worked on it for a number of years. We have all struggled with it.

I think the standard that we are all trying to reach is a standard of fairness, to give neither people who are injured by faulty products an advantage or people who manufacture those products an unfair advantage. The key I

think is a level playing field. The key is fairness to everyone. That is something that has been very difficult.

I want to particularly commend the ranking member of the Commerce Committee, which I serve, Senator HOLLINGS, for the great work that he has done in trying to make sure that fairness is the standard by which we operate.

Also, Senator HEFLIN, I think, has made a great contribution to ensuring that we do not act in haste, but do this very, very carefully.

There have been a number of Members on the Republican side—the distinguished occupant of the chair, the Presiding Officer of the Senate this morning—has also been very involved in trying to create a package that is fair and creates that level playing field that we are all striving for.

There are a number of other Senators I have not mentioned that have been involved in trying to bring all Members together in doing something that makes sense. My own preference is that this is something that the States ought to do. I am a States righter when it comes to personal injury and the tort system, and how the States can handle this can best be decided by the States.

I think, Mr. President, in trying to reach an agreement here today I would urge my colleagues to vote no on the first cloture motion this morning in order to allow Members to present to the Senate what I think is a fair and reasonable compromise, and tries to balance those who think that nothing should be done on the Federal level and those that think that everything should be done by the Federal Government here in Washington.

I think that the pending amendment that is out there that has been talked about, as a proposed compromise, the so-called Gorton-Rockefeller, their second proposal, is defective in a number of ways, and can be improved in order to reach a fair settlement of this issue, and put it to rest once and for all.

I think Gorton-Rockefeller is effective in a couple of ways. My substitute, which I will offer after cloture is not invoked, will be an amendment to the Dole-Coverdell substitute, which will still be pending, tries to address those defects in the Gorton-Rockefeller in the following ways: No. 1, on punitive damages. This has always been something that has been very controversial, but there is a reason for punitive damages. It says to a manufacturer of defective products, "Do not do it again."

The damages that are awarded have to be in relation to the ability of the defendant to pay. Obviously, a multibillion-dollar corporation is not going to really be affected by a small fine of $100,000. They will just say it is the cost of doing business, and continue to manufacture the defective product.

So punitive damages serve a purpose. It says to the manufacturers of products that harm people in this country, "Do not do it anymore." It has been very effective. There are products today that are not on the market because of punitive damages. Companies have said "We can't afford to do this anymore and we are not going to do it anymore." There are a number of products that are no longer manufactured—Dalkon shield, asbestos products, products dealing with breast implants. Some automobile manufacturers are no longer producing types of cars, because they know that if they do they will cause problems and they will be penalized doing it. So they make a very practical decision: "We are not doing it anymore."

The problem with the Gorton-Rockefeller substitute is that, I think, it is fatally flawed. They try and solve this problem by saying that small businesses will not be liable for punitive damages if they have 25 or fewer employees. They make a separate category for small businesses of 25 or fewer employees.

That is an interesting way of approaching it. What would happen is that many companies would just structure their operations with 25 or fewer employees. A trucking company, each truck could be a separate company. A cab company, each cab could be a separate company. A boat company, each one could be a separate company. What do we do in companies that have 23 employees at the time of the injury, or 25 employees later on during a year?

It is very complicated and it really, I think, calls for companies to structure themselves so they can avoid ever having to pay for any punitive damages for products that would cause problems to individual people.

In addition, they say that, well, if the judge thinks that punitive damages should be awarded more than this cap, then the judge can do it; but if the defendant does not like what the judge does, he can ask for another trial. Why do we have to be so complicated? That provision just calls for additional litigation, more cost, more expense, additional trials, by directing a very, very, complicated situation I think is not necessary.

What my amendment will do is to take from the suggestions of other Members who have suggested ideas that address this problem in a fair way. Our colleague, Senator DODD from Connecticut, has suggested something that I think makes sense and is the essence of my amendment. It says that when a jury finds that punitive damages are warranted because of conscious and flagrant violations by the manufacturer of a product, then the decision on how much the punitive damages should be will be decided by the judge. He does it by looking at that particular defendant, determining their ability to pay, determining how successful economically that company is, looking at their intent, how they handle everything, how long the violations continued, and then the judge will make a decision on the amount of the punitive damages that are necessary to prevent this from happening again in the future.

Mr. President, and my colleagues, I think that is a fair way of resolving this problem. A very complicated structure that says 25 or less has one standard, and then the judge can overrule the jury if he wants to, but if the defendant does not like it they can ask for another trial, is too complicated, too time consuming, encourages too many additional trials, and is not the way to do it.

I prefer the suggestion of Senator DODD, which is in my amendment, which simply says if the jury finds the defendant was so negligent in a fashion that deserves punitive damages to be awarded, then the judge will decide what is an effective and correct amount to be awarded.

Second, on the statute of repose, I think the Gorton-Rockefeller amendment is defective again. Remember this uniformity argument we talked about? They kept saying we need to pass this bill because we want to make it uniform throughout the United States. Their bill is defective because it says the statute of repose will be 25 years unless the State wants to make it less. That is not uniform. It says we can have 50 different States with 50 different statutes of repose and 50 different standards for a person who is injured to have to worry about. That is not uniformity at all.

The statute of repose, of course, says that after a product has been in place for a period of time you can no longer bring a cause of action against that product because it is defective. My amendment says let us make it uniform, 25 years across the country, nationwide; it is the same in every State. That brings about uniformity both for the person who manufactured the product and uniformity for the person who may be injured by a defective product. I think that makes sense and is the right way to go.

The third area I think they are defective in, in their suggestion, is on the question of joint and several liability. What they are trying to do is address the problem of a manufacturer or defendant that is just a little bit responsible, just a little bit negligent. Their argument is if someone is only responsible for 3 percent of the injury he or she should not be liable for 100 percent of the damages for noneconomic damages, that is the pain and suffering type of injuries that a person would receive from a defective product. But the way they have tried to handle this problem is say you are not going to have any joint liability for noneconomic damages and that will take care of the problem. Yes, that takes care of the problem. It wipes out the

possibility of an injured person, perhaps, from getting any recovery at all.

What I am going to suggest in my amendment is simply this—and this is the language, again, that has been suggested by Senator SPECTER, who has come up with I think a very good idea to solve this problem. I picked some from our Democratic colleagues, Senator DODD, some from our Republican colleagues, Senator SPECTER, and tried to put them together because that is what we have been talking about for the last several days. Senator SPECTER's suggestion, which I have included in my suggestion, is simply to say there is a de minimis standard. If a defendant is responsible for less than 15 percent of the injuries that were caused, they cannot be held jointly liable, they can only be held liable for that percentage of the damages that it has been determined they are at fault for, that they caused. If it is 3 percent they can only be responsible for 3 percent. But after that threshold, if they are 20 to 30 to 40 percent responsible, then they can be held jointly liable. I think that takes care of the so-called de minimis problem, whereby we should not hold someone responsible for the whole amount of damages if they only caused a very small, de minimis, portion of those damages. But after a certain point, joint liability should prevail.

We picked up Senator SPECTER's suggestion, which I think is a very good one, that says if a person is 15 percent or more responsible for these losses, then they can be held jointly liable for noneconomic losses that they caused. That defendant, of course, has a cause of action for anybody else who is liable for the other portion of the damages. That is what normally occurs. The defendant then brings in the other party and they can be held responsible—to the defendant who has paid the entire amount—for their portion. So the system works very well. But my suggestion, I think, takes care of the de minimis concern that has been expressed by many of our colleagues.

I will offer this amendment and will be able to offer it if the cloture motion is voted down. I think it would be a big mistake, when we are so close to coming up with a compromise agreement, to at this time invoke cloture and prevent the opportunity to offer this amendment with a chance of it becoming law. This is really an attempt to try to reach a legitimate compromise. We can debate this for a long time. We could continue to prevent cloture from being invoked.

I think it is time the Senate bring this measure to a close. What I have tried to do is pick some of the best ideas from my colleagues. I continue to emphasize that many of the things I have in my legislation are the product of the suggestions of some of my colleagues—Senator SPECTER in particular with this de minimis standard, my colleague Senator DODD with the concept of punitive damages being set by the judge after a trial has occurred that determines that punitive damages would be justified. I think that makes good sense, to try to incorporate Republican ideas and Democratic ideas, to put together a package which is truly a compromise.

One of the things the advocates of this so-called tort reform legislation have advocated is a national standard when it talks to punitive damages. I have incorporated their ideas on the national standard being in fact that the plaintiff must show a conscious and flagrant indifference to safety concerns, and the plaintiff must do it and show it by clear and convincing evidence. That will be a national standard now for punitive damages in product liability cases. I have incorporated that suggestion. That is the same as in the Gorton-Rockefeller legislation.

In fact, much of what this substitute that I will offer really incorporates is the better features from the Gorton-Rockefeller language. But it also tries to address the three major areas in which I think they were defective, and those are how punitive damages are set, how they deal with joint and several liability, and how they deal with the statute of repose.

So I hope when we come to the floor to vote on cloture this morning, which has already been set, our colleagues will know there is an effort among many of us who have been involved to some extent in this legislation to try to put together a package of amendments that is truly a genuine compromise, that tries to treat people who are injured by defective products on the same level playing field that we are trying to treat defendants who in fact have manufactured defective products.

It is improper for this body to try to give advantage to one group over the other group. If we conclude there should be some national standards, then the national standards should apply both to those who are injured as well as to those who make the product that has caused injury, in the same way. It would be unfair and improper to say one side is going to get more fair treatment than the other. I am concerned the provisions that are pending in the Gorton-Rockefeller substitute in fact are not fair; in fact they do allow for more loopholes to be created with the 25-employee limitation, they do create some other problems with regard to the establishment of punitive damages, they encourage more trials, and they encourage, I think, abuse of how punitive damages would be set.

We have tried to offer something that addresses all these problems in a fashion that truly represents a fair and just compromise. But we do need to ask our colleagues—who may be trying to figure out the situation as to where we are—ask them to vote against the cloture motion and allow us to come in with a compromise that I think for once and for all will settle this very, very difficult, very emotional set of issues that we have struggled with for so many days.

The alternative I will offer, and hope to be joined by a number of our colleagues, will be something that will give everybody an opportunity to say we made some reforms but we did it ultimately and finally in a fashion that is fair to everyone involved. With that, Mr. President, is there any time left on the leader time?

The PRESIDING OFFICER. Thirty seconds.

Mr. BREAUX. I will just reserve that 30 seconds in case the leader needs it.

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

The PRESIDING OFFICER (Mrs. HUTCHISON). Without objection, it is so ordered.

NRA'S FUNDRAISING LETTER

Mr. LEVIN. Madam President, recently, the National Rifle Association issued a widely circulated fundraising letter over the signature of Executive Vice President Wayne LaPierre and that letter is full of questionable overheated language. I wish to focus on one paragraph in particular. The letter states, and I am quoting exactly:

> In Clinton's administration, if you have a badge, you have the Government's go-ahead to harass, intimidate, and even murder law-abiding citizens.

Now, as if the force of the words "even murder" as applied here were not repugnant enough, the letter underlines the words "even murder."

This assertion that the U.S. law enforcement personnel have been authorized by President Clinton "to harass, intimidate, even murder law-abiding citizens" is without foundation, and it is an offensive outrage that should be condemned by members of the NRA and all other decent Americans.

On April 28, I wrote a letter to the president of the NRA, Mr. Tom Washington, asking that the statement be retracted. The statement is inflammatory; it is inappropriate. I do not think there is a single Member of this body who would stand in the Chamber of the Senate and speak such words, asserting that our President has authorized law enforcement personnel to murder law-abiding citizens. I do not believe the overwhelming majority of NRA members would countenance such language.

My letter to Mr. Washington asked, "Can you honestly justify your organization's characterization of law enforcement officials with such language, describing them as on a mission sanctioned by the Government to murder law-abiding citizens?"

Madam President, on May 3, I received a reply from Mr. Washington, and his letter says:

While I concede that some of the language in the NRA fundraising letter might have been rhetorically impassioned—as is most political direct mail—that in no way disparages the NRA, nor diminishes the seriousness of the alleged federal law enforcement abuses to which the letter refers.

The letter goes on to relate the history of the NRA's interest in the investigation of Federal law enforcement abuse. The letter concludes with the statement that "blaming the rhetoric, whether in a fundraising letter or anywhere else in political discourse, serves only to silence dissent and aggravate that distrust."

Well, Madam President, I have no interest in silencing dissent. I never have. There is nothing more American than the conscientious expression of dissent. There is no more sacred right guaranteed by our Constitution to all Americans than freedom of speech, and I will defend the NRA's right to say what it said. The point is that the reply that I have received from Mr. Washington did not answer the question that I asked. I asked Mr. Washington, "Can you honestly justify your organization's characterization of law enforcement officials with such language, describing them as on a mission sanctioned by the Government to murder law-abiding citizens?" The question was not answered.

I ask unanimous consent, Madam President, that the NRA letter written by Executive Vice President Wayne LaPierre and my letter of April 28 to Mr. Washington and Mr. Washington's letter of May 3 to me be printed in the CONGRESSIONAL RECORD.

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

U.S. SENATE,
Washington, DC, April 28, 1995.

Mr. TOM WASHINGTON,
President, National Rifle Association,
Lansing, MI.

DEAR TOM: Over the years we have agreed on some things, like protecting our Great Lakes, and disagreed on others, like the ban on assault weapons. But no matter what positions we have on assault weapons, I hope you will agree that the language of the NRA's recent fundraising letter over the signature of Executive Vice President Wayne LaPierre is highly inflammatory and totally inappropriate.

In one passage, Mr. LaPierre writes, "In Clinton's administration, if you have a badge, you have the government's go-ahead to harass, intimidate, even murder law-abiding citizens." Can you honestly justify your organization's characterization of law enforcement officials with such language, describing them as on mission sanctioned by the government to "murder law-abiding citizens"?

This is but one example of the inflammatory, hateful rhetoric in this letter. I will defend Mr. LaPierre's right to free speech, but the public also has a right to expect the NRA to retract hateful and inflammatory statements issued in its name. I urge the NRA to retract the LaPierre letter.

Thank you for giving this request your consideration.

Sincerely,

CARL LEVIN,
U.S. Senate.

NATIONAL RIFLE ASSOCIATION.

DEAR FELLOW AMERICAN: I've worn out a lot of shoe leather walking the halls of Congress. I've met key leaders, I've talked with old allies, I've met with the new Congressmen and many staff members.

What I'm hearing and seeing concerns me.

Many of our new Congressmen are ignoring America's 80 million gun owners. Some have forgotten what we did to elect them. Others say our demands to restore our Constitutional freedoms are politically out of line.

Don't get me wrong, not all of them are like this. Senator Phil Gramm, House Speaker Newt Gingrich, and Congressmen Bill McCollum, Bill Brewster and Harold Volkmer are all coming to our aid. But too many others are not.

And without a major show of force by America's 80 million gun owners, America will resume its long march down the road to gun bans, destruction of the Constitution and loss of every sacred freedom.

I want you to know I'm not looking for a fight.

But when you consider the facts of our current situation, you too, will see we have no other choice.

FACT #1: The Congress' leading anti-gunners, Senators Dianne Feinstein, Ted Kennedy and Congressmen Charles Schumer and Major Owens all survived their last elections.

They've pledged to fight to the bitter end for Brady II and its ammo taxes, licensing and registration schemes, gun rationing, bureaucrats with the power to determine if you "need" a gun and yes, the repeal of the Second Amendment.

It doesn't matter to them that the Brady Law is a failure.

It doesn't matter to them that the Brady Law has become one more tool that government agents are using to deny the Constitutional rights of law abiding citizens.

It doesn't matter to them that the semi-auto ban gives jack-booted government thugs more power to take away our Constitutional rights, break in our doors, seize our guns, destroy our property, and even injure or kill us.

Schumer, Feinstein, Kennedy, Owens and the rest of the anti-gunners want more and more gun control.

It can be something small and subtle like a regulation expanding the disqualification criteria for the Brady Law. They're fighting for anything that makes it harder for you to own a gun.

The gun banners simply don't like you. They don't trust you. They don't want you to own a gun. And they'll stop at nothing until they've forced you to turn over your guns to the government.

Fact No. 2: If the anti-gunners fail to achieve their goals in Congress, they have a fall-back position in Bill Clinton, the most anti-gun President in American history.

In two short years, Bill Clinton launched two successful attacks on the Constitution. He signed two gun control bills into law. He has sworn to veto any repeal of the semi-auto ban and any restoration of our Constitutional rights.

His Interior and Agriculture Departments have set their sights on closing hunting lands.

And his Environmental Protection Agency is attempting to take jurisdiction over existing uses of lead. This, of course, includes gun ranges and spent shot.

What's more, gun owners aren't the only ones Clinton's EPA has set its sights on. They're after fishermen, too. They want to BAN the use of small lead fishing sinkers and, of gravest concern, they want to stop the home casting of these sinkers.

If fishing sinkers are on the Clinton bureaucrat's list, you know what's next: lead shot, lead bullets, bullet casting and reloading.

Clinton's State Department is also adding to the attacks on gun owners and our Constitutional freedoms. In December, he signed the Summit of the America's agreements which pledges that the U.S. Government will push for additional gun control.

Over in the Justice Department, Clinton's Attorney General Janet Reno has signaled her intent to "squash" the states' rights movement an deny states their Constitutional power.

And worst of all,

Fact No. 3: President Clinton's army of anti-gun government agents continues to intimidate and harass law-abiding citizens.

In Clinton's administration, if you have a badge, you have the government's go-ahead to harass, intimidate, even murder law-abiding citizens.

Randy Weaver at Ruby Ridge . . . Waco and the Branch Davidians . . . Not too long ago, it was unthinkable for Federal agents wearing Nazi bucket helmets and black storm trooper uniforms to attack law-abiding citizens.

Not today, not with Clinton.

Our calls to investigate these outrageous assaults on our Constitutional freedoms are routinely silenced by the anti-gun media. But that's no surprise.

Fact No. 4: They've launched a new wave of brainwashing propaganda. . .

CBS, ABC, NBC, USA Today, Time, Newsweek and The New York Times have launched another round of phony polls and slanted stories to help the anti-gunners achieve their goals.

Their latest phony poll shows 70% of America support the "semi-auto" assault weapon ban.

That's simply not true. When it's explained that "semi-autos" are used in less than a fraction of one percent of crimes; that the ban only affects the law-abiding; and, that the ban is only one more way to deny Constitutional rights to the law-abiding, support for the ban drops to 30%.

But the media still uses this 70% statistic to trumpet the call for gun control.

What scares me the most about this 70% number is that the media has brainwashed 70% of Americans into believing that the government—and not each individual—is responsible for their personal protection.

Even worse, this 70% number means that there are enough people who can be brainwashed by the media to vote for a repeal of the Second Amendment if it were put to a vote.

The media, Clinton, the anti-gunners in Congress . . . This combination is a powder key that could blow at any moment and it's set squarely underneath the Constitution.

And what this means is:

FACT #5: Congress must be forced to restore the Constitution, repeal the gun bans, investigate abuse by government agents and focus the public debate on criminal control, not gun control . . .

. . . Or what we're seeing now will only be a momentary patch of sunshine on the road to doom for the Second Amendment and our Constitution.

There is hope, though. Despite the current situation, I'm encouraged by you and your fellow NRA members.

Everywhere I go, to every gun show, every NRA-ILA grassroots operation, every Friends of NRA Dinner, even in cabs and airports around the country, I run into NRA members who understand the stakes and stand ready to fight.

The question I hear from almost every one of these NRA members is the same: "What can I do next?"

If you're one of those members, I want to thank you for your courage, your conviction and your spirit. You keep me going. You keep me on the road. You give me strength to lead the battle.

And if you want to join me in taking the next step, I need you to do these two things today.

First, I need you to sign the enclosed Petitions to the United States Congress.

These petitions are addressed to the leaders of the U.S. Congress, Senator Robert Dole and Speaker Newt Gingrich, and your U.S. Senators Daniel Patrick Moynihan, Alfonse M. D'Amato and Congresswoman Sue Kelly.

Please be sure to sign all five petitions, then fold them and place them in the enclosed, postage-paid envelope addressed to me at NRA Headquarters.

These petitions spell out, in black and white, our agenda of repeal, reform, investigate and limit government power.

In the first amendment of the Bill of Rights, we are guaranteed the right to "petition our Government for a redress of grievances."

And that's exactly what we're going to do: redress our grievances in the biggest and most powerful display of political clout and commitment to the Constitution.

I want to personally deliver your five petitions, and the petitions of all 3.5 million of your fellow NRA members—17.5 million petitions in all—to Congress.

And I want to show the leadership in Congress, and your Senators and Congressmen from New York, that the number one priority in their Contract with America must be defending and restoring our Constitutional freedoms.

17.5 million Petitions to Congress is the largest "redress of grievances" since the Constitution and the Bill of Rights were written.

So I KNOW Congress will get the message. And I know they'll act on our agenda of Repeal, Reform and Investigate if only you and I speak out.

Your Petitions to Congress also sends another message—a message not spelled out on the Petitions themselves.

Each Congressman, on the average, will receive 8,000 Petitions from NRA members demanding action. 8,000 messages from angry voters sounds an alarm in every Congressman's head.

You see, most Congressional elections were won or lost by 5,000 votes or less. So, they'll realize that failing to defend the Second Amendment and failing to retake the Constitutional freedoms lost to the anti-gunners, could result in big losses at the next election!

That's why it's critical you take a few minutes to sign your Petitions to Congress and return them to me as soon as possible.

These petitions are our D-Day.

Armed with these petitions and our First Amendment rights, we are going to storm Congress, knock out anti-gunner strongholds and recapture every bit of ground we lost since Bill Clinton took office.

And if we're successful, these petitions will be the turning point in the history of the Constitution . . . A day when our sacred right to keep and bear arms will be secure for the next generation of law-abiding Americans.

Second, when you return your signed Petitions to Congress, I need you to make a special contribution to the NRA of $15, $20, $25, $35, $50 or the most generous amount you can afford.

Most Americans don't realize that our freedoms are slowly slipping away.

They don't understand that politicians and bureaucrats are chipping away at the American way of life.

They're destroying business, destroying our economy, destroying property rights, destroying our moral foundation, destroying our schools, destroying our culture . . . Destroying our Constitution.

And the attack, either through legislation or regulation, on the Second Amendment is only the first in a long campaign to destroy the freedoms at the core of American life.

You can see it in the gun bans, certainly. But you can also see it in closed ranges, closed hunting lands, confiscated collectors' firearms, banned magazines and ammunition taxes.

You can see it when jack-booted government thugs, wearing black, armed to the teeth, break down a door, open fire with an automatic weapon, and kill or maim law-abiding citizens.

America's gun owners will only be the first to lose their freedoms.

If we lose the right to keep and bear arms, then the right to free speech, free practice of religion, and every other freedom in the Bill of Rights are sure to follow.

I am one American who is not going to sit on the sidelines and watch this happen.

And if you want to help me stop this destruction of the Constitution, then I hope you can make that special contribution of $15, $20, $25, $35 or $50 to the NRA today.

With your special contribution, I'll have the financial ammo I need to keep Congress focused on the mission we've assigned them.

First, with your help, I will expand out petition campaign to involve as many of America's 80 million gun owners as possible.

If we can double the number of Petitions flooding Congress, we'll double the speed Congress deals with our demands to repeal, reform and investigate. And with double the show of clout, we'll wipe out anti-gunner opposition.

Second, with your special contribution, I can increase the NRA's public exposure on talk shows, at rallies and shows, in radio and T.V. advertising and through broadcasts like the NRA's Town Meeting that first sounded our alarm in 16 million households, last summer.

Part of our problem is that far too few Americans understand what's at stake in these battles.

My ultimate goal is to educate the American people that this issue is not just about guns, not just about hunting, not just about personal protection; this issue is about freedom—your freedom.

I want to use the power of T.V. and radio to show the American people that, if the NRA fails to restore our Second Amendment freedoms, the attacks will begin on freedom of religion, freedom of speech, freedom from unreasonable search and seizure. . .

And that unless we take action today, the long slide down the slippery slope will only continue until there's no freedom left in America at all.

I know you see it. The elbow room you have to hunt, shoot and live life the way you see fit is slowly disappearing.

And the truth is, NRA members have been hardened by legislative battles. And only NRA members have the courage, the conviction to draw the line in the sand.

That's why I'm hoping you can take a few moments to sign and date the enclosed petitions and return them to me with your special contribution of $15, $20, $25, $35, $50 or more in the enclosed postage-paid envelope today. Or, you can charge by phone by calling 800-547-4NRA today.

You know, besides going shooting, I love to go to football games. And every time I go, I always hear my fellow fans talk about the impact of "the 12th man."

The 11 players calling the plays and doing the hitting get a lot of their motivation from the 12th man in the stands. I'm talking about the crowd who cheers wildly when our team is on offense, and drowns out the signals of the opposing team when they're on the defense.

I need you to be that 12th man.

I need you to sign your petitions to Congress and return them to me today. That simple act will give our allies the political courage to do what's right, to push ahead with our agenda of Repeal, Reform, and Investigate.

Likewise, your signed petitions to Congress will confuse and demoralize the anti-gun team and their agenda of bans, taxes, intimidation, harassment and destruction of the Constitution.

I know I've said what I'm about to say before. But this is a message that resonates with NRA members across the land. It's something I hope you, too, will say whenever you have the occasion to defend our Constitutional freedoms.

This, the battle we're fighting today, is a battle to retake the most precious, most sacred ground on earth. This is a battle for freedom.

Please tell me you're ready to take the next step by returning your signed petitions to Congress and special gift to me in the enclosed postage-paid envelope today.

Thank you, I look forward to hearing from you soon.

Yours in Freedom,

WAYNE LAPIERRE,
Executive Vice President.

P.S. As a special thank you for making a special contribution of $25 or more, I'd like to send you a copy of my national best-selling book, Guns, Crime, and Freedom. Guns, Crime, and Freedom is 263 pages of truth about guns, gun control, gun owners, the anti-gun media and what's happening to our freedoms.

I hope you'll read it and use it in your own personal campaign in New York to defend the Constitution. Use Guns, Crime, and Freedom to help you keep the pressure on Congress, write letters to the editor and teach other Americans about the battle we're fighting today. Thanks again for your support and friendship.

NATIONAL RIFLE
ASSOCIATION OF AMERICA,
Fairfax, VA, May 3, 1995.

Hon. CARL LEVIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEVIN: While I concede that some of the language in the NRA fundraising letter you refer to might have been rhetorically impassioned—as is most political direct mail—that in no way disparages the NRA, nor diminishes the seriousness of the alleged federal law enforcement abuses to which the letter refers. And it is certainly in no way related to the terrorist bombing in Oklahoma City.

You asked if we can "honestly justify" rhetoric decrying such abuses of federal power. That's what we want to find out. In January 1994, the American Civil Liberties Union, the National Rifle Association and others wrote to President Clinton, petitioning him to appoint a commission to investigate 25 documented cases of alleged federal law enforcement abuse. Our request was ignored. So again in January 1995, the ACLU, NRA and others petitioned the President. All we ask is a full, fair and open examination the facts—a request that, so far, has been denied.

This isn't just some petty gripe against the enforcement of anti-gun laws by the Bureau of Alcohol, Tobacco and Firearms. On the contrary, the inquiry we requested was to focus on all 53 federal law enforcement agencies, and on charges ranging from the denial of basic civil rights, to the confiscation and destruction of property, to the improper use of deadly force against unarmed civilians.

I agree, senator, that the partisan posturing and political exploitation of the Oklahoma City tragedy is reprehensible and should stop. But before you condemn NRA's criticism of federal law enforcement abuses as "totally inappropriate," I urge you to help us find out if it really is.

Let's get all the facts out on the table regarding these cases. If the accusations against federal law enforcement are baseless, let's expose them as such and vindicate the officers accused. If, on the other hand, particular officers are operating outside the rule of law, let's find them, remove them and prosecute them for the good of the whole. Whatever the case, let's put the grievances to rest once and for all.

Doing so, I believe, could help reverse the public's documented and growing distrust of federal power. Blaming the rhetoric—whether in a fundraising letter or anywhere else in political discourse—serves only to silence dissent and aggravate that distrust.

Sincerely yours,

THOMAS L. WASHINGTON,
President,
National Rifle Association of America.

Mr. LEVIN. Madam President, I will defend LaPierre's, Mr. Washington's, and the NRA's right to free speech, but I continue to hope that the membership of the NRA and the American public will demand that this patently false statement that the President has authorized the murder of law-abiding citizens be retracted. There is a crucial difference between what someone has a right to say and what it is right to say. This statement in the NRA letter is wrong. It deserves to be condemned, and it should be withdrawn.

Madam President, I believe I have an allotted amount of morning business time, and if so I would yield 3 minutes to my friend from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 3 minutes.

Mr. CHAFEE. I thank the Chair. I thank the distinguished senior Senator from Michigan for giving me a few minutes.

Madam President, I believe the tactics used by Mr. LaPierre in his recent fundraising letter for the National Rifle Association are just plain wrong. This letter does not contribute to any informed debate. Instead, it is inaccurate and irrational. It borders on the hysterical. And this kind of hysteria only encourages paranoia, which we certainly do not need at this time in our Nation.

Madam President, I know that the Senator from Michigan has touched on some of the quotes from the letter, but I would just like to mention a few that stand out. Here is one paragraph from the letter:

> It doesn't matter to them that the semi-auto ban gives jack-booted government thugs more power to take away our Constitutional rights, break in our doors, seize our guns, destroy our property, and even injure or kill us.

This is another paragraph:

> In Clinton's administration, if you have a badge, you have the government's go-ahead to harass, intimidate, even murder law-abiding citizens. Not too long ago, it was unthinkable for Federal agents wearing nazi bucket helmets and black storm trooper uniforms to attack law-abiding citizens.

And another:

> They've launched a new wave of brainwashing propaganda aimed at further destroying our Constitutional freedoms.

And on it goes, Madam President.

Now, Madam President, the apocalypse described in this fundraising letter is not familiar to me. The Government described in these pages is not familiar to me. This is not a description of reality. It is a description of terror designed for one purpose: to provoke a visceral reaction against the U.S. Government—and at the end of the day, to raise money.

There are many powerful and ugly words used in this letter. They are insulting to American law enforcement and to American citizens. Why does Mr. LaPierre use them? I suppose in order to tap into the rage that some feel against the U.S. Government, to feed that rage, and to use that rage to gain donations.

In various interviews, Mr. LaPierre has acknowledged the NRA letter went too far. I believe it behooves him and the leadership of the NRA to apologize to the men and women in Federal law enforcement and to the American people for this letter's rhetoric, and to refrain from this kind of inflammatory prose in the future.

I thank the distinguished Senator from Michigan for giving me a few minutes.

Mr. LEVIN. I thank the Senator from Rhode Island for his comments on this letter.

Madam President, on another matter, we have a bill pending before us which I would like to briefly address as part of my time.

THE PRODUCT LIABILITY FAIRNESS ACT

Mr. LEVIN. Madam President, the bill that we will be voting on later this morning is called the Product Liability Fairness Act of 1995. One of the arguments for it is that we need uniformity in a tort system. As a matter of fact, Madam President, the bill is carefully structured to authorize States to diverge from these standards in order to provide more favorable treatment to defendants than the bill provides, but the bill prohibits States from providing more favorable treatment to plaintiffs.

In other words, this bill does not provide us with uniformity. When we look down the provisions in the bill, we will see in a moment that the bill does not assure that there will be a uniform application of these provisions to all plaintiffs and all defendants. The bill prohibits a State law attempting to provide more favorable treatment to those who have been injured, but it allows State laws that are more favorable to those who allegedly cause the injury.

Now there is a reasonable argument for uniformity in product liability law, since many products are sold across State lines. But, this bill does not provide that uniformity. States can be more restrictive than the so-called national standards in the bill. A patchwork of State laws is still permitted, provided that the divergences are in the direction of greater restriction on the injured party.

For instance, the bill contains a so-called statute of repose barring any product liability action against a manufacturer of a product that is more than 20 years old. This provision prohibits States from providing a longer period for those who are injured. But the bill expressly authorizes States to adopt a shorter and more restrictive period in order to benefit defendants.

Similarly, the bill contains standards for the imposition of punitive damages, but the provision by its own terms only applies to the extent that punitive damages are permitted by State law. The committee report states that:

> It is not the committee's intention that this act preempt State legislation or any other rule of State law that provides for defenses or places limitations on the amount of damages that may be recovered.

In other words, if a State has more lenient standards for the award of punitive damages, the bill overrides those standards—States cannot do that—but if a State has more restrictive standards, lower caps, additional limitations, or even bars punitive damages altogether, that is allowed by this bill.

While I am on the topic of punitive damages, I would like to point out that the so-called fix adopted by the Gorton-Rockefeller substitute is, in fact, no fix at all. Punitive damages would be capped under the substitute as they are capped by the underlying bill. The substitute limits the punitive damages that maybe awarded by a jury at two times compensatory damages, or $250,000, whichever is greater. The substitute then purports to authorize judges to increase punitive damages in cases where a jury award is "insufficient to punish the egregious conduct of the defendant."

But, Madam President, the authority under this substitute we will be voting on, which is given to the judge, is an illusion. Because if the defendant objects to the increased damages, he or she is entitled to a new trial on the subject of punitive damages. Judgment is not entered on liability or damages until the completion of the new trial. So the plaintiff cannot get a dime until after the new trial is completed.

Nothing in the substitute indicates that the judge's decision to increase the punitive damages award may be considered at this new trial. Nothing in the substitute indicates that the caps on punitive damages would be waived at the new trial. So it even appears that the same old caps may apply.

Under these circumstances, what defendant would not insist on a new trial on punitive damages? And what plaintiff would be willing to forego all compensatory damages while awaiting a new trial on the subject of punitive damages?

Those of my colleagues who favor punitive damage caps should feel very comfortable indeed voting for cloture on this substitute. But those who oppose caps should be forewarned. The caps in this substitute are every bit as real as the caps in the underlying bill.

Back to the uniformity issue. These are one-way limits.

This chart shows which State laws would be prohibited and which would be allowed. Categories of State laws that would be prohibited are shown in red. Categories of State laws that would be allowed are shown in green. In the left-hand column, we see that every single type of State law that would be more favorable to the injured party is prohibited. Every State law that would vary from the so-called standard in order to benefit a plaintiff in any of the areas covered by this bill is prohibited by the bill; it is preempted. But in the right-hand column, we see that, with one exception, State law provisions that are more favorable to defendants are allowed.

We have heard a lot of talk about the need for national standards for product liability. But what this chart shows is that where the bill provides true national standards, it is only where plaintiffs are prohibited from gaining the benefit of any State law that varies from the so-called standard. But with one exception, State laws are allowed to vary from the so-called standard and to have more restrictive rules that benefit the defendant.

These are not national standards. These are one-way rules that limit only plaintiffs, and if defendants are able to get more restrictive laws passed by the States, they will not restrict defendants.

Let us look at one example of how this one-way preemption provision would work. The bill would override State laws that provide joint and several liability for noneconomic damages. Joint and several liability is the doctrine under which any one defendant may be held responsible for 100 percent of the damages in a case, even if other wrongdoers also contributed to the injury.

The sponsors of this bill, and this amendment, have pointed out that there are problems with joint and several liability. In some cases, a defendant who has only a marginal role in causing the damage ends up holding the bag for all of the damages. That does not seem fair.

On the other hand, there are good reasons for the doctrine of joint and several liability. Cause and effect often cannot be assigned on a percentage basis with accuracy. There may be many causes of an event, the absence of any one of which would have prevented the event from occurring. Because the injury would not have occurred without each of these so-called but-for causes, each is, in a very real sense, 100 percent responsible for the resulting injury.

This bill, however, does not recognize that in the real world, multiple wrongdoers may each be a cause of the same injury. It insists that responsibility be portioned out, with damages divided up into pieces, and the liability of each defendant limited to a single piece. Under this approach, the more causes the event can be attributed to, the less each defendant will have to pay.

Unless the person who has been injured can successfully sue all parties who contributed to the injury, he or she will not be compensated for his entire loss. The real world result is that most plaintiffs will not be made whole, even if they manage to overcome the burdens of our legal system and prevail in court. Would it not be more fair to say that the wrongdoers, each of whom caused the injury, should bear the risk that one or more of them might not be able to pay its share than it is for the injured party to be only partially compensated for his or her loss?

The bill before us completely ignores the complexity of this issue with its one-way approach to Federal preemption. States which are more favorable to defendants are allowed to retain their laws. But State laws that try to reach a balanced approach between plaintiffs and defendants would be preempted.

Roughly half the States choose to protect the injured party through the doctrine of joint and several liability. Another half dozen States have adopted creative approaches to joint and several liability, seeking to balance the rights of plaintiffs and defendants.

Let me give you a few examples.

Louisiana law provides joint and several liability only to the extent necessary for the plaintiff to recover 50 percent of damages; there is no joint and several liability at all in cases where the plaintiff's contributory fault was greater than the defendant's fault.

Mississippi law provides joint and several liability only to the extent necessary for the plaintiff to recover 50 percent of damages, and for any defendant who actively took part in the wrongdoing.

New Jersey law provides joint and several liability in the case of defendants who are 60 percent or more responsible for the harm; joint and several liability for economic loss only in the case of defendants who are 20 to 60 percent responsible; and no joint and several liability at all for defendants who are less than 20 percent responsible.

New York law provides joint and several liability for defendants who are more than 50 percent responsible for the harm; joint and several liability is limited to economic loss in the case of defendants who are less than 50 percent responsible.

South Dakota law provides that a defendant that is less than 50 percent responsible for the harm caused to the claimant may not be liable for more than twice the percentage of fault assigned to it.

Texas law provides joint and several liability only for defendants who are more than 20 percent responsible for the harm caused to the claimant.

All of these State laws are efforts to address a complex problem in a balanced manner, with full recognition of factors unique to the State. Because they are all more favorable to the injured party than the approach adopted in this bill, however, they would all be prohibited.

Perhaps this is one reason why the National Conference of State Legislatures opposes this bill. As the NCSL explains:

> Tort law traditionally has been a state responsibility, and the imposition of federal products standards into the complex context of state tort law would create confusion in state courts. Without imposing one-size-fits-all federal standards, states may act on their own initiative to reform product liability law in ways that are tailored to meet their particular needs and that fit into the context of existing state law.
>
> The proponents of S. 565 want Washington to dictate the legal standards and evidentiary rules that fifty state court systems

use to adjudicate injury disputes involving allegedly defective products. There is no precedent for such congressional imposition of federal rules by which state courts will be forced to decide civil disputes.

For NCSL, the question is not which tort reforms are appropriate, but who makes that decision. The issue is who has responsibility for state civil justice. This is a federalism issue of major consequence. It should not be ignored.

Madam President, what kind of national standard is it that prohibits State laws only when they are more favorable to plaintiffs than Federal law and not when they vary from Federal law to favor defendants? What kind of fairness bill is it that contains such a blatant double standard?

Madam President, the bill before us is called the Product Liability Fairness Act of 1995. If you read the title, it sounds pretty good. Who could be against bringing greater fairness to our product liability system, or to our legal system in general?

There is a list of problems in our legal system that we could all go through. Going to court takes too much time and it costs too much money. There are many stories of plaintiffs winning what seem like absurdly high verdicts or, on the other hand, being denied a day in court by defendants with deep pockets who engage in such hard-ball tactics as investigations into the private lives of plaintiffs, grueling depositions, unreasonable requests for medical and psychological histories of plaintiffs, and multiple motions to dismiss.

As Senator GORTON, one of the lead authors of the bill before us, explained at the outset of this debate:

[T]he victims of this system are very often the claimants, the plaintiffs themselves, who suffer by the actual negligence of a product manufacturer, and frequently are unable to afford to undertake the high cost of legal fees over an extended period of time. Frequently, they are forced into settlements that are inadequate because they lack resources to pay for their immediate needs, their medical and rehabilitation expenses, their actual out-of-pocket costs.

In 1989, a General Accounting Office study found that on average, cases take 2½ to 3 years to be resolved, and even longer when there is an appeal. One case studied by the GAO took 9½ years to move through our court system. In one of many hearings held on this issue over the years, University of Virginia law professor Jeffrey O'Connell explained, and I quote him: "If you are badly injured in our society by a product and you go to the highly skilled lawyer, in all honesty the lawyer cannot tell you what you will be paid, when you will be paid or, indeed, if you will be paid."

Senator GORTON concluded his thought as follows:

Uncertainty in the present system is a reason for change. Plaintiffs, those injured by faulty products, need quicker, more certain recovery—recovery that fully compensates them for their genuine losses. Defendants, those who produced the products, need greater certainty as to the scope of their liability.

I agree with Senator GORTON that there is unfairness in our current legal system. There is unfairness to defendants in some cases, and there is unfairness to plaintiffs. However, this bill does not address the problems faced by plaintiffs at all. There is virtually nothing in this bill to assist those who have been hurt by defective products and face the difficult burdens of trying to recover damages through our legal system.

For instance, this bill does nothing to address the hardball litigation tactics used by some defendants in product liability cases, such as excessive investigations, depositions, and motions practice that often mars such litigation. It does nothing to help bring to public light documents revealing defendants' knowledge of product defects, or to shorten the time required to litigate these cases and obtain relief.

Instead this bill would limit the money that can be recovered by plaintiffs who manage to navigate the hazards of our legal system and provide in court that they were hurt by defective products. The bill contains any number of provisions addressing compensation to plaintiffs which is too high, but not a single provision addressing the cases in which, as the sponsors themselves acknowledge, compensation is too low.

This bill is not balanced, it is not uniform, and I cannot support it.

Madam President, if I have any additional time remaining, I will be happy to yield to the Senator from Alabama.

Mr. HEFLIN. Madam President, I only want to speak briefly right now relative to this matter. I think the Senator from Michigan has covered the issue on additur very adequately.

In the case of Dimick versus Schiedt, a 1935 Supreme Court case, the High Court ruled that the district court lacked the power to deny a plaintiff a new trial, sought on the ground that the jury award of damages was too low, when the trial court judge proposed to increase the damages and the defendant had consented in order to avoid a new trial. The Supreme Court held that the power to increase a damage award, known as an additur, was a violation of the right of trial by jury. According to the Court, the amount of damages must be determined by juries, not judges, in the Federal court, subject to the right of courts to set aside jury awards that are clearly excessive. Some State courts have held that additur violates their State's constitution as well.

That is the major point that I want to make on this issue. Senator LEVIN mentioned this matter pertaining to the lack of uniformity.

I want to also point out that all State courts under the bill and the substitute—any of the substitutes—are to accept as binding precedents in the construing act, the decision of a Federal court of appeals covering this mandate.

This mandate, in my judgment, is clearly unconstitutional and contrary to article III of section 1 of the Constitution, which provides that the judicial power of the United States shall be vested in one Supreme Court, which has always been construed to mean that State courts must follow the decisions of the Supreme Court and not the lower Federal courts.

With the addition of the punitive damage additur provision in the substitute, there is an expansion by Congress of an extraordinary nature to encroach on the power of the State courts. Rules concerning the use of additur and remittitur have always been left to the State courts, as have also every other State rule of civil procedure.

I just wanted to mention that. I think there are others who are desiring to speak. I yield the floor at this time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Pennsylvania is recognized to speak up to 10 minutes.

Mr. GLENN. Parliamentary inquiry. Is there a 5-minute limit on speeches this morning?

The PRESIDING OFFICER. Under the previous order, the Senator from Pennsylvania has been allocated 10 minutes to speak, after which there is a 10:30 a.m. vote.

Mr. GLENN. I thank the Chair.

Mr. SANTORUM. Madam President, I yield 5 minutes of my time to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

STOP THE DEMAGOGING

Mr. INHOFE. Madam President, I thank the Senator from Pennsylvania for yielding a portion of his time. I do not think I will take the 5 minutes.

After the trauma and the tragedy that we have gone through in Oklahoma, it has diverted our attention from many of the other significant things that are taking place in this body. I think the most significant thing, second only to that tragedy in Oklahoma, is the tragedy, the revelation that was recently discovered of what is going to happen to Medicare in America and the demagoging that is taking place in this and other bodies concerning that trauma.

Specifically, a report was released by the Medicare trustees that has come to the incontrovertible conclusion that our Medicare system, in absence of change, is going to go broke in the year 2002, approximately 6½ years from now.

I think it is important to look and see who was it who looked at the data, who studied the actuarial reports and came to that conclusion.

There are six members of the Board of Trustees of Medicare. They are Robert Rubin, the Secretary of the Treasury, who was appointed by President

Clinton; Robert Reich, Secretary of Labor, appointed by President Clinton; Donna Shalala, Secretary of HHS, appointed by President Clinton; Shirley Carter, Commissioner of Social Security, appointed by President Clinton; and Stanford Ross and David Walker.

Four of the six members are appointments and work in the Clinton administration, and they have come up with the conclusion that Medicare will, in fact, go broke in the year 2002. I think we know the reasons for it, and I will not get into that.

Quoting from the report, it says, Medicare is "severely out of financial balance and the trustees believe that Congress must take timely action to establish long-term financial stability for the program. The trustees believe that prompt, effective and decisive action is necessary."

Madam President, these are the trustees that were appointed by President Clinton, and what has happened since that time? Absolutely nothing. We have not heard one word out of the Clinton administration. We hear a lot of people criticizing Republicans because we want to do something to save a system, and they come up and say, "The Republicans are suggesting that they are going to cut Medicare in order to pass a tax reduction." Nothing could be further from the truth, and that certainly is not true. But for the President to do nothing in facing this crisis is something that cannot be tolerated.

The proposal that has been discussed by the Budget Committee chairman, Senator DOMENICI from New Mexico, has suggested that we put caps on the system, somewhere around 7 to 7.5 percent growth caps. In other words, the Republican budget is suggesting not that we have cuts in Medicare, but that we have increases in Medicare, but those increases will be capped somewhere between 7 and 7.5 percent, at an amount that has been actuarially determined that we will now have Medicare and it will not go bankrupt in the year 2002.

Right now, Madam President, we have some 36 million people on Medicare. It is projected by the time 2002 comes, we will have something like 50 million Americans, 20 percent of all Americans, including myself, will be eligible for Medicare at that time.

So I only say, it is time to stop the demagoging. We have a very serious problem on our hands. I believe the Republicans have a solution to that problem, but we should be getting some leadership from the White House at this time. This is not something with which we should be playing politics.

I yield back to the Senator from Pennsylvania.

A CRISIS IN MEDICARE

Mr. SANTORUM. Madam President, I thank the Senator from Oklahoma for his comments. I wholeheartedly agree with him. I think this is a question of leadership, what kind of leadership we are going to see not only out of the White House but out of the U.S. Senate.

I think the rhetoric to date has not served this institution well. There is, indeed, a crisis in Medicare. I know there are a lot of folks on the other side of the aisle who are saying we knew about this crisis, you folks denied there was a health care crisis. We are not talking about a health care crisis, we are talking about a Medicare crisis. We are talking about a trust fund problem that says there is not enough money in the trust fund to be able to fund Medicare past a 7-year window. That is immediate, that is real, and that is something that we have to deal with, and I believe we will only deal with if we do so in a bipartisan way.

If this becomes a partisan issue where one seeks to take political gain at the expense of doing something that is responsible action, we will not succeed and the trust fund will continue to go further and further to the brink of insolvency, and we will be left with not a lot of options but very dramatic choices that are going to affect a lot of taxpayers and a lot of seniors and the availability of Medicare benefits into the future.

The other comment I keep hearing is, "Well, this crisis has been around a long time and we have known. This is not the first trustees report that has been published that says Medicare is in trouble and will go bankrupt in a few years."

That is true. In fact, over the last 10, 15 years, the average solvency of the Medicare trust fund has been about 12 years. Now it is at 7, which is I think a low. That is the shortest timeframe that we have seen recently where Medicare is in trouble and scheduled to go bankrupt. So it is important, but we are usually running around 12, 14 years as the average.

So why the big hullabaloo now? The reason for that is, once we get through the next 12 years or so, to the year 2010, we can do that pretty well by doing a fix. Senator DOMENICI's budget calls for roughly $250 billion in reductions in the growth rate of Medicare over the next 7 years. That will fix Medicare, again, to make it solvent for about 12 years from now, which will be about average of where the fund has been.

The problem with that is not the 12 years, it is what happens in the 13th, 14th, 15th year and beyond, because after 12 years from now or 13 years from now that is when the baby boomers begin to retire and that is when Medicare really takes off.

Spending in Medicare just goes up astronomically once the baby boomers and that big chunk of the population starts getting into this program. So when we look at Medicare funding now, we have to look at it with a whole new ball game in mind. We have to preserve the long-term funding and solvency of this program through a period where we are going to see a rapid escalation, not in the cost of Medicare and inflation, but in the number of people in the program.

So when we look at Medicare now, and I hope we will have this informed discussion, that we will look at it over the long term recognizing that Medicare costs, just by demographic reasons, are going to escalate beyond what we have ever seen before in the history of the Medicare program.

So I am hoping we can have this kind of constructive dialog and we will not use brinkmanship for political gain, that we will have a good, bipartisan solution to the problem that faces this country.

I yield the floor.

TRIBUTE TO THE NORTH DAKOTA STATE UNIVERSITY WOMEN'S BASKETBALL TEAM

Mr. DORGAN. Madam President, I want to take some time today to belatedly honor the North Dakota State University women's basketball team. Outside of North Dakota, most people probably don't know that this team won the NCAA division II national championship. Not only did they win it this year, but the Bison women have won this honor for 3 straight years. I think they deserve some national recognition.

The NDSU women had the additional honor of being the first ever division II women's team to make it through a season undefeated. This remarkable team ended its season 32–0, and they did it by focusing on one game at a time.

I think we can all learn some important lessons about life by watching these champions—about perseverance, about working together and helping each other, about being a good sport.

I want to congratulate each of these women for the year of hard work that culminated in their ultimate victory: seniors Linda Davis and Lynette Mund who provided experience and leadership, juniors LaShalle Boehm, Jessica DeRemer, Jenni Rademacher, and Lori Roufs; sophomore Kasey Morlock, who was the most valuable player of the tournament, and her fellow sophomores Rhoda Birch and Andrea Kelly; and freshmen Tanya Fischer, Erica Lyseng, Amy Ornell, and Rachael Otto.

These women are even more special because they will not be making millions of dollars playing in the NBA when they graduate. They are playing basketball because they love the game, and in the process they are serving as good role models for many young girls who need active, successful young women to look up to.

A lot of the credit for the success of the NDSU program rests with Head Coach Amy Ruley. She has led the Bison to four championships in the last five seasons. In fact, she is doing such a good job that the University of Illinois and Long Beach State—two division I schools—both wanted her for their programs, but I was glad to hear recently that she has decided to stay with us in North Dakota.

We also can not overlook the assistant coaches, Kelli Layman and Kathy Wall; student assistant Darci Steere; volunteer assistant Robin Kelly; student trainer Nikki Germann; and student manager Mary Schueller. Their work behind the scenes plays an important role in the team's success.

We in North Dakota have a lot to look forward to from the NDSU women's program in the future. All but the two seniors will be returning, and this team knows what it feels like to win. For now, though, we can just savor the feeling of having national champions in our midst.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Madam President, the skyrocketing Federal debt—which long ago soared into the stratosphere—is in a category somewhat like the weather—everybody talks about it but almost nobody had undertaken the responsibility of trying to do anything about it until immediately following the elections last November.

When the 104th Congress convened in January, the U.S. House of Representatives approved a balanced budget amendment. In the Senate only one of the Senate's 54 Republicans opposed the balanced budget amendment; only 13 Democrats supported it. Thus, the balanced budget amendment failed by just one vote. There will be another vote later this year or next year.

As of the close of business yesterday, Monday, May 8, the Federal debt stood—down to the penny—at exactly $4,856,502,980,514.90 or $18,435.37 for every man, woman, and child on a per capita basis.

YOUNG AMERICA

Mr. COHEN. Madam President, I rise today to pay tribute to the captain and crew of *Young America*, which as many of my colleagues know, is the yacht that came very close to winning the Defenders' series of the America's Cup competition on April 26.

Young America, owned by the Maine-based PACT '95 syndicate and originating out of my hometown of Bangor, was very strong in the competition but was beaten in the finals by America's Cup veterans and past victor, Dennis Conner and his boat, *Stars & Stripes*.

While *Young America's* captain, Kevin Mahaney, did not have Dennis Conner's experience, he sailed boldly and impressively and displayed the kind of leadership and perseverance for which Mainers are renowned. Kevin had captured the silver medal in sailing at the 1992 Olympics, but it was his first America's Cup competition. He and his crew sailed with excellence throughout the competition.

Last summer, before Kevin even had a boat to compete in, he started to assemble a crew with John Marshall, head of the PACT '95 syndicate. Marshall was an experienced sailor and former crew mate of Dennis Conner in past America's Cup bids. Even so, many people on the sailing circuit did not assign much credibility to their efforts and saw little threat from their entry. However, Mahaney and Marshall and the crew they assembled soon made yachting enthusiasts begin to take notice of the boat from Bangor.

This is not to say that *Young America* encountered smooth waters during its assent to the top ranks of yachting. Mahaney had to rely heavily on the tenacious crew that he assembled to overcome obstacles and make it as far as they did.

Young America's bid for the cup was threatened last January when a tornado ripped through the compound where it was stored, causing extensive damage to the boat. In March, bad luck struck again when *Young America* suffered significant structural damage while being towed through heavy waves. This damage was particularly ill-timed, and the crew had to rush to make repairs in the final days before the Defender semifinals. John Marshall saw the silver lining in these clouds and commented that the times of hardship were when the crew really came together as a team.

Ironically, the crew that worked so hard to bring *Young America* to the forefront of the yachting world had the bittersweet experience of now seeing their boat compete against New Zealand in the America's Cup finals without them aboard. Shortly after his victory, Dennis Conner, full of admiration for Mahaney's triumphs, asked John Marshall if he and his crew could sail *Young America* in the final competition. Diplomatic to the last, Marshall honored his request. He said that both the crews from *Stars & Stripes* and *Young America* will emerge as victors if the Americans beat New Zealand.

The quiet but determined efforts of Kevin Mahaney and his crew justifiably make Mainers proud. While they are not manning the boat that is competing against the New Zealand vessel this week, everyone's mind will be on the come-from-behind boat known as *Young America*.

RECOGNIZING BILLINGS, MT, POSTAL SERVICE

Mr. BAUCUS. Madam President, today I would like to recognize the outstanding achievement of the Postal Service in Billings, MT. As is the case most of the time, we know how to do it right in Montana.

Billings' delivery of overnight first-class mail is first in the Nation, No. 1. The lucky residents of Billings received their mail 94 percent on time, the country's highest performance level this year. The score also ties for the highest mark achieved by any city since the measurement began. In an era when public and private mail volume continues to increase, I am proud of the ability of the Billings Postal Service to rise above the rest and top the Nation.

I would like to congratulate and thank everyone involved in the mail process in Billings for serving Montana and our Nation with such capability.

PROTECTING MEDICARE

Mr. BAUCUS. Madam President, yesterday before the Senate Finance Committee I spoke about the importance of the Medicare Program to Montanans. I would like to take this opportunity to share those comments with the entire Senate.

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

Mr. Chairman, here in Washington, people often lose the forest for the trees. I'm afraid we may be doing just that on Medicare. So I hope we can begin by remembering what life was like for older Americans before Medicare.

The fact is, before we created Medicare, our senior citizens lived in fear.

Everyone over sixty knew that private insurance was shaky and expensive at best, and would cost them more every year.

And a serious illness—or even a common ailment that required treatment but did not threaten life—was not only a health problem, but something that could reduce a whole family to poverty.

Today, Medicare has removed that fear from our lives. Those of us with short memories have forgotten it ever existed. But let me tell you about some people who don't.

Two weeks ago I spent some time at the Seniors Center in Great Falls, Montana. The people at the center know exactly what Medicare and Social Security mean to their lives.

It means a little financial security. Some faith that illnesses will be treated and that families won't be wiped out by the cost. A hundred and twenty-five thousand Montanans are eligible for Medicare, and each one of them knows exactly what Medicare means.

Listen to Margaret and Frank Jackson of Billings, who wrote me last week:

"Social Security and Medicare are not only necessary, they are absolutely essential to our survival in Montana. Higher costs such as higher property tax, increase in school levies, fuel in a cold climate, and medicine take a toll. There is just too much month at the end of our money. Needless to say, additional cuts would put a burden on us."

Or Joyce Hert, also from Billings:

"I am 58 years old and for the past 18 years have had chronic obstructive pulmonary disease, asthma, emphysema, Renaud's Disease,

degenerative arthritis and a disease of the connective tissue. . . . My medication costs approximately $677 a month* * *. Please don't turn your back on those of us who need Social Security and Medicare."

The leadership now proposes something like $250 billion in Medicare cuts. It is staggering. It is a reduction of nearly a quarter in Medicare services by the year 2002. And to add insult to injury, the House would do it in part to pay for tax cuts for Americans who are already very wealthy. Some in the Senate want to do the same.

What would it mean if this happens?

Montana Medicare beneficiaries would pay up to $800 more a year out of their own savings. These are people who live on fixed incomes, and eight hundred bucks is an awfully big bite.

We would see thousands of operations and hospital stays put off.

Thousands of people would decide to go without home health care.

And, as the federal government cut reimbursement, more rural hospitals would be pushed to the edge, forced to choose between serving their patients and remaining solvent. Some Montana hospitals get 60% of their revenue from Medicare. This plan would hit them like a wrecking ball.

Now, it may well be that we need to make changes in the Medicare program. We must be realistic.

The answer is not, however, to simply approach Medicare reform as a budget cutting exercise. Because we are talking about preserving essential health services for 125,000 senior citizens in Montana and thirty million seniors across America.

We are talking about good, middle class Americans like the Jacksons.

And above all, we must not use Medicare as a piggy bank. Don't take money that buys health care for senior citizens and use it for a tax break for rich individuals and big corporations. That is disgraceful.

Perhaps some changes lie ahead. But if they do, they should be made for the single purpose of keeping Medicare services for senior citizens and people with disabilities. It is an issue of good faith on the part of the government, and basic, essential health services for Americans.

RETIREMENT OF GEORGE K. ARTHUR

Mr. MOYNIHAN. Madam President, yesterday's Buffalo News reported the forthcoming retirement of Buffalo, NY, Common Council President George K. Arthur, after four decades of public service. Mr. Arthur, who has been Common Council President since 1983, is a distinguished public servant who has given much to the people of Buffalo. I know I speak for the people of Buffalo in offering George Arthur great thanks and congratulations. He will indeed be missed.

Mr. President, I ask unanimous consent that the text of the article from the Buffalo News be printed in the RECORD.

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

[From the Buffalo News, May 8, 1995]

POLITICAL LEADERS PRAISE ARTHUR'S ENDURING LEGACY

(By Anthony Cardinale)

Geroge K. Arthur will leave a legacy of lasting achievement as Common Council president when he steps down on Dec. 31, several political observers said Sunday.

Never mind the decade of Common Council friction with then-Mayor James D. Griffin, who reserved his most stinging invective for the Council president and took particular delight in defeating Arthur's challenge for the mayor's office 10 years ago.

Arthur's proudest hour as a politician was when he beat the Democratic incumbent for the Democratic Party's endorsement in 1985, these observers agreed. And he would have ousted Griffin from City Hall, they added, if it weren't for the votes siphoned off by Nicholas Costantino as an independent candidate.

Arthur, 62, who announced over the weekend that he won't seek re-election, was first elected to the former Erie County Board of Supervisors in 1963. He was elected Ellicott District Council member in 1969, then Council member at large, and he has been Council president since 1983.

"I believe it's probably the longest political career of anybody in our area," said Vincent J. Sorrentino, Erie County Democratic chairman.

"He was part of the emergence of the black community into the mainstream of the political process in our community—he and (Council President) Delmar Mitchell a little before him," said Joseph F. Crangel, Sorrentino's predecessor at the party helm.

"His leadership was instrumental in helping much of the rebirth of Buffalo," said Arthur O. Eve, deputy Assembly speaker, who pointed to measures to improve Buffalo's housing stock and quality of life.

Accolades for Arthur even came from Council Member Alfred T. Coppola of the Delaware District, who has often clashed with him—and who now wants to succeed him as Council president.

"We've disagreed on various projects, but we've also agreed on some," said Coppola, who has asked Sorrentino for his backing.

"George has always been a unique person," Coppola went on. "He's always been a gentleman. There were times when George pulled us together. He'd say, 'Let's sit around a breakfast table and let it all hang out on a Saturday morning.' Those were terrific meetings."

Arthur's ability to bring together dissenting parties was the common theme Sunday of those who have worked with him over the years.

"George did an excellent job in helping to forge together a very diverse group of men and women into a fairly cohesive body," Eve said. "That takes a lot of talent, patience and compassion,."

Eve said he will work to help Council Majority Leader James W. Pitts become the next Council president.

"We certainly will miss (Arthur) as the Council president," Eve said, "but I'm in hopes that Jim Pitts will emerge as his replacement and the tradition that George Arthur started will continue and hopefully will grow."

Sorrentino, who reportedly supports Pitts, also credited Arthur as a consensus builder.

"He had a great quality of being able to bring consensus into very hostile situations—especially during the Griffin years," he said. "His leadership will be missed at these difficult times."

Sorrentino said he recently had breakfast with Arthur and learned then that he had all but decided to retire after this year.

"And I said, 'if you do, we certainly expect you to play a role in the campaign.' While he'd be retiring as president of the Common Council, he's not retiring from politics."

All four observers rejected the notion that Arthur had slowed down in recent years, no longer the civil rights firebrand who once joined the plaintiffs in the school desegregation suit and supported two other discrimination suits against the city's fire and police force.

"Very often with age comes wisdom—you're more prudent how you express things," said Crangle. "You put things in more perspective and focus than you did when you first started out."

Crangle said he greatly admires Arthur for standing up against Griffin.

"He was one of the towering strengths of the Democratic Party in City Hall," he said. "He did not get intimidated; he didn't in any way yield. And many times it was very lonely."

Coppola said that was when Arthur's "professionalism" shined brightest.

"There were moments when George was the acting mayor in some of the tougher years when Jimmy Griffin was really playing hardball," Coppola said. "And George never took advantage of the situation, especially when the mayor was out of town."

The former mayor was asked Sunday for his comment on Arthur's decision to retire.

"I wish him luck," Griffin said. "I wish him and his family the best."

THE MOSCOW SUMMIT

Mr. PELL. Madam President, today President Clinton is joining President Mitterrand, Prime Minister Major, Chancellor Kohl, and President Yeltsin in Moscow to commemorate the 50th anniversary of the end of World War II. That is as it should be. Together, after all, the United States, France, Britain, and the Soviet Union rid the world of the Nazi menace.

The anniversary of Allied triumph over the Nazis carries great significance for us all. For the Russian people, who lost more than 20 million of their fellow citizens during the war, this commemoration is particularly meaningful.

Now that the cold war is over, the allies have the opportunity to stand together again—this time to build a new Europe—democratic, whole, and free. The gathering of the five leaders in Moscow today should be seen as a commitment to that goal.

We have an enormous stake in Russia. United States engagement with Russia since the breakup of the Soviet Union has yielded significant results—particularly with regard to the reduction of weapons of mass destruction and the withdrawal of Russian troops from Europe. It is in the U.S. national interest to see that this process proceeds. Russian reformers offer the best prospect for continued progress on the issues that really count for the United States. Accordingly, we should be doing what we can to bolster Russia's democrats.

President Clinton has come under fire for going to Moscow at a time when Russia is pursuing some policies to which the United States is opposed. I believe this criticism is short-sighted

and for the most part, politically motivated. Some of the same people who are criticizing the President for going to Moscow are also demanding that the administration deliver a tough message to Moscow about its behavior in Chechnya, its proposed sale of a nuclear reactor to Iran, and its views about NATO expansion. What better way to deliver the message than to go to Moscow and do it personally?

By going to Moscow, President Clinton is demonstrating to Russian leaders the benefits of continued engagement with the West. If he had decided to cancel his trip, President Clinton would be missing an opportunity to tell President Yeltsin and other Russian leaders—face to face—where he believes Russian policy is on the wrong track.

That being said, we should not have any illusions about our ability to change Russian policy overnight. We must be realistic. Russian leaders, like their counterparts worldwide are political creatures. With parliamentary elections looming at the end of this year, and Presidential elections scheduled for 1996, few Russian politicians want to be perceived as buckling to Western pressure. Russian nationalists, whose influence is regrettably on the rise, would be quick to brand them traitors.

It is therefore highly unlikely that President Clinton will return to Washington with a long list of Russian concessions. Those who are demanding—or even predicting—that he will do so are setting up the administration for failure. We can and should expect, however, President Clinton to discuss our differences candidly and constructively, and to lay the ground work for United States-Russian accommodation on key issues like arms control, the Iran nuclear deal, Chechnya, and European security.

The hallmark of a successful summit is not to solve all of the world's problems or even to resolve all of the bilateral issues between two countries. President Clinton's trip to Moscow is part of an ongoing process between Russia and the United States. We should be realistic about our expectations.

TRIBUTE TO DR. WAYNE TEAGUE, FORMER ALABAMA SUPERINTENDENT OF EDUCATION

Mr. HEFLIN. Madam President, Dr. Wayne Teague served as Alabama's Superintendent of Education for almost 20 years, from October 1975 through March 31 of this year. During his tenure as Alabama's top educator, public education in Alabama has prospered. His many years of public service are a hallmark of exceptional commitment and dedication to public education and to the children of Alabama.

There has been a great deal of progress in Alabama education since Wayne Teague took over as superintendent in 1975. His many contributions have made tremendous improvements in the State's public school system. His many successes and vast knowledge were once recognized by the British Council of Great Britain, when he was one of only three chief State school officers invited to participate in the American Education Policy-Makers' Study Trip to Northern Ireland in 1990.

Of Dr. Teauge's many wonderful personal attributes, the one that probably served him best while he was superintendent was his unique leadership style. He was able to master the art of cooperation with a myriad of groups for the benefit of the public schools. Government officials, parents, teachers, students, administrators, and business, civic, and educational leaders all gained admiration and respect for him over the course of his career as they observed his many accomplishments for Alabama's school children and for education overall.

Wayne Teague received his bachelor's, master's, and doctoral degrees all from Auburn University. Prior to becoming State superintendent, he was a local superintendent, college professor, principal, and teacher. Since then, he has become widely known throughout the State and country not only as a superb superintendent, but also as an authority on State and Federal legislative relations, a civic and community activist, a public speaker, and author. He has participated in several international activities and received numerous honors and awards for his service in education.

Dr. Wayne Teague certainly emerged as one of the giants of education while he was superintendent. He possesses all the skills, experience, and professional attitudes that make an outstanding leader. As much as he will be missed, I salute and congratulate him for a job well done, and offer my best wishes for his long, healthy, and fulfilling retirement.

AID

Mr. THOMAS. Madam President, I rise this morning as a member of the Senate Foreign Relations Committee to discuss the content of a recent interoffice electronic memo from Sally Shelton, the Assistant Administrator for the Bureau of Global Programs, Bill Support and Research at the Agency for International Development [AID] regarding congressional plans to merge AID into the State Department and to cut the somewhat bloated foreign assistance budget. For the benefit of my colleagues who may not have seen the memo, dated May 3, let me quote it here:

> The Administrator spoke to InterAction yesterday * * *. The Administrator would prefer that InterAction stay out of the merger issue and there is indeed no consensus on their Board as to what position to take. But some want to be involved—the Administrator reminded us of Dean Acheson's comment "Don't just do something, sit there!"
>
> Tony Lake is addressing InterAction tomorrow—he is pushing the phrase "backdoor isolationist" to tar the anti-150 account Congressmen with * * *. Shalikashvili and Wm. Perry had a good mtg with the Speaker on the 150 account * * * though the news from the Senate is not so good * * * Sen. Domenici is pushing for bigger cuts than had been anticipated earlier.
>
> Jill Buckly reports that the Senate For. Rels. Comm. staff was relatively uncooperative in discussions yesterday and somewhat surprisingly the HIRC [House International Relations Committee] staff was cooperative. The strategy is "delay, postpone, obfuscate, derail"—if we derail, we can kill the merger. Larry Byrne met with Sen. Robb and got his support on the merger though Robb is not committed, yet, to defend the 150 account budget levels. Official word is we don't care if there is a State authorization bill this year.
>
> Larry B. announces that we are 62 percent through this fiscal year and we have 38 percent of the dollar volume of procurement actions completed; we need to do $1.9 billion in the next 5 months * * *. There are large pockets of money in the field and about $570 million in Global and ENI each. So let's get moving * * *. Jim Bond called Larry Byrne * * * then yelled at him about our obligation rate, said it imperils our ability to argue we need more money * * *.

Madam President, I am incensed by this memo and by the mind-set it manifests at AID. It seems clear to me that instead of looking for ways to work with Members of Congress to streamline its operations, cut waste and bloating, and accept the same kind of downsizing that the American people expect of every other agency of the Federal Government, AID has taken on as its first priority saving its own skin.

There is nothing back-door isolationist about a desire to down-size AID and get rid of functions it carries out which are duplicative of those carried out by other agencies; it's a move that Secretary of State Christopher himself supported until recently overruled by the Vice President. At a time when we don't have enough money to take care of our own citizens and are consequently forced to rethink the funding levels in our domestic budget, to argue that we can't make similarly difficult cuts in our foreign aid budget is both disingenuous and unrealistic.

While I am certainly not in favor of a full-scale gutting of foreign aid, there is no bureaucracy in this Government that in my estimation couldn't stand a healthy cut in its budget—AID among them. For those who might doubt that assertion, the following information is instructive. AID has requested $16 million in aid to Jordan so that it could "attract more tourists to come to Jordan, enjoy their experience, and recommend Jordan to others." AID wants to pay $528,000 to Vietnamese contractors who were not paid as a result of the Vietnam War, while at the same

time hundreds of American contractors remain unpaid. AID has proposed giving the AFL–CIO $5 million to make home improvement loans to Sandanista labor union members in Nicaragua. AID has proposed giving $900,000 to the lobbying firm TransAfrica to develop linkages with South Africa. The grant would enable TransAfrica to buy a TV, VCR, camcorder and computers for its Washington, DC, lobbying office. These proposals are just some of the highly questionable ways in which AID allocates its funds.

While speaking about funding, let me note that I am outraged by the suggestion in the memo that as the fiscal year draws to a close and AID has only "38 percent of the dollar volume of procurement actions completed," that employees would be encouraged to get out there and spend, spend, spend so that their ability to argue we need more money is not imperiled. Statements such as that are a perfect example of bureaucratic thinking run amok, and illustrate to me precisely why their budget is in need of some substantial trimming.

Madam President, policy statements coming from AID which note that they intend to work to delay and derail the legitimate work of this Congress for their own selfish needs strike me—and, I am sure, other Members—as blatantly improper. As a result of this memo, you can be sure that I will view anything AID has to say on reorganization or budget matters in the next few weeks with a very jaundiced eye, to put it very mildly.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF JOHN M. DEUTCH, OF MASSACHUSETTS, TO BE DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY

The PRESIDING OFFICER. Under the previous order, the Senate will go into executive session to consider the nomination of John Deutch to be Director of the Central Intelligence Agency, which the clerk will report.

The legislative clerk read as follows:

John M. Deutch, of Massachusetts, to be Director of the Central Intelligence Agency.

NOMINATION OF JOHN DEUTCH TO BE DIRECTOR OF CENTRAL INTELLIGENCE

Mr. LEVIN. Madam President, it is with enthusiasm that I will vote today to confirm the President's nomination of John Deutch to one of our country's most important and difficult jobs, Director of Central Intelligence.

As a member of the Senate Armed Services Committee, I have worked closely with John Deutch in both his present position as Deputy Secretary of Defense and in his prior capacity as Under Secretary of Defense for Acquisition and Technology. I have had the opportunity to admire his competence as a manager and his broad knowledge on and accomplishments in national security matters.

Secretary Deutch has firsthand experience in improving our national security institutions. He successfully led the Pentagon's effort to reform its acquisition process, a long overdue and badly needed initiative. He also took the lead on the controversial C–17 aircraft negotiations and produced a good solution. In short, he has taken some of the thorniest problems in our largest national security institution and produced positive and cost-effective results.

The U.S. intelligence community is at a critical crossroads as it responds to a host of new and demanding challenges. With the end of the cold war, the need for reliable intelligence for the President and the Nation's decisionmakers has not vanished, but it has changed. We have seen a dramatic shift in the nature of the threats to U.S. national security. We have seen a sharp rise in the number and intensity of regional conflicts including the Persian Gulf, Bosnia, Somalia, and Haiti. We have also seen the need to broaden the cope of our intelligence efforts to include work on emerging challenges in interdiction of the international drug trade, anti-terrorism, nonproliferation and in support of government decisionmaking in economics and trade.

At the same time, the intelligence community faces a number of internal challenges. The community should not, has not, and will not be spared the budget cuts and downsizing facing all of the Federal Government. And, the intelligence community must work very hard to recover from the shocks of the Ames case and the current controversy over events in Guatemala.

The President could have named no more qualified nominee to grapple with these challenges. John Deutch's vast knowledge and experience, his track record in government, will assure that he will do so with the full confidence of those who work within the intelligence community and those in the Congress responsible for oversight. While I have not agreed with him on every issue, I admire and respect his considerable abilities and the forthright manner in which he engages debate.

I am very pleased today to join in what I hope and expect will be the unanimous confirmation of the nomination of John Deutch to be the next Director of Central Intelligence.

Mr. KEMPTHORNE. Madam President, it is with great pleasure that I support John Deutch's nomination to serve as the Director of Central Intelligence. During Dr. Deutch's service at the Department of Defense, including his service as the Deputy Secretary of Defense, John Deutch has been a thoughtful, decisive, and professional public servant.

Over the last 2 years, I have worked with John Deutch on a number of important, complicated, and diverse issues. In every instance, Dr. Deutch was extremely knowledgeable about the issue, he demonstrated diligent follow-up, and he never deviated from his commitment to serve the national interest. I have appreciated working with John Deutch and he will be missed at the Department of Defense.

John Deutch will be an excellent Director of Central Intelligence. This is a crucial time for the U.S. intelligence community as it tries to adapt to the post-cold-war era. I have every confidence that John Deutch will lead the Central Intelligence Agency forward in the 21st century.

Madam President, I look forward to casting my vote in support of John Deutch's nomination to serve as the next Director of Central Intelligence.

Ms. MOSELEY-BRAUN. Madam President, I am proud to support President Clinton's nominee, John M. Deutch, as Director of Central Intelligence. This is a difficult time for the CIA, but John Deutch brings considerable skills and experience to the position, and I have every confidence that he will make a difference at the CIA.

Mr. Deutch has an impressive academic background. He has been a distinguished professor at the Massachusetts Institute of Technology. He was chair of the department of chemistry there. As a teacher and a scientist, Mr. Deutch understands the technical details of the newest emerging intelligence technology, and he also has the remarkable ability to explain this technology in plain English, so that nonscientists understand.

Mr. Deutch has also served with distinction in Government. He worked at the Department of Energy, as Under Secretary of Energy Technology. In recognition of his contributions in that position, he was honored with the Secretary's Distinguished Service Medal and the Department's Distinguished Service Medal. More recently, he served at the Department of Defense as Under Secretary of Acquisition and Technology. And he leaves DOD as the distinguished Deputy Secretary of Defense.

Mr. Deutch will have to draw from this extraordinary experience to address a number of concerns at the Central Intelligence Agency. His responsibility is great. The CIA has been faced with a number of scandals of its own making. The Aldrich Ames spy case compromised U.S. intelligence gathering overseas. For years, the CIA was unable to detect his treachery, and more recently, the CIA appeared unwilling to appropriately discipline his

superiors. This is unacceptable. I am confident that Mr. Deutch will address the flaws in the internal administration of the CIA which allowed Ames to flourish in the system undetected. He has pledged that in the future, anyone in a position of supervision over an agent who is spying on the United States, and does not take forceful action, will be fired.

Mr. Deutch's nomination also comes at a time when very serious questions have been raised about CIA operations in Guatemala. It has become clear through public hearings in recent weeks that a paid CIA informant in the Guatemalan military was involved in horrendous human rights abuses against Guatemalan people, and participated in the torture and death of an American citizen, and a Guatemalan who was married to an American citizen. Further, when this information became known to CIA officials, it was not properly reported to the House or Senate Intelligence Committees. The United States must stand for democracy and the protection of human rights abroad. I am deeply offended, as are many Americans, to learn of a relationship between the CIA and this Guatemalan colonel.

These and other scandals have plagued the CIA. Morale is low. John Deutch is clearly needed at this time to revitalize the CIA. With the end of the cold war, America's intelligence needs have changed. But they have not diminished. Our intelligence community is staffed with brave men and women who take risks every day to assist our policymakers by providing the best intelligence in the world. We must restore the confidence of the American people in these men and women, and in our intelligence gathering capabilities. John Deutch is a man of real quality. He is fully capable of meeting the challenges that lie before him.

(At the request of Mr. DOLE, the following statement was ordered to be printed in the RECORD.)

• Mr. WARNER. Madam President, I would like to express my strong support for the nomination of John Deutch to serve as Director of Central Intelligence.

I have had the privilege of working with Secretary Deutch since 1993 in his various capacities in the Department of Defense, first as Under Secretary of Defense for Acquisition and Technology, and most recently as Deputy Secretary of Defense. 3

Secretary Deutch has served his Nation well in these assignments, and I am pleased that he will be bringing his considerable expertise to the Nation's intelligence community.

This is a time of great challenge for the various elements of the intelligence community and, in particular, for the Central Intelligence Agency. As it continues the process of adapting to the intelligence challenges of the post-cold-war world, the CIA has been rocked recently by a number of problems—from the Aldrich Ames spy scandal to the recent revelations of possible problems with CIA activities in Guatemala. I am concerned about the well-being of this agency, and the morale of the fine intelligence professionals who serve our country—at great personal risk—at the CIA. The work of the CIA, and the many other agencies of the intelligence community, remains vital to the security of our great Nation. We should not lose sight of this basic fact as we contemplate reforms.

I am pleased that Secretary Deutch will be taking over stewardship of the intelligence community at this critical time. I was encouraged by Secretary Deutch's testimony at his confirmation hearing regarding the changes that he believes should be made at the CIA. I wish him well as he undertakes a difficult task which is so important to the future well-being of this Nation.•

Mr. KYL. Madam President, I rise to support the nomination of Deputy Secretary of Defense John Deutch to be the Director of Central Intelligence. I have had the opportunity to meet with Secretary Deutch on a number of occasions to discuss defense and intelligence issues and am impressed with his ability in both of these critical areas.

As the President's new senior advisor on intelligence, John Deutch will have the responsibility of placing before the Congress a vision for the intelligence profession that embodies the lessons learned from the cold war and lessons from recent unfortunate mistakes within the agency. He will also be required to steadfastly guard against the politicization of the intelligence mission by government officials who would use intelligence resources for other ends, at the expense of the core programs. My impression of John Deutch is that he is well prepared to meet these challenges.

I believe John Deutch will be someone who is prepared to think seriously about the place and purpose of intelligence in a democracy, both as he fulfills his responsibilities as a senior Government official and as he lays the President's plans and programs before the Congress. In short, Madam President, I believe John Deutch will be a fine Director of Central Intelligence and have every confidence in his ability to lead the intelligence community into the 21st century. I wholeheartedly support his nomination.

Mr. SANTORUM. Madam President, I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of John M. Deutch, of Massachusetts, to be the Director of the Central Intelligence Agency? On this question, the yeas and nays have been ordered.

The clerk will call the roll.

Mr. LOTT. I announce that the Senator from Virginia [Mr. WARNER] is necessarily absent.

Mr. FORD. I announce that the Senator from New York [Mr. MOYNIHAN] is necessarily absent.

I further announce that, if present and voting, the Senator from New York [Mr. MOYNIHAN] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 155 Ex.]

YEAS—98

Abraham	Feingold	Lott
Akaka	Feinstein	Lugar
Ashcroft	Ford	Mack
Baucus	Frist	McCain
Bennett	Glenn	McConnell
Biden	Gorton	Mikulski
Bingaman	Graham	Moseley-Braun
Bond	Gramm	Murkowski
Boxer	Grams	Murray
Bradley	Grassley	Nickles
Breaux	Gregg	Nunn
Brown	Harkin	Packwood
Bryan	Hatch	Pell
Bumpers	Hatfield	Pressler
Burns	Heflin	Pryor
Byrd	Helms	Reid
Campbell	Hollings	Robb
Chafee	Hutchison	Rockefeller
Coats	Inhofe	Roth
Cochran	Inouye	Santorum
Cohen	Jeffords	Sarbanes
Conrad	Johnston	Shelby
Coverdell	Kassebaum	Simon
Craig	Kempthorne	Simpson
D'Amato	Kennedy	Smith
Daschle	Kerrey	Snowe
DeWine	Kerry	Specter
Dodd	Kohl	Stevens
Dole	Kyl	Thomas
Domenici	Lautenberg	Thompson
Dorgan	Leahy	Thurmond
Exon	Levin	Wellstone
Faircloth	Lieberman	

NOT VOTING—2

Moynihan	Warner

So the nomination was confirmed.

Mr. DOLE. Madam President, this matter has been cleared with the Democratic leader. I ask unanimous consent that the motion to reconsider the vote by which the Deutch nomination was confirmed be tabled and that the President be immediately notified of the Senate's action.

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session and resume consideration of H.R. 956.

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Gorton amendment No. 596, in the nature of a substitute.

Coverdell-Dole amendment No. 690 (to amendment No. 596), in the nature of a substitute.

Gorton-Rockefeller modified amendment No. 709 (to amendment No. 690), in the nature of a substitute.

Ms. MOSELEY-BRAUN. Madam President, as I stated at the outset of debate on this bill, I believe it makes sense to have some basic, national product liability standards that apply across the board. In 1995, products manufactured in Illinois are no longer shipped down the street; instead, they are shipped throughout the 50 States, and beyond. The Constitution of the United States, in article 1, section 8, grants Congress the power to regulate interstate commerce. Where our product liability system acts as a disincentive to the manufacture and sale of goods in interstate commerce, Congress has not only a right, but a duty, to reform that system. I believe the Product Liability Fairness Act, while not perfect, is a good step in the reform process, and I am proud to cast my vote in favor of this bill.

I would like to add how pleased I am that, during the past weeks, the Senate very carefully considered and debated each and every amendment that was offered to this bill. I am particularly pleased by the compromise amendment that will soon be offered as a substitute amendment. I believe that the amendment significantly improves the committee reported bill, and I know that it would not have been possible without the vigorous debate that surrounded this legislation.

I strongly support the changes being made to the punitive damages section of the bill Rockefeller-Gorton substitute. While the original bill linked the calculation of punitive awards to economic damages, the amended bill instead links punitives to compensatory damages, a standard that is much fairer to low-income workers, women who don't work outside the home, children and the elderly, who may not have a great deal of economic damages. I have no objection to making punitive damages proportionate to the harm caused by the product, the goal that the punitive damage limitation is intended to accomplish. That harm should not, however, be limited to out of pocket costs or lost wages. Noneconomic damages can often be difficult to calculate, but that does not make them any less real.

Indeed, these compensate individuals for the things that they value most—the ability to have children, the ability to have your spouse or child alive to share in your life, the ability to look in the mirror without seeing a permanently disfigured face. As a notion of fundamental fairness, any congressional attempts to create a punitive damage standard should include both economic and noneconomic damages in its formula, as the Rockefeller-Gorton substitute now does.

In addition, the amended bill contains a provision that will allow a judge to increase the amount of a punitive damage award, if an increased award is necessary to either adequately punish a defendant for its past conduct, or to adequately deter a defendant from engaging in such conduct in the future. I know there have been concerns raised during the course of this debate that, in some cases, punitive damages awarded pursuant to the formula will not be sufficient to either punish or deter. I believe this judge additur provision addresses these concerns, and I want to thank Senators ROCKEFELLER and GORTON for their willingness to add this provision to their legislation. In my opinion, it makes a good bill even better, and it demonstrates their willingness to respond to the concerns of those of us "in the middle."

Madam President, last year I stood on the Senate floor, after the Senate failed to invoke cloture on the Product Liability Fairness Act, and stated my desire not to filibuster this bill again. What I wanted to do was debate what alterations the Federal Government should make in the area of product liability law, and to act on a narrow, moderate product liability bill. I am pleased to have a chance to act on such a bill today.

But reporting a bill out of the Senate is only half of the battle; I also want to see this legislation enacted into law. I believe that can happen, as long as a House-Senate conference committee keeps the bill limited to the subject of product liability, and rejects the draconian, anticonsumer provisions included in legislation which passed the House of Representatives. The votes in the Senate during the past 2 weeks should send a strong signal to the House that the U.S. Senate does not intend to restrict the ability of ordinary citizens to access the courts, under the guise of civil justice reform.

If our colleagues in the House of Representatives truly want a product liability reform bill, I have no doubt that we can obtain one. Our votes in the Senate spell out very clearly what will and will not be acceptable to this body, and I urge my House colleagues to consider those votes very carefully. For despite my desire to enact a product liability reform bill, nothing has changed about my underlying commitment to equal justice under law. I remain just as opposed to loser-pays provisions, caps on noneconomic damages, or changes that would restrict the right of individuals to bring suit for civil rights violations, employment discrimination, and sexual harassment, among other issues, as I have been in the past, and I will be compelled to oppose any legislation that returns from a conference including these provisions.

Madam President, in closing, I would like to commend Senators ROCKEFELLER and GORTON for all of their hard work to enact a product liability reform bill, not only this year, but in past Congresses as well. They are to be commended for championing an issue that needs to be addressed, and for doing so in a way that is balanced and fair. During the past 3 weeks, they have demonstrated a willingness to listen and resolve the concerns raised by myself and other Senators, and have taken steps to improve this legislation. I commend them for their leadership, and I am pleased to vote with them today.

CLOTURE MOTION

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

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators in accordance with the provisions of rule XXII of the Standing Rules of the Senate do hereby move to bring to a close debate on the pending substitute amendment to H.R. 956, the Product Liability bill.

Slade Gorton, Dan Coats, Richard G. Lugar, John Ashcroft, Rod Grams, Kay Bailey Hutchison, Judd Gregg, Strom Thurmond, Trent Lott, Rick Santorum, Larry E. Craig, Bob Smith, Don Nickles, R.F. Bennett, John McCain, Connie Mack.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the Coverdell-Dole amendment, No. 690, to H.R. 956, the product liability bill, shall be brought to a close?

The yeas and nays are required.

The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Virginia [Mr. WARNER] is necessarily absent.

Mr. FORD. I announce that the Senator from New York [Mr. MOYNIHAN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 60, nays 38, as follows:

[Rollcall Vote No. 156 Leg.]

YEAS—60

Abraham	Bond	Campbell
Ashcroft	Brown	Chafee
Bennett	Burns	Coats

Cochran	Hatch	Mikulski
Coverdell	Hatfield	Moseley-Braun
Craig	Helms	Murkowski
DeWine	Hutchison	Nickles
Dodd	Inhofe	Nunn
Dole	Jeffords	Pell
Domenici	Johnston	Pressler
Dorgan	Kassebaum	Pryor
Exon	Kempthorne	Robb
Faircloth	Kohl	Rockefeller
Feinstein	Kyl	Santorum
Frist	Lieberman	Smith
Gorton	Lott	Snowe
Gramm	Lugar	Stevens
Grams	Mack	Thomas
Grassley	McCain	Thompson
Gregg	McConnell	Thurmond

NAYS—38

Akaka	Daschle	Leahy
Baucus	Feingold	Levin
Biden	Ford	Murray
Bingaman	Glenn	Packwood
Boxer	Graham	Reid
Bradley	Harkin	Roth
Breaux	Heflin	Sarbanes
Bryan	Hollings	Shelby
Bumpers	Inouye	Simon
Byrd	Kennedy	Simpson
Cohen	Kerrey	Specter
Conrad	Kerry	Wellstone
D'Amato	Lautenberg	

NOT VOTING—2

Warner	Moynihan

The PRESIDING OFFICER (Mr. INHOFE). Are there any Senators who wish to change their vote? If there are no other Senators desiring to vote, on this vote, the yeas are 60, the nays are 38. Three-fifths of the Senators duly chosen and sworn, having voted in the affirmative, the motion is agreed to.

REGARDING THE VISIT BY PRESIDENT LEE TENG-HUI OF THE REPUBLIC OF CHINA ON TAIWAN TO THE UNITED STATES

Mr. MURKOWSKI. I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 103, House Concurrent Resolution 53, relative to the visit by the President of China on Taiwan, and that no amendments be in order to the resolution or the preamble.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 53) expressing the sense of the Congress regarding a private visit by President Lee Teng-hui of the Republic of China on Taiwan to the United States.

The Senate proceeded to consider the resolution.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, I rise to speak in favor of House Concurrent Resolution 53, which is a concurrent resolution expressing the sense of the Congress that the President of the Republic of China on Taiwan, Lee Teng-hui, be allowed to visit the United States. House Concurrent Resolution 53 is almost identical to my concurrent resolution, Senate Concurrent Resolution 9, which has 52 bipartisan cosponsors, including both the majority and minority leaders, for which I am most grateful. I ask unanimous consent the names of the cosponsors of Senate Concurrent Resolution 9 be printed in the RECORD.

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

COSPONSORS OF SENATE CONCURRENT RESOLUTION 9

Abraham (R-MI)
Akaka (D-HI)
Ashcroft (R-MO)
Bond (R-MO)
Brown (R-CO)
Burns (R-MT)
Campbell (R-CO)
Chafee (R-RI)
Coats (R-IN)
Cochran (R-MS)
Cohen (R-ME)
Conrad (D-ND)
Coverdell (R-GA)
Craig (R-ID)
D'Amato (R-NY)
Daschle (D-SD)
DeWine (R-OH)
Dole (R-KS)
Dorgan (D-ND)
Faircloth (R-NC)
Feingold (D-WI)
Gorton (R-WA)
Grams (R-MN)
Grassley (R-IA)
Gregg (R-NH)
Hatch (R-UT)
Hatfield (R-OR)
Helms (R-NC)
Hutchison (R-TX)
Inouye (D-HI)
Jeffords (R-VT)
Kassebaum (R-KS)
Kempthorne (R-ID)
Kyl (R-AZ)
Lieberman (D-CT)
Lugar (R-IN)
Mack (R-FL)
McCain (R-AZ)
McConnell (R-KY)
Nickles (R-OK)
Pell (R-RI)
Robb (D-VA)
Rockefeller (D-WV)
Roth, William (R-DE)
Simon (D-IL)
Simpson (R-WY)
Smith (R-NH)
Snowe (R-ME)
Specter (R-PA)
Thomas (R-WY)
Thompson (R-TN)
Thurmond (R-SC)
Warner (R-VA)

Mr. MURKOWSKI. Mr. President, Senate Concurrent Resolution 9 was unanimously reported out of the Senate Foreign Relations Committee in March of this year. That resolution specifically calls on President Clinton to allow President Lee Teng-hui to come to the United States on a private visit, and I wish to emphasize private. House Concurrent Resolution 53 was submitted in the House by Congressmen LANTOS, SOLOMON, and TORRICELLI, and adopted by the House by a rollcall vote of 396 to zero last week.

Mr. President, the question is, Should we let the People's Republic of China dictate who can visit the United States? The current State Department policy of claiming that allowing President Lee to visit would upset relations with the People's Republic of China officials personally is offensive to this Senator.

Taiwan is a friend. They have made great strides toward American goals—ending martial law, holding free and fair elections, allowing a vocal press, and steadily improving human rights.

Taiwan is friendly, democratic, and prosperous. Taiwan is the 6th largest trading partner of the United States, and the world's 13th largest. The Taiwanese buy twice as much from the United States as from the People's Republic of China. Taiwan has the largest foreign reserves and contributes substantially to international causes.

Unfortunately, the United States continues to give the cold shoulder to the leader of Taiwan. You will recall last May, we were embarrassed when the State Department refused an overnight visit for President Lee, who was in transit from Taiwan to Central America. His aircraft had to stop for refueling in Hawaii and he would have preferred to stay overnight before continuing on. Unfortunately, the State Department continues to indicate that the administration will not look favorably on a request for a private visit.

Mr. President, Taiwan and the People's Republic of China are making significant progress in relations between the two of them. I call my colleagues' attention to the existence of an organization known as the Association for Relations Across the Taiwan Straits. That organization operates in Beijing. The counter to that is the Mainland Affairs Council in Taiwan. These two groups get together regularly. They talk about everything conceivable except the political differences between the two countries. That conversation includes such things as hijacking; it also includes such things as eliminating the necessity of goods from Taiwan having to go through Hong Kong before they can come into the People's Republic of China. They are addressing now the direct shipment of goods from Taiwan to the mainland of China.

So here we have evidence that there is this dialog based on trade and commerce, but still the United States is afraid to take steps to encourage our trade and commerce with Taiwan because of the objections from the People's Republic of China.

Now, we know that the People's Republic of China will object to a visit by President Lee because the People's Republic of China complains loudly about many United States initiatives such as United States pressure at the United Nations with regard to China's human rights practices, criteria for China's World Trade Organization membership, and anything we do to help Taiwan. But in the end, the People's Republic of

China Government makes a calculation about when to risk its access to the United States and our market. And I think we should make the same calculation.

The precedent does exist, my colleagues, for a visit by President Lee. The administration has welcomed other unofficial leaders to the United States—the Dalai Lama called on Vice President GORE, over the People's Republic of China's objections, I might add. Yasser Arafat came to a White House ceremony. Gerry Adams has been granted numerous visits over Britain's objections.

In these cases, the administration I think has made the correct choice to allow visits to advance American goals, and President Lee's visit would do the same thing. The USA-ROC Economic Council Conference is going to be held in Anchorage, AK, in September. Visiting Alaska would not be a political statement, by any means. We consider ourselves, as my Alaskan colleague Senator STEVENS often remarks, almost another country. President Lee's alma mater, Cornell University in New York, would like him to visit in June to give a speech. It is completely a private matter. It is not a matter of a state visit.

I have heard suggestions that the Special Olympics, which will be held in Connecticut, might extend an invitation to President Lee, as well.

So I would call on my colleagues to vote to send a strong signal to the administration that President Lee should be allowed to make a private—and I emphasize "private"—visit. I call on the administration to change the policy because it is simply the right thing to do and it is the right time to do it.

If the administration does not change the policy based on this resolution, I think they are going to face binding legislation that would force the President to allow the visit. The administration should act before facing such a situation.

Mr. President, it is my intention to ask for the yeas and nays on this resolution.

I also ask unanimous consent that editorials from cities around the country supporting the Lee visit be printed in the RECORD.

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

[From the Boston Globe, Apr. 17, 1995]

A SNUB FOR TAIWAN'S DEMOCRATS

Taiwan's president, an alumnus of Cornell, wants to address his alma mater this June. But a visit to the United States by Lee Teng-hui is something that will not happen, says the assistant secretary of state for East Asian affairs.

This pusillanimous attitude ought to change, both for reasons of courtesy and as a sign the United States applauds Lee's work in moving Taiwan toward full democracy. The United States has a vital interest in the sustenance of democratic governments in Asia.

At issue is the two-China question, one that has vexed US policy makers since Mao Zedong's Communists took over all of China except the island of Taiwan in 1949. For a generation, The United States erred in ignoring the Communist reality; it should not now denigrate the success of Taiwan.

While the mainland was enduring the excesses of the Cultural Revolution, the people of Taiwan were laying the groundwork for an economic boom. As Beijing cracked down on dissidents, the Nationalists on Taiwan were opening up their regime. Last December an opposition leader was elected mayor of Taipei, the capital.

While acknowledging these achievements, Assistant Secretary of State Winston Lord said last year that the United States should do nothing that Beijing would perceive as lending "officiality" to US relations with Taiwan. This fear of offending Beijing explains why Lee was denied permission to visit Cornell last June and why Lord implied he should not bother to apply for a visa this year.

When thousands of Taiwanese regularly come to the United States, it is inconsistent to prohibit a private visit by Lee. Moreover, it compounds the insulting treatment he received last year when he was denied permission to spend the night in Honolulu while en route to Latin America. As an alumnus of an American university, he has ties to the United States that transcend politics.

Cornell wants Lee to give a speech at reunion weekend, Lord says Taiwan "has shown that political openness must accompany political reform and that Asians value freedom as much as other people around the globe." That message ought to be heard by university alumni and a billion Chinese.

[From the Providence Sunday Journal, Mar. 19, 1995]

DISHONORABLE DIPLOMACY

Lee Teng-hui came to the United States as a foreign student and earned his Ph.D. in 1968 from Cornell University, one of the nation's premier institutions. His thesis was cited as the year's best dissertation by the American Association of Agricultural Economics. After returning home, he had an eventful career, topped off in 1990 by being elected president of his native land, one of America's oldest and most loyal Asian allies.

To honor Mr. Lee, Cornell officials have invited him to participate in a three-day alumni reunion at the campus in Ithaca, N.Y., in June, when he is scheduled to deliver the school's prestigious Olin Lecture.

A heartwarming story. But there's one big problem: President Clinton may bar Mr. Lee from visiting Cornell.

Why? Because Mr. Lee is the president of Taiwan, and the Clinton administration fears that the Communist regime of the Chinese mainland will be offended if he is allowed to come to America. It's as simple—and as outrageous—as that.

Now, we can understand why officials in Beijing wouldn't want Mr. Lee to visit this country and receive the honors. They hate and fear him and what he stands for because his regime has put the Communists and all their works to shame. He heads a rival Chinese government that, by following largely market-oriented policies, has spearheaded the relatively small (population: 20 million) island of Taiwan's rise as a major player on the world's economic scene. Meanwhile, the Communists—by following the bizarre schemes of the "Great Helmsman," the late Mao Tse-tung—crippled mainland China's economic development (until, in recent years, they finally started to move away from Marxist follies).

Furthermore, the regime on Taiwan is rapidly democratizing itself, allowing the presence of an active opposition party, which has won a strong minority of seats in the legislature. In this regard, it ought to be emphasized that Mr. Lee is the freely elected president of Taiwan. Whereas the Communists now ruling in Beijing—while admittedly not as bad as the mass murderer, Mao Tse-tung—cling to their dictatorial power: no opposition parties, no freedom of speech or press, no free elections. And, of course, no freely elected presidents.

Which gets us back to Mr. Lee. President Clinton, a Rhodes Scholar, is a clever fellow. And he has available to him some very high-priced legal talent, as well as numerous figures—in and out of the State Department—with considerable experience and skill in the diplomatic arts. President Clinton should be able to figure out an adroit way to allow Mr. Lee to make what is essentially a private visit to Cornell and receive his well-deserved honors.

If the Communists in Beijing want to fuss and fume, let them. They may no longer be our enemies, but they are most assuredly not yet our friends. Mr. Lee, on the other hand, represents a brave people who have been our friends and allies for more than four decades. If Mr. Clinton bars Mr. Lee from coming here, he would dishonor not only himself, which would be his business, but the entire United States as well, and the American people should not stand for that.

[From the Washington Times, Apr. 9, 1995]

UNWELCOME MAT FOR OUR FRIENDS

(By Arnold Beichman)

There is every possibility that President Lee Teng-hui of Taiwan may one day be allowed to enter the United States just like Yasser Arafat and Gerry Adams, onetime terrorists, and other statesmen as distinguished as the head of the Palestine Liberation Organization or the leader of Sinn Fein who have been allowed to do so.

The possibility of a visit by the elected president of Asia's island democracy has arisen because the House of Representatives International Relations Committee has urged President Clinton to allow Mr. Lee to enter the United States. Mr. Lee has been invited to attend graduation exercises at his alma mater, Cornell University.

The House panel didn't ask President Clinton personally to receive President Lee. How could it? After all, the appointments schedule of the president of the United States is controlled by the Politburo of the Chinese Communist Party, which decides what Chinese the president may or may not receive. So all the House panel asked Mr. Clinton to do is to allow President Lee to visit—that's it, nothing more—just visit the United States. If Mr. Clinton turns down that request will that mean the Chinese Politburo controls our Immigration and Naturalization Service, too? Perhaps Mr. Clinton could ask the Chinese Politburo to do something about illegal immigration.

It isn't the first time that the appointments schedule of the president of the United States was under the control of a foreign communist power. In 1975, President Ford declined to receive Alexander Solzhenitsyn since such an act of hospitality and respect for human rights would have offended the Soviet Politburo. Or so Secretary of State Kissinger believed. After his election defeat in 1976, Mr. Ford confessed that he had erred in barring the great Russian dissident from the White House.

The power of the Chinese Communist Politburo extends not only to which Chinese can visit the United States but it also determines who can overnight on our soil. Last year, Mr. Lee was barred from overnighting in Honolulu lest such a simple act enrage the Beijing gerontocrats. However, it's quite all right to enrage the British government and Prime Minister John Major in receiving Gerry Adams and allowing him to engage in dubious fund raising.

What presidents and their advisers do not understand is that the reaction of totalitarians to American policy depends less on a given American action than it does on the party's long-range view. It didn't matter to Josef Stalin that Adolf Hitler inveighed against the Soviet Union or communism. When it suited Stalin's needs, he signed a Nazi-Soviet pact in August 1939. And when it suited Hitler, he attacked the U.S.S.R. despite the Nazi-Soviet Pact. President Nixon ordered the bombing of North Vietnam while he was in Moscow. The Soviet Politburo didn't order Mr. Nixon out of the Soviet Union to show its displeasure. Moscow negotiated with the United States despite the bombing of its military ally, North Vietnam.

Whenever it suits Beijing to violate its agreements with the United States, it will. Whenever it suits Beijing to lose its temper with Mr. Clinton, it will—regardless of protestations of past friendship.

For the United States to continue to treat Taiwan as an outcast nation as it has for a quarter-century because of the Communist Politburo is a sign of weakness that will not be lost on Deng Xiao-ping's successors. After all, Taiwan's democratic credentials are of the highest. Its market economy has propelled Taiwan—remember this is a country with a population of but 21 million—into the 13th largest trading nation in the world. Taiwan enjoys a rule of law. It recognizes property rights. There is a legal opposition and a free press.

If we continue to treat a friendly people, a friendly government and its chosen representatives as nonpersons at a time when we would like to see a world of democracies and when to further that course we have even sent troops overseas, as we did to Haiti, isn't it time—at the very least!—to tell the Beijing totalitarians that the president of Taiwan can overnight on American soil anytime he wants to? And, perhaps, even stay for two nights?

[From the Washington Post, Mar. 31, 1995]

KOWTOW—THE STATE DEPARTMENT'S BOW TO BEIJING

(By Lorna Hahn)

Lee Teng-hui, president of the Republic of China on Taiwan, wishes to accept an honorary degree from Cornell University, where he earned his PhD in agronomy.

Last year, when Cornell made the same offer, Lee was refused entry into the United States because Beijing belligerently reminded the State Department that granting a visa to a Taiwanese leader would violate the principle of "One China" (Cornell subsequently sent an emissary to Taipei for a substitute ceremony.) This year, on Feb. 9, Assistant Secretary of State Winston Lord told a congressional hearing that our government "will not reverse the policies of six administrations of both parties."

It is high time it did. The old policy was adopted at a time when China and Taiwan were enemies, Taiwan's government claimed to represent all of China, and Beijing's leaders would never dream of meeting cordially with their counterparts from Taipei. Today, things are very different.

Upon assuming office in 1988, Lee dropped all pretense of ever reconquering the mainland and granted that the Communists do indeed control it. Since then, he has eased tensions and promoted cooperation with the People's Republic of China through the Lee Doctrine, the pragmatic, flexible approach through which he (1) acts independently without declaring independence, which would provoke Chinese wrath and perhaps an invasion; (2) openly recognizes the PRC government and its achievements and asks that it reciprocate, and (3) seeks to expand Taiwan's role in the world while assuring Beijing that he is doing so as a fellow Chinese who has their interests at heart as well.

Lee claims to share Beijing's dream of eventual reunification—provided it is within a democratic, free-market system. Meanwhile, he wants the PRC—and the world—to accept the obvious fact that China has since 1949 been a divided country, like Korea, and that Beijing has never governed or represented Taiwan's people. Both governments, he believes, should be represented abroad while forging ties that could lead to unity.

To this end he has fostered massive investments in the mainland, promoted extensive and frequent business, cultural, educational and other exchanges, and offered to meet personally with PRC President Jiang Zemin to discuss further cooperation. His policies are so well appreciated in Beijing—which fears the growing strength of Taiwan's pro-independence movement—that Jiang recently delivered a highly conciliatory speech to the Taiwanese people in which he suggested that their leaders exchange visits.

If China's leaders are willing to welcome Taiwan's president to Beijing, why did their foreign ministry on March 9, once again warn that "we are opposed to Lee Teng-hui visiting the United States in any form"? Because Beijing considers the "Taiwan question" to be an "internal affair" in which, it claims, the United States would be meddling if it granted Lee a visa.

But Lee does not wish to come here in order to discuss the "Taiwan question" or other political matters, and he does not seek to meet with any American officials. He simply wishes to accept an honor from a private American institution, and perhaps discuss with fellow Cornell alumni the factors that have contributed to Taiwan's—and China's—outstanding economic success.

President Clinton has yet to make the final decision regarding Lee's visit. As Rep. Sam Gejdenson (D-Conn.) recently stated: "It seems to me illogical not to allow President Lee on a private basis to go back to his alma mater." As his colleague Rep. Gary Ackerman (D-N.Y.) added: "It is embarrassing for many of us to think that, after encouraging the people and government on Taiwan to democratize, which they have, [we forbid President Lee] to return to the United States * * * to receive an honorary degree."

[From the Wall Street Journal, Mar. 15, 1995]

TWO VISITORS

Gerry Adams can tour the United States, but Lee Teng-hui can't. Gerry Adams will be feted and celebrated Friday at the White House, but when Lee Teng-hui's plane landed in Honolulu last year, the U.S. government told him to gas up and get out. The Gerry Adams who is being treated like a head of state by the Clinton Administration is the leader of Sinn Fein, the political arm of the Irish Republican Army. The Lee Teng-hui who has been treated like an international pariah by the Administration is the democratically elected President of the Republic of China, or Taiwan. The disparate treatment of these two men tells an awful lot about the politics and instincts of the Clinton presidency.

Gerry Adams face will be all over the news for his Saint Paddy's Day party with Bill O'Clinton at the White House, so we'll start with the background on the less-publicized President of Taiwan.

Cornell University has invited President Lee to come to the school's Ithaca, N.Y., campus this June to address and attend an alumni reunion. In 1968, Mr. Lee received his doctorate in agricultural economics from Cornell. The following year, the American Association of Agricultural Economics gave Mr. Lee's doctoral dissertation, on the sources of Taiwan's growth, its highest honor. In 1990, Taiwan's voters freely elected Mr. Lee as their President. He has moved forcefully to liberalize Taiwan's political system, arresting corrupt members of his own party. Last year, the Asian Wall Street Journal editorialized: "Out of nothing, Taiwan's people have created an economic superpower relative to its population, as well as Asia's most rambunctious democracy and a model for neighbors who are bent on shedding authoritarian ways."

Asked last month about President Lee's visit to Ithaca, Secretary of State Christopher, who professes to wanting closer links with Taiwan, said that "under the present circumstances" he couldn't see it happening. The Administration doesn't want to rile its relationship with Beijing. The Communist Chinese don't recognize Taiwan and threaten all manner of retaliation against anyone who even thinks about doing so. That includes a speech to agricultural economists in upstate New York. This, Secretary Christopher testified, is a "difficult issue."

Sinn Fein's Gerry Adams, meanwhile, gets the red carpet treatment at 1600 Pennsylvania Avenue. Mr. Adams assures his American audiences that the IRA is out of the business of blowing body parts across the streets of London. He promises the doubters that if people give him money, it won't be used to buy more guns, bullets and bombs for the high-strung lads of the IRA.

Now before the Irish American communities of Queens and Boston get too roiled over our skepticism toward Northern Ireland's most famous altar boy, we suggest they take their grievances to John Bruton, who is Irish enough to be the Prime Minister of Ireland. He, too, will be at Bill Clinton's St. Patrick's Day party for Gerry Adams, and he has a message for the two statesmen: The IRA has to give up its arms. "This is an item on the agenda that must be dealt with," Premier Bruton said Monday in Dublin. "It's a very serious matter. There are genuine fears felt by members of the community that have been at the receiving end of the violence."

We don't at all doubt that somewhere amid the Friday merriment, Mr. Clinton will ask Mr. Adams to give up the guns and that Mr. Adams will tell the President that is surely the IRA's intent, all other matters being equal.

It is hard to know precisely what motivates Mr. Clinton to lionize a Gerry Adams and snub a Lee Teng-hui. The deference to China doesn't fully wash, because when Britain—our former ally in several huge wars this century—expressed its displeasure over the Adams meeting, the White House essentially told the Brits to lump it. Perhaps the end of the Cold War has liberated liberal heads of state into a state of lightheadedness about such matters. We note also

this week that France's President Francois Mitterrand has been entertaining Fidel Castro at the Elysees Palace.

But it's still said that Bill Clinton has a great sense of self-preservation. So if he's willing to personally embrace Gerry Adams while stiffing the Prime Minister of England and forbidding the President of Taiwan to spend three days with his classmates in Ithaca, there must be something in it somewhere for him.

[From the Memphis Commercial Appeal, Apr. 22, 1995]

LET LEE VISIT

Eleven months after Communist China's old tyrants loosed the tanks on pro-democracy students in Tiananmen Square, Taiwan's new president, Lee Teng-Hui, released several political prisoners—the first step in his rapid march to democratizing "the other China." Now guess who—the despots or the democrat—is being banned from setting foot in the Land of the Free.

Secretary of State Warren Christopher drones that to grant Lee a visa to address his alma mater, Cornell University, in June would be "inconsistent with the unofficial character of our relationship" with Taiwan.

That relationship dates from 1979, when Jimmy Carter severed diplomatic ties with Taiwan to stroke Beijing, which views the island nation as a rebellious province. Presumably, the red carpet remains out for the massacre artists whose sensibilities Christopher cossets.

Not everyone in Washington abides this outrage against a country making strides toward real political pluralism and free-market economics. The House Committee on International Relations, burying partisanship, recently voted 33–0 in moral support of Lee's visit. (The Senate Foreign Relations Committee backed a similar resolution in March.)

With more bite, Rep. Robert Torricelli (D-N.J.) has introduced legislation that would compel the State Department to issue visas to democratically elected Taiwanese leaders. Meanwhile, Cornell president Frank Rhodes says Lee's return to campus "would offer an extraordinary educational opportunity."

The administration's posture—stubborn pusillanimity—is odd. Lee's visit clearly would not be a state-to-state affair. If Communist China's leaders sulked anyway, so what? How would they retaliate? Give their tank commanders directions to California? Refuse to sell us the $31.5 billion in goods they exported to the United States in 1994?

Congress should reaffirm America's welcome to democracy's friends by quickly passing the Torricelli bill; as for the administration, its Christopher is obviously no patron saint to all travelers.

[From the Durham Herald-Sun, Apr. 20, 1995]

TAIWAN PRESIDENT: SORRY, YOU CAN'T TALK HERE

For a country that beats its chest about freedom of speech, we're setting a very hypocritical example in the case of Lee Teng-Hui, the president of Taiwan. He wants to come back to Cornell University, his alma mater, to give a speech.

No way, says the Clinton administration, which argues that mainland China is the one and only China. Presumably that leaves Taiwan, at least in Washington's eyes, as pretty much what Beijing says it is: a rebellious province.

Rebellious or not, at least Taiwan is moving toward a more open and democratic society than the mainland. Yet Lee is being denied a visa for his Cornell visit because, in the words of Secretary of State Warren Christopher, it would be "inconsistent with the unofficial character" of this country's relationship with Taiwan. The United States recognized Taiwan as the legitimate government of China until 1979, when then President Jimmy Carter decided that ties with the mainland regime were more vital to the interests of the United States.

In the long shadow of history, Carter's decision is likely to win favor as the correct one. But that doesn't mean we ought to slam the door on the elected leader of Taiwan just because the gerontocracy in Beijing might get a case of political heartburn. These fellows are, after all, the very officials who turned the Chinese army loose in Tiananmen Square.

In any case, Lee's visit to Cornell would not be a pomp-and-circumstance state visit, but rather a low-visibility affair. The House Committee on International Relations knew that when it voted 33–0 on a resolution backing Lee's visit. The Senate Foreign Relations Committee also adopted a resolution in favor of Lee. In addition, Frank Rhodes, the president of Cornell, has spoken up for Lee.

Rep. Robert Torricelli, a New Jersey Democrat, is so incensed by the administration's deliberate snub of Lee that he has introduced a bill in the House that would mandate the State Department to issue a visa to Lee or any other freely elected official from Taiwan.

Good. If the State Department won't let Lee into the motherland of the First Amendment, then Congress ought to see to it that he gets a visa. As for the State Department, it could use some sensitivity training in good manners.

[From the Washington Times, May 2, 1995]

A MATTER OF HONORS DUE A STAUNCH FRIEND

(By James Hackett)

After two years of insulting America's friends and allies while accommodating America's enemies, the Clinton Administration finally has hit bottom. The matter involves Lee Teng-hui, president of the Republic of China on Taiwan, who has been invited by Cornell University to receive an honored alumnus award at ceremonies at Ithaca, N.Y., in early June. Mr. Lee received his Ph.D. at Cornell and wants to accept the honor bestowed by his alma mater.

President Lee is a native of Taiwan and the first popularly elected president of a country that long has been a close friend and ally of the United States. But incredibly, the State Department will not allow Mr. Lee to visit the United States, even for such an unofficial purpose, lest it annoy the communist rulers on the mainland.

The State Department's China hands, with the approval of the Clinton White House, are trying hard to accommodate the wishes of the government in Beijing. Last year, Mr. Lee and his minister for economic affairs were denied permission to attend an Asian economic summit in Seattle, despite Taiwan's status as an Asian economic powerhouse that buys more than twice as much from the United States as mainland China.

The worst insult to Taiwan, however, was a disgraceful episode last May when Mr. Lee was denied permission to stay overnight in Honolulu after his plane stopped there to refuel. The State Department is following a policy of no overnight stays on U.S. soil for senior Taiwan officials, treatment more appropriate for criminals than for friends and allies.

In contrast, the administration is eager to please the regime in Beijing, a government that continues to test nuclear weapons while developing a whole new series of ballistic missiles, including some that can carry nuclear weapons anywhere in Asia and even across the Pacific. China also is buying frontline Russian SU–27 combat aircraft, Russian Kilo-class submarines, and other equipment under a major military modernization program. This Chinese development of power projection capabilities is a direct threat to Taiwan and the other democracies of Asia.

China's military buildup is being achieved even as the communist regime continues to suppress human rights, commits systematic genocide in Tibet, confronts its neighbors with claims on oil deposits and islands in the South China Sea, and threatens to invade Taiwan if that democracy declares its independence. Yet the Clinton administration wants close relations with the Chinese military and is eager to sell China high-speed computers and other advanced technologies that have significant military applications. Last October, Mr. Clinton sent Defense Secretary William Perry to Beijing to cement relations with the Chinese army, and Mr. Perry wound up toasting the commanders who crushed the democracy uprising.

Policy toward Taiwan, however, continues to be shaped by the Shanghai Communique that was signed before the Tiananmen Square uprising, which requires the United States gradually to decrease the quality and quantity of military equipment sold to Taiwan. Consequently, even the F–16A/B aircraft that President Bush approved for sale to Taiwan just before the 1992 election are the oldest models of that fighter, inferior even to the model being sold to Saudi Arabia.

As China builds up its offensive military force, the United States must help Taiwan defend itself. Congress should disavow the ill-considered Shanghai Communique and press Mr. Clinton to sell first-line military equipment, including the best available air, sea, and missile defenses, to our friends on Taiwan.

Members of Congress of both parties are increasingly unhappy with Mr. Clinton's China policy and irate at the treatment of Taiwan's President Lee. The House International Relations Committee approved by a vote of 33–0 a resolution calling on Mr. Clinton to welcome President Lee to visit Cornell University, and to allow him to attend a planned meeting of the U.S.-Taiwan Economic Council in Anchorage, Alaska. But the administration has ignored this unanimous bipartisan congressional resolution.

If President Lee is denied permission to receive his honors at Cornell, the Clinton administration's lack of principle will have dragged this country to a new low. The House is expected to bring this issue to a floor vote today to demand prompt approval of a visa for Mr. Lee and the restoration of common decency to our relations with Taiwan. The Senate should quickly follow suit.

[From the Rocky Mountain News, Apr. 19, 1995]

ODD WAY TO REWARD A FRIEND

Eleven months after Communist China's old tyrants loosed the tanks on pro-democracy students in Tiananmen Square, Taiwan's new president, Lee Teng-Hui, released several political prisoners—the first step in his rapid march to democratizing "the other China." Now guess who—the despots or the democrat—is being banned from setting foot in the Land of the Free. Secretary of State

Warren Christopher drones that to grant Lee a visa to address his alma mater, Cornell University, in June would be "inconsistent with the unofficial character of our relationship" with Taiwan. That relationship dates from 1979 when Jimmy Carter severed diplomatic ties with Taiwan to stroke Beijing, which views the island-nation as a rebellious province. Presumably, the red carpet remains out for the architects of the Tiananmen massacre whose sensibilities Christopher cossets.

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[From the Seattle Times, Feb. 11, 1995]

THE WRONG CHINA POLICY

President Lee Teng-hui of Taiwan has again been denied entry into this country and it's time once again to ask the simple question: Why?

Lee is the democratically elected leader of the 22 million Chinese on Taiwan who form an economy that is one of America's most vigorous trading partners. He has a Ph.D. from Cornell University in upstate New York, something one would wish more foreign leaders possessed.

Cornell wants to offer this distinguished graduate an honorary degree. The Clinton administration, following the policy of previous administrations, says Lee can't come back to this country. The reason is that the mainland Chinese would be offended.

That policy is inexplicable. Essentially, the U.S. is allowing mainland China to dictate the terms of our relations with one of our best trading partners. Lee's policies and economy is far more admirable than the mainland's, but we keep him at arm's length. At the minimum, Lee should be allowed to visit his alma mater. An official visit to Washington, D.C. is not a bad idea, either.

[From the Richmond Times-Dispatch, Sept. 26, 1994]

TALE OF TWO NATIONS

The Clinton administration is committing hundreds of millions of dollars, and potentially the lives of many American military personnel, to the "restoration" of democracy in Haiti. If that third-rate nation's brutal politicians and policemen suspend their practice of murdering their critics and oppressing the populace, the United States may reward the country with generous economic aid for years to come. And, of course, its diplomats will continue to receive invitations to White House soirees.

Meanwhile, how does the Clinton administration reward an old American ally that is democratizing by choice, that has established a commendable record on human rights, that has embraced the free enterprise system, and that does enough business with the United States to support more than 300,000 American jobs? By throwing it a few crumbs and telling it to keep its officials away from the White House and the State Department.

That about explains the Clinton administration's new and supposedly improved policy on the Republic of China on Taiwan. The President has condescendingly allowed Taiwan to rename its unofficial mission here from "The Coordination Council for North American Affairs" to "The Taipei Economic and Cultural Representative's Office in the United States," which more clearly described the mission's function.

He also has removed the ban on direct contacts between American economic and technical officials of non-Cabinet rank and Taiwanese government officials in Taipei, but Taiwanese officials stationed in the United States will not be permitted to visit the State Department. And the President may support Taiwan's membership in certain international organizations, such as those concerned with trade, when he can do so without implying diplomatic recognition of that country.

In other words, Taiwan is to remain a diplomatic pariah whose president is not even permitted to land on American soil long enough to play a round of golf.

Taiwan deserves better treatment. It is the United States' sixth-largest trading partner. It stood shoulder to shoulder with the United States during the darkest and most dangerous phases of the Cold War. It has used the United States as a model in building its economic and political structures. Voluntarily and enthusiastically, it is developing exactly the kind of democracy that the United States advocates.

The United States withdrew diplomatic recognition from Taiwan during the Carter administration, and denies it still, in an effort to cultivate the friendship of mainland Communist China, which asserts sovereignty over Taiwan and vows to reclaim that island someday. Taiwan is also committed to eventual reunification. The two countries have developed important commercial ties in recent years, but they are far from agreement on the terms for merging politically into a new united China.

Strong arguments based on both principle and political reality can be made against the United States' eagerness to appease Communist China at the expense of an old American friend. Tomorrow Senator Robb will convene a hearing of his Subcommittee on East Asian and Pacific Affairs to review the administration's China policies. The exchange promises to be vigorous.

Democratic Senator Paul Simon of Illinois considers it wrong as a matter of principle for the United States to disdain a country that has "a multi-party system, free elections, and a free press—the things we profess to champion—while we continue to cuddle up to the mainland government whose dictatorship permits none of those." Heritage Foundation China analyst Brett Lippencott suggests that by developing closer ties to Taiwan the United States could promote the reunification of China. The reason, essentially, is that the failure to enhance Taiwan's "international status could weaken those in Taiwan who favor eventual reunification . . . and strengthen those who seek an independent Taiwan."

Obviously, the actual existence of two Chinas creates a difficult and delicate problem for the United States. But in dealing with it, our leaders should occasionally do what is right instead of always doing what they think will please the tyrannical rulers of the world's last remaining major Communist stronghold.

[From the Dallas Morning News, Sept. 27, 1994]

TAIWAN—SENATE SHOULD URGE GREATER WHITE HOUSE SUPPORT

For the second consecutive year, Taiwan's bid for membership in the United Nations has been thwarted. But however many "no" votes may have been cast against Taiwan at the U.N., the island democracy off the coast of mainland China deserves far better treatment from the Clinton administration.

Last week's anti-Taiwan vote by the 28-member General Assembly steering committee was hardly surprising. Because Communist China considers Taiwan to be a "renegade province," China has waged an ongoing and heavy-handed campaign against Taiwan since 1949.

As relations have warmed between the United States and China, U.S.-Taiwan relations have suffered. U.S. policy continues to be based on the traditional formula that says, "There is only one China, and Taiwan is a part of China." To be sure, President Clinton attempted to boost economic and commercial ties with Taiwan earlier this month by calling for more high-level visits. He is putting special emphasis on those relating to technical and economic issues. But that's insufficient.

Today may be another milestone in the evolution of U.S.-Taiwan relations. The Clinton administration's new Taiwan policy is scheduled to be examined by the East Asian and Pacific affairs subcommittee of the Senate Foreign Relations Committee. As Sen. Paul Simon of Illinois has pointed out, the first thing the Senate should note is that Taiwan features a multi-party system, free elections and a free press. He's right.

Earlier this year, President Clinton said in his State of the Union message that "the best strategy to ensure our security and to build a durable peace is to support the advance of democracy elsewhere." The East Asian and Pacific affairs subcommittee chairman, Charles Robb of Virginia, should recite those words in his hearing room today.

Taiwan is the perfect place for the Clinton administration to translate words into action. The way to do that is by giving Taiwan greater recognition for its democratic advances.

[From the Boston Herald, Mar. 18, 1995]

LET TAIWAN PRESIDENT VISIT

President Clinton's China policy (essentially, give Beijing whatever it wants) is about to be challenged over his snubbing of Taiwan.

Cornell University has invited one of its graduates to address an alumni reunion in June. He is Lee Teng-hui, who received a doctorate in agricultural economics from Cornell in 1968. He is president of the Republic of China on Taiwan.

Since 1979, Washington has taken the position that the Communist government in Beijing, one of the most repressive on earth,

is the exclusive representative of the Chinese people. Taiwan is a democracy and one of our largest trading partners.

To placate the People's Republic, the president of Taiwan isn't allowed to visit the United States, even in an unofficial capacity. Last May, when Lee stopped in Honolulu en route to Costa Rica, the State Department generously offered to permit him to enter the airport, provided he remain in quarantine. Lee chose to stay on his plane.

Why the administration must allow Beijing to jerk its strings is a mystery. The regime is not the least cooperative on human rights or trade.

Congressional Republicans are threatening to revolt. Sen. Frank Murkowski (R-Alaska) has 35 co-sponsors on a resolution calling on the administration to allow Lee to visit Cornell. If the resolution is ignored, Murkowski is threatening to reopen the issue of U.S. relations with Taiwan.

This is a fight the president doesn't need. Beijing may bluster but ultimately will do nothing. The world won't come to an end if one of Cornell's more distinguished alumni visits his alma mater.

[From the Tampa Tribune, Mar. 26, 1996]

WHY TREAT TAIWAN LIKE DIRT?

Standing up for what you believe is not always easy in international affairs, and President Clinton probably wishes people wouldn't force him into areas of diplomacy where he is so uncomfortable.

But it's happening again. Pesky Cornell University is inviting one of its graduates, Taiwan's President Lee Teng-Hui, to give a speech there in June. So President Clinton must decide whether to allow the visit, sure to anger mainland China, or to continue the policy of pretending Taiwan's top leaders have the plague.

Helping keep the issue in the public eye is a proposed Senate resolution, sponsored by Frank Murkowski of Alaska and co-sponsored by Sen. Connie Mack of Florida and 34 others.

Each of the many "whereas" paragraphs in the resolution contains a bit of information sure to make the President twitch. Taiwan is the United States' sixth-largest trading partner; it supports democracy and human rights; it has a free press and free elections; its elected leaders deserve to be treated with respect and dignity; and the U.S. Senate has voted several times last year to welcome President Lee to the United States.

Perhaps if President Clinton were more confident in the diplomatic skills of his administration, he would be less cautious about putting a few old Communist tyrants in a temporary huff.

[From the Oregonian, Feb. 24, 1995]

STRENGTHEN U.S.-TAIWAN TIES

Taiwan has made remarkable efforts to do the kinds of things that United States foreign policy has asked of it. The Clinton administration ought to reward that effort by further loosening the shackles on U.S. Taiwanese relations. It made some hopeful changes last September, but badly needs to do more.

Members of both parties in Congress are dismayed—rightly so—at how this country has treated Taiwan's reformist President Lee Tanghui. It forbade him to stay overnight when his plane landed in Hawaii for refueling last May on a trip to Central America, and so far has refused permission for Lee to enter the United States, even as a private citizen acting in a wholly unofficial capacity, to receive an honorary degree from his alma mater, Cornell University.

The reason for that is the "one China" policy adopted in 1979, when the United States finally abandoned hope that the rump Nationalist government on Taiwan would ever regain control of mainland China, the communist People's Republic.

China considers Taiwan a rogue province. By a combination of bluster and threat, it has long persuaded other nations and international organizations to isolate Taiwan.

But that doesn't mean the United States shouldn't do much more to strengthen its unofficial economic, political and cultural ties with Taiwan pending a final resolution of the Taiwan-China dispute.

Taiwan is our fifth-largest trading partner (third-largest for the Columbia-Snake River Customs District) and an economic powerhouse in Asia. We ship twice as many goods to the island of 20 million people as we do to the mainland.

Taiwan has made immense progress along the road from virtual dictatorship under the late Chiang Kai-shek and his son, Chiang Ching-kuo, to representative democracy.

One result has been that Lee's ruling Nationalist Party faces significant opposition not only from the populist Democratic Progressive Party, which favors Taiwanese independence from China, but also from a breakaway Nationalist group calling itself the New Party.

Unlike the People's Republic, Taiwan has a free press and a television system that is only nominally government-controlled. The Taipei government tolerates an illegal cable TV system that broadcast a "democracy channel" and news from the mainland.

Unlike the People's Republic, Taiwan has acknowledged past human-rights abuses, including the Nationalist slaughter of thousands of native Taiwanese in 1947, two years before Chiang's forces finally lost their civil war against the communists, and has made far more human-rights progress than the mainland.

Taiwan has taken more positive steps then the mainland to protect U.S. intellectual property—the current sore point between Washington and Beijing.

These are exactly the combination of reforms and brisk march toward democracy that the United States urges on Russia, China and some Latin American nations, among others. The only difference is that Taiwan is getting it done.

That should be rewarded with closer ties to the United States and U.S. help in getting Taiwan full participation in the World Trade Organization, International Monetary Fund, World Bank and other organizations that should be more concerned with facts as they are than facts as China might like them to be.

And let Lee visit Cornell.

Mr. JOHNSTON. Mr. President, I intend to offer my thoughts on House Concurrent Resolution 53, but before doing so, I would like to know if my colleague from Alaska might engage in a colloquy on a particular point about this resolution on which we would agree: that it is important to maintain a productive relationship with the People's Republic of China.

Mr. MURKOWSKI. I would be happy to enter into a colloquy with my good friend from Louisiana on this point.

Mr. JOHNSTON. I wonder if it is the Senator's intent by this resolution to begin a two China policy, that is to violate the terms of the agreement the United States made with the People's Republic of China in 1979 to recognize the People's Republic of China as the sole legal Government of China? As my colleague knows, since signing that agreement, the United States has maintained only unofficial relations with Taiwan, keeping commercial, cultural, and other relations without official Government representation and without diplomatic relations.

Mr. MURKOWSKI. I believe this resolution is consistent with our agreements with the People's Republic of China and is consistent with the Taiwan Relations Act as well. This resolution does not, in this Senator's opinion, violate our one-China policy. I believe that the United States can allow a private visit by President Lee to his alma mater, Cornell University, and to a business conference in Alaska without compromising United States foreign policy toward the People's Republic of China.

This resolution merely calls on the administration to recognize that President Lee should be admitted to attend private events in the United States to promote our friendly, albeit unofficial, ties with the Republic of China on Taiwan, as envisioned under the Taiwan Relations Act.

Since 1979, circumstances have changed between the People's Republic of China and the Republic of China on Taiwan. I would direct my colleague's attention to the relationship that has developed between the People's of China and the Republic of China on Taiwan through their unofficial entities: the Association for Relations Across the Taiwan Straits in Beijing and the Mainland Affairs Council in Taiwan. The two sides get together and talk about everything but politics. Trade and investment has ballooned. It seems entirely appropriate that the United States should also be able to take actions to increase our trade and economic ties with Taiwan.

Mr. JOHNSTON. I thank the Senator from Alaska for that clarification. As I know my colleague is aware, diplomacy is often a gray area, and I believe there can be honest disagreements over when an action crosses a sometimes arbitrary line. On this particular issue, the Senator from Alaska and I might disagree over where that line is drawn. From this colloquy I think we agree that it is in the interests of the United States to maintain the fundamental United States-People's Republic of China relationship.

Mr. MURKOWSKI. I thank my friend from Louisiana for that colloquy.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I will be very brief.

Mr. President, even with this important clarification, I remain extremely

concerned about how actions such as this, no matter how harmless they may appear, could impact the United States relationship with the People's Republic of China. For almost 15 years, the United States has remained committed to a one-China policy that includes only unofficial recognition of Taiwan. This commitment is backed up by several joint communiqués issued by the United States and the People's Republic of China and by the Taiwan Relations Act. I am concerned about the ambiguities and confusion a visit by President Lee to the United States could raise in the eyes of the People's Republic of China. Although this visit would be a private one, Mr. Lee is the President of Taiwan, he would be staying on American soil in an official capacity, and the United States does have a commitment to the People's Republic of China to maintain only unofficial relations with Taiwan. I hesitate to muddy the waters and compromise our carefully crafted, delicate relations with the People's Republic of China by initiating vague policies of recognition of Taiwan's leaders, whether such visits are private or not. The People's Republic of China is entering a period of transition. Deng Xiaoping is over 90, and it is unclear who will succeed him as head of the Chinese Government. Now is not the time to look as if we were altering the United States steadfast commitment to a one-China policy.

Should this resolution pass, as I expect it will, I urge the State Department not to follow this nonbinding resolution and not to issue a visa to Mr. Lee. I have the greatest respect for President Lee and this is in no way meant to be a personal affront to him. I have seen relations between the United States and Taiwan grow and improve and I have seen Taiwan take great strides toward democracy. In fact, this administration completed a comprehensive review of our policy with Taiwan last year and implemented a number of appropriate steps to further improve our relationship with Taiwan. Taiwan has held free and fair elections for some offices, and I hope this trend of expanding free and fair elections will continue in the near future, including for the office of the Presidency. I hope the United States will continue to maintain its ties with Taiwan, but these ties must remain unofficial.

Mr. President, this is a very, very critical time for China, the largest nation in the world upon which the stability of all of Asia and, some would say, the stability of all of the world depends.

Deng Xiaoping, their leader, is transitioning out. New leaders are coming in. Therefore, it is very important that the United States not do anything to upset what is one of the most important pillars of our relationship with them, which is a one-China policy.

Now the question is, Does this violate the one-China policy?

The Secretary of State testified before the Budget Committee in February that the United States has committed itself to the concept of one China and to having an unofficial relationship with Taiwan. He also stated that if the President of Taiwan "is wanting to transit to the United States when he is going someplace else, that would be acceptable under the new arrangements. But it is regarded as being inconsistent with the unofficial character of our relationships with Taiwan for the President to visit here in what would be, in effect, an official capacity." It is my hope that, should this resolution be enacted by the Congress, the administration will continue to hold to this policy and will not issue the travel visa to President Lee. As I said earlier, while I have the greatest respect for the President and people of Taiwan, and commend them on the significant progress they have made toward democracy, the United States Congress should not alter over 15 years of United States foreign policy with a single resolution. Our current foreign policy toward China and Taiwan brings maximum benefit to the United States; we have official diplomatic ties with Beijing while maintaining trade and cultural relations with Taipei. We should not change a policy that continues to serve U.S. interests so well.

Our Secretary of State believes this does violence to the one-China policy. I, therefore, would urge my colleagues to vote against this resolution, and I urge the Secretary of State not to issue the visa called for by this resolution. I stand second to no one in my affection and regard for Taiwan. But the way to show our regard and affection for Taiwan and President Lee is not by departing, however ambiguously, from the one-China policy.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I will take only 1 minute.

I think this is a sound resolution. I want to get along with the People's Republic of China, but they cannot dictate what we do. Taiwan has a freely elected government and a free press, all the things we say that we allow. The President of Taiwan wants to come over here on a private visit and go to his alumni meeting at Cornell University. I think for us to knuckle under to the People's Republic of China under those circumstances just goes contrary to everything we say we profess. I strongly support the resolution.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, this resolution has one fault: It is too late in coming. It has been reported out favorably by the Foreign Relations Committee. It is a mistake that we should have corrected a long time ago.

Senator MURKOWSKI and I, and others, have for a long time been protesting this travesty in the conduct of U.S. foreign relations. How and when did the United States reach the point in United States-Taiwanese relations that United States foreign policy could preclude a visit to the United States of the highest ranking, democratically elected official of Taiwan?

Though I did not often disagree with Ronald Reagan—I did on occasion, and one of those times was when President Reagan's advisers made a regrettable decision which risked jeopardizing our relations with Taiwan by cuddling up to the brutal dictators in Beijing. Since that time, we have been hiding behind a diplomatic screen when demonstrating our commitment and loyalty to the Taiwanese people.

Mr. President, at the time President Reagan's advisers made that grievous error, Congress was promised that the United States would continue to "preserve and promote extensive, close and friendly * * * relations" with the people on Taiwan. But successive administrations have not lived up to that promise. How in the world could any one consider it close and friendly to require the President of Taiwan to sit in his plane on a runway in Honolulu while it was refueled? I find it hard to imagine that United States relations with Red China would have come to a standstill because of a weekend visit to the United States by Taiwan's President Lee.

The President's China policy is in poor shape at this point—even members of his team recognize that. So, how can anyone really believe that allowing President Lee to travel to his alma mater—or to vacation in North Carolina—would send our already precarious relations with Red China plummeting over the edge?

Last time I checked, the Mainland Chinese were obviously enjoying their relations with the United States—a small wonder since they are benefiting $30 billion a year from the American taxpayer as a result of United States trade with Red China.

Time and again, the U.S. Congress has urged the administration to grant President Lee a visa. We have amended our immigration law so that it now specifically mentions the President of Taiwan. Congress has passed resolution after resolution encouraging the President to allow President Lee into the United States for a visit. All to no avail.

But today the delay is over. I hope I will have the privilege of being one of the first to welcome the distinguished President of the Republic of China on Taiwan. He deserves a warm welcome from all of us.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I strongly hope that the concurrent resolution will be agreed to. The President of Taiwan has studied and taught at Cornell, as well as Iowa State. This is a single visit. It fits within the guidelines of the policy review carried out by the White House and the National Security Council. It is a resolution which should get an "aye" vote.

Mr. MURKOWSKI. I ask unanimous consent that Senator NICKLES be added as the 54th bipartisan cosponsor.

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

Mr. THOMAS. Mr. President, I rise this morning as the chairman of the Senate Subcommittee on East Asian and Pacific Affairs to join in the sentiments expressed by my colleague, Senator MURKOWSKI, on Taiwan, and in particular on the visit of President Lee.

I need not repeat in detail for the Senate Taiwan's many accomplishments, either economic or political; these have often been discussed on the Senate floor. It is sufficient to note that this country is our fifth largest trading partner, and imports over $17 billion worth of U.S. products annually. More importantly, though, Taiwan is a model emerging democracy in a region of the world not particularly noted for its long democratic tradition.

The Taiwanese Government has ended martial law, removed restrictions on freedom of the press, legalized the opposition parties, and instituted electoral reforms which last December resulted in free elections. Taiwan is one of our staunchest friends; I think every Member of this body recognizes that, and accords Taiwan a special place among our allies. Unfortunately, Mr. President, the administration apparently does not share our views. Rather, the administration goes out of its way to shun the Republic of China on Taiwan almost as though it were a pariah state like Libya or Iran. Sadly, the administration's shoddy treatment of Taiwan is based not on that country's faults or misdeeds, but on the dictates of another country: the People's Republic of China.

It is because the People's Republic of China continues to claim that it is the sole legitimate Government of Taiwan, and because of the administration's almost slavish desire to avoid upsetting that view, that the State Department regularly kowtows to Beijing and maltreats the Government of Taiwan.

The administration refuses to allow the President of Taiwan to enter this country, even for a private visit. A private visit, Mr. President. President Lee is a graduate of Cornell University, where he earned his Ph.D. He has expressed an interest in attending a class reunion at his alma mater this June, and a United States-Taiwan Economic Council Conference. Yet the administration has made clear that it will not permit him entry.

Mr. President, the only people that this country systematically excludes from entry to its shores are felons, war criminals, terrorists, and individuals with dangerous communicable diseases. How is it possible that the administration can see fit to add the President of Asia's oldest republic to this list? We have allowed representatives of the PLO and Sinn Fein to enter the country, yet we exclude a visit by an upstanding private citizen?

Mr. President, I think we have made clear to Beijing—I know I have tried to—the great importance to us of our strong relationship with that country. This relationship should, in my opinion, transcend squabbles over diplomatic minutiae. I will always seek to avoid any move that the Government of the People's Republic of China reasonably could find objectionable. I believe that countries like ours should try hard to accommodate each others' needs and concerns, in order to further strengthen our relationship.

However, I believe that the People's Republic of China needs to recognize the reality of this situation. Both Taiwan and the People's Republic of China are strong, economically vibrant entities. Both share a common heritage and common culture, yet have chosen political systems that are mutually exclusive. And despite these differences, the United States has a strong and important relationship with both.

I strongly believe that it is the Chinese who must work out their differences among themselves, without resort to or interference by outside forces. While I am sure that a solution will come eventually, it is liable to take a number of years. In the meantime, it does no good to continually place the United States in the unproductive position of having to walk a tightrope between the two, of continually having to choose sides.

Mr. President, our Taiwanese friends have been very understanding about our relationship with the People's Republic of China. I would hope that our friends in Beijing would be equally respectful of our relationship with Taipei. I fully support the concurrent resolution.

Mr. SIMPSON. Mr. President, I rise today in support of the concurrent resolution offered by Senator MURKOWSKI, which I am pleased to cosponsor.

This, very simply, would state the sense of the Senate that we should remove existing restrictions on the right of President Lee Teng-hui, of the Republic of China on Taiwan, to travel to the United States. As my colleagues have already heard, the President of Taiwan wishes to come here to visit his alma mater, Cornell University. However, he cannot, because existing U.S. policy prevents him from staying here overnight.

It is certainly no secret to my colleagues that a principal reason for this restriction is the particular sensitivity of the Mainland Chinese Government to how the United States deals with and treats the Taiwanese. I would simply say that I speak as someone who has—and will—stoutly defended the United States-China relationship, even when Mainland China was under attack here in the United States for alleged human rights transgressions. I have consistently argued that the best policy toward China is one of mutual exchange and respect, of cooperation in trade, environmental work, population issues, and all else. So I do not believe that I can fairly be accused of being heedless of the very real and delicate sensitivities that the Chinese might display regarding this matter.

However, I believe that it is possible—indeed, imperative—that we be open in our dealings with Mainland China and with Taiwan simultaneously. We must not insult the one in order to please the other. Indeed, even China and Taiwan are coming to increasingly recognize the foolishness of their mutual antagonism of the last several decades. It is still a sensitive and difficult problem for each government, but "behind the scenes," we are seeing more travel across the Taiwan Strait, more investment, more economic and cultural exchange. That relationship is beginning, however slowly, to change.

In any case, there are limits to how much we should rebuff the Taiwanese in order to preserve our relationship with Beijing. We should strive to trade with the Chinese, to cooperate with them on a large number of issues, but not to refuse to participate in relationships that are beneficial and proper for the United States. One of these is with the Republic of China on Taiwan.

Mr. President, I have always been one who has argued that there is a vital stake in old foes coming together to hammer out their ancient differences and eternal conflicts. I believe that backchannel contacts were indispensable to bringing about the possibility for expanded, public talks to bring about peace in the Middle East and in Ireland. So I have not publicly criticized the administration for its dealings with Yasir Arafat, or with Gerry Adams, or any of a number of at times even justifiable blameworthy international figures.

But it does strike me as very odd that we can reach out so much to individuals who have previously engaged in fully criminal conduct, yet we cannot even allow one of our true friends, the President of Taiwan, to come to the United States for a private—I stress, private—visit.

And he is indeed a friend to the United States—his administration has made it far easier for the United States

to pursue a desirable economic relationship with Taiwan without sacrificing any of our principles on human rights. Taiwan has recently enjoyed the freest and fairest elections in its history. There is unprecedented political competition, and public debate, and fully indulged criticism of the Government, in that country. It is not an American-style democracy by any stretch. But the progress has been quite remarkable.

What we have here is a policy of punishment for precisely the type of behavior which we would hope to see in our overseas counterparts. President Lee has not only worked to make the United States-Taiwan relationship less troublesome, but even has exerted energy to lessen strains in the Taiwan-China relationship as well. That takes genuine political courage.

So I congratulate my fine friend the Senator from Alaska, FRANK MURKOWSKI, for bringing this matter to the attention of the Senate, and I pledge to him my full support in this and future efforts to repair and resolve this situation.

Mr. BAUCUS. Mr. President, I rise in support of this concurrent resolution.

The concurrent resolution offered by the Senator from Alaska is, in essence, a statement of a basic American principle: free association, or our right to meet and speak with whomever we choose. It is strictly limited to this issue, and raises no fundamental questions of China policy.

This resolution welcomes the visit of President Lee Teng-hui of Taiwan, as a private citizen, to attend the United States-Republic of China Business Council conference in Alaska, and give a speech at Cornell University. These activities would in no way violate any of our commitments to China, and would make sure we give President Lee the respect he has earned as one of Asia's great democrats.

The principal objection to this resolution is the claim that it would violated American commitments to the Chinese Government. Let me review precisely what these commitments are. In 1972, 1979, and 1982, we signed a series of three communiques with the People's Republic of China. In the last of these, to quote the text:

> The two sides agreed that the people of the United States would continue to maintain cultural, commercial, and other unofficial relations with the people of Taiwan.

I believe we should keep our promises. We have made commitments to China to maintain a one-China policy and keep our relationship with Taiwan on an unofficial basis. And as long as China keeps its side of the bargain—to "strive for a peaceful resolution" to its differences with Taiwan—we should keep ours.

But the text of the communique is very clear. It says that our relationship will be unofficial. What it does not say is equally clear. That is, neither the 1982 communique nor the other two make any commitment whatsoever which Chinese citizens shall be eligible for visas. Thus, I am convinced that the proposed visit by President Lee as a private citizen would fall entirely within the framework of "cultural, commercial and other unofficial relations."

Once again, this concurrent resolution, rightly construed, does not bear on China policy at all. It is simply a statement of our right as Americans to meet and speak with whom we choose; and of our respect and friendship for President Lee personally and the people of Taiwan in general. I support it and hope my colleagues will do likewise.

Mr. DOMENICI. Mr. President, could I just make an announcement? The Budget Committee intended to go back to mark up and vote after the two votes. I would like to tell them all we are going to go back to committee and have two votes, one after another. I hope they will all come. No proxy votes allowed.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution. The yeas and nays have been ordered. The clerk will call the roll.

Mr. LOTT. I announce that the Senator from Virginia [Mr. WARNER] is necessarily absent.

Mr. FORD. I announce that the Senator from New York [Mr. MOYNIHAN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 97, nays 1, as follows:

[Rollcall Vote No. 157 Leg.]

YEAS—97

Abraham	Dodd	Kassebaum
Akaka	Dole	Kempthorne
Ashcroft	Domenici	Kennedy
Baucus	Dorgan	Kerrey
Bennett	Exon	Kerry
Biden	Faircloth	Kohl
Bingaman	Feingold	Kyl
Bond	Feinstein	Lautenberg
Boxer	Ford	Leahy
Bradley	Frist	Levin
Breaux	Glenn	Lieberman
Brown	Gorton	Lott
Bryan	Graham	Lugar
Bumpers	Gramm	Mack
Burns	Grams	McCain
Byrd	Grassley	McConnell
Campbell	Gregg	Mikulski
Chafee	Harkin	Moseley-Braun
Coats	Hatch	Murkowski
Cochran	Hatfield	Murray
Cohen	Heflin	Nickles
Conrad	Helms	Nunn
Coverdell	Hollings	Packwood
Craig	Hutchison	Pell
D'Amato	Inhofe	Pressler
Daschle	Inouye	Pryor
DeWine	Jeffords	Reid
Robb	Simon	Thomas
Rockefeller	Simpson	Thompson
Roth	Smith	Thurmond
Santorum	Snowe	Wellstone
Sarbanes	Specter	
Shelby	Stevens	

NAYS—1

Johnston

NOT VOTING—2

Moynihan Warner

So the concurrent resolution (H. Con. Res. 53) was agreed to.

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

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business until the hour of 12:30 p.m., with Senators permitted to speak therein for 5 minutes each.

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

Mr. DOLE. Mr. President, that will give everybody interested in the product liability bill an opportunity to discuss what their remaining strategy or plans may be. We would like to complete action on the bill today. And then, if possible, we would like to move to the trash bill sometime this afternoon and try to complete action on that bill this week.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I thank my colleagues for the evidence of support to extend an invitation to President Lee Teng-hui to visit the United States in an unofficial capacity. I think the support, as evidenced by the vote of 97 to 1 is a clear message of the prevailing attitude in this body toward extending this invitation.

It is my hope that the administration and the State Department will understand the intensity of the feelings with regard to our friends in Taiwan as evidenced in President Lee visiting his alma mater and to a send him to the United States-Republic of China Economic Council Conference in September of this year. I thank my colleagues for their assistance, understanding, and support of this resolution.

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

(The remarks of Mr. GORTON pertaining to the introduction of S. 768 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Delaware.

(The remarks of Mr. ROTH and Mr. D'AMATO pertaining to the introduction of S. Res. 117 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

PRESIDENT CLINTON'S SUMMIT IN MOSCOW

Mr. ROTH. Mr. President, today the President of the United States is participating in Russia's May 9 commemoration of V-E Day. President Clinton accepted Russian President Boris Yeltsin's invitation to this event despite the fact that I and many of my colleagues encouraged him to select another time for a United States-Russian summit. We were concerned that because of the moral ambiguity of this commemoration, United States participation would undermine the relationship we seek to develop with Russia. We must not forget that the Soviet Union contributed to the outbreak of World War II, exploited the war's end, and committed countless atrocities to Russians, Ukrainians, Lithuanians, and other peoples subject to its brutal domination.

President Clinton should not have accepted this invitation, but now that he has, it is for these reasons that during his visit to Moscow he must meet not only with Russia's leaders, but the Russian people and emphasize three key themes. First, he must emphasize human rights. Second, democracy. And, third, rejection of empire. In doing so, the President would encourage all Russians not to look nostalgically back on the Soviet Union, but forward toward the potential of a democratic and postimperial Russia. That should be the principal purpose of President Clinton's visit.

Toward this end, President Clinton must emphasize that his role in this celebration is not to honor the Soviet Union, but the valor and sacrifices of all the peoples who fought in opposition against Nazi aggression.

He must underscore the fact that while the United States, as a whole, celebrates victory in this war, it has not forgotten the victims nor any crimes committed during that era, be it by the Nazis, Stalin and his henchmen, or others.

This will not slight those who fought valiantly against fascism, as indeed did millions of Russians. It will, in fact, honor them even more highly by ensuring that their contributions are distinguished from the war-mongering and atrocities of that brutal time. And, in this way, the President will clearly differentiate the United States from those who seek to reanimate the Soviet past.

In articulating these themes, the President must publicly and forcefully address the ongoing war in Chechnya. Moscow's management of the Chechnyan autonomy movement is depressingly reminiscent of the policies that Stalin, himself, used to terrorize the peoples incorporated into the former Soviet Union. It indicates the fragility of democracy in Russia and, perhaps, even a weakening of its impulse.

President Clinton vowed that he would not visit Russia as long as Moscow continues the war against Chechnya. Indeed, Mr. President, in the weeks preceding this summit meeting, President Yeltsin actually stepped up military operations against the Republic, leveling more towns and killing more innocent civilians, both Russian and Chechnyan.

It is therefore absolutely essential that President Clinton speak forthrightly to the Russian people, not hiding the fact that America condemns the brutal use of military force against Chechnya.

He should state that America's relationship with Russia is contingent upon Moscow's peaceful resolution of its differences with the Chechnyan people. Hesitation on this matter will undermine the legitimacy of Russia's true democrats who have valiantly protested against this war and will strip credibility from our efforts to support Russia's still embryonic democracy.

The bottomline, Mr. President, is that human rights is an international issue. If Russia avows to be a member of the community of democracies founded upon respect for inalienable human rights, it must live up to those standards.

Third, in order for a true strategic partnership to evolve between the United States and Russia, Moscow must respect the sovereignty of the non-Russian nations of the former Soviet Union and former Warsaw Pact.

In this regard, the President's decision to visit Ukraine is crucially important. A Kyiv summit will be an important signal of America's commitment to assist the consolidation of Ukraine's independence. In light of Ukraine's intertwined history with Russia, the success of Ukrainian independence and integration into the Western community of nations will be a critical determinant of Russia's evolution into a postimperial state.

An important underpinning of the constructive role we desire Russian-Ukrainian relations to play in European security has been the Tripartite Agreement between Russia, Ukraine, and the United States. In addition to facilitating the elimination of Ukraine's nuclear arsenal, the agreement committed Russia to respect Ukraine's sovereignty and independence. While in Moscow President Clinton must underscore America's commitment to this agreement and our expectations that Russia do the same.

The President must also emphasize that NATO enlargement will contribute to greater peace and stability in post-cold war Europe. He must communicate that this is a normal process that is driven not only by the need to address the security of Central Europe but also by the Central Europeans who have clearly articulated their desire for membership.

By further ensuring stability in Central and Eastern Europe, NATO expansion will positively and significantly shape the futures of Russia and Germany, two great powers now engaged in a delicate and complex process of national redefinition. It is a critical step toward providing the security essential to enhance the prosperity and stability now beginning to characterize Central and Eastern Europe.

It is a requirement for preserving Germany's progressive role in European affairs and promoting Russia's postimperial evolution. By creating greater stability along Russia's frontiers, NATO enlargement would allow Moscow to spend more of its energy on the internal challenges of political and economic reform.

I hope that, while he is in Moscow, our President will underscore the fact that Russia cannot and will not have any veto over the future membership of NATO.

We all must recognize that NATO enlargement is a process whose outcome Russia will, nonetheless, inevitably influence. If Russia resists the process through intimidation or aggression, NATO enlargement will more likely be directed against Russia. If Russia respects the rights of other nations to determine their own geopolitical orientation, if Russia recognizes the objective benefits of NATO enlargement, and if Russia ultimately works with the alliance, enlargement will contribute to a broader engagement and integration that will bring Europe and Russia closer together.

As it was well put in one of the recent hearings of the Foreign Relations' Committee on this matter, it is not NATO enlargement that will determine the future of Russia's relationship with the alliance, but Moscow's reaction to NATO enlargement.

Finally, during his stay in Moscow President Clinton must emphasize that America is more interested in the future of Russian democracy than in the fate of a single leader. I strongly encourage that the President meet with members of Russia's beleaguered press and those democratically minded legislators—particularly Sergei Kovalyov, the Duma's former Human Rights Commissioner who was recently relieved of his duties because of his courageous

criticism of the Russian Government's Chechyn policy. Perhaps, the President should even meet with those Russian generals who oppose this war, such as former Deputy Minister of Defense Boris Gromov who also lost his position for his criticism.

I say this because the future of our relationship with Russia lies not with those who fall back on the brutal mechanisms of a bygone age, but with those who envision Russia as a prospering democracy.

Mr. President, America's role in Moscow's V-E Day celebrations should be to encourage Russian people and their leaders to concentrate not on the former Soviet Union, but on Russia's future. These themes—human rights, democracy, and the rejection of empire—are the keys not only to unlocking Russia's potential but also to a true strategic partnership between Russia and the United States. Should Moscow's leaders respond positively to these themes, it would be a strong demonstration that Russia is shedding the imperialist ambitions and totalitarian proclivities of the Soviet past.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

HEARINGS SCHEDULED BY THE SUBCOMMITTEE ON TERRORISM, TECHNOLOGY AND GOVERNMENT INFORMATION

Mr. SPECTER. Mr. President, I have sought recognition to comment briefly on a series of hearings scheduled by the Subcommittee on Terrorism, Technology and Government Information of the Judiciary Committee in the wake of Oklahoma City, although one had actually been scheduled in advance.

We have so far had hearings on the statutes proposed by the administration and others. We have had a hearing in response to certain groups concerned with the issue of constitutional rights. A hearing is scheduled for this Thursday, May 11, on the so-called mayhem manuals, where you can find out how to make a bomb, and a hearing is scheduled on May 18 on the incidents involving Waco, TX and Ruby Ridge, ID.

I have received correspondence from the distinguished chairman of the full committee, Senator HATCH, who raises a question about the timeliness of the hearings and about the jurisdiction of my subcommittee. I have responded to Senator HATCH, and intend to put the correspondence in the RECORD so it may be available for the public, by noting that the jurisdiction is clear-cut on the subcommittee, both under the authority on terrorism and on governmental information.

It is my view, Mr. President, that it is important and the hearings are long past due on what happened at Waco, TX and what happened at Ruby Ridge, ID. There can be no misunderstanding or no question that whatever happened at Waco, TX and Ruby Ridge, ID, that there is absolutely, positively no justification for the bombing of the Federal building in Oklahoma City, OK.

But there has been a great deal of concern about whether there has been a candid response by the Government of the United States, and in the congressional oversight responsibility, we should lay all the facts on the table in the interest of full disclosure—let the chips fall where they may. The virtue of strength of a democracy is that we do not cover our mistakes; that if there are errors and if there are problems, we identify them forthrightly.

There had been some concern that a hearing on Ruby Ridge, ID might in some way prejudice the investigation by the prosecuting attorney who may intend to bring some charges, perhaps even against Federal officials. I have had an extended discussion with Randolph Day, Esq., the county attorney for Boundary County, who has advised me that he sees no problem in our going forward with hearings by the subcommittee.

A number of Senators have made public statements about the importance of having such hearings. Others of my colleagues have discussed the matters with me privately. I do think it is important that hearings proceed and that other Senators and the public be aware of the status of this matter.

So I ask unanimous consent that the text of the letter from Senator HATCH to me dated May 8, with my reply to him dated May 9, be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, May 8, 1995.

Hon. ARLEN SPECTER,
U.S. Senate,
Washington, DC.

DEAR ARLEN: I am writing with regard to your public statements concerning the convening of a hearing in the Terrorism, Technology and Government Information subcommittee to review the incidents at Waco, Texas and Ruby Ridge, Idaho. This letter is intended to settle any misunderstanding that may exist as to what the Senate Judiciary Committee's plans are surrounding a review of these matters.

As you know, I share your deep concern over these incidents and believe that a thorough Congressional review of these, and related federal law enforcement issues, is warranted. However, hearings on these matters would not be properly within the jurisdiction of the Subcommittee on Terrorism, Technology and Government Information. Indeed, when your staff raised this issue with Committee staff more than one week ago, my position on this matter was promptly conveyed. Due to the important nature of these issues and their ramifications for federal law enforcement, hearings should be held at the Full Committee. I intend that hearings will be held in the near future following Senate consideration of comprehensive anti-terrorism legislation. Indeed, I believe the House Judiciary Committee has announced hearings as well. It might prove beneficial to hold our hearings after the House completes its hearing.

The hearing you propose is an important one, but I believe that it is unrelated, in any true sense, to the broader issue of the prevention of domestic terrorism. Accordingly, to hold the hearing as you propose at this time will serve only to confuse these important issues. Indeed, by linking the Waco incident to the terrorism issue through hearings at this time, the Committee could inappropriately, albeit unintentionally, convey the wrong message regarding the culpability of those responsible for the atrocity in Oklahoma City. We must not do this.

I appreciate your concern over this matter. I look forward to working with you on this and all other matters before the Judiciary Committee.

Sincerely,

ORRIN G. HATCH,
Chairman.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, May 9, 1995.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC

DEAR ORRIN: I have your letter of May 8.

I disagree with you on three counts:

1. Hearings on Waco and Ruby Ridge, Idaho, should be held promptly (actually they are long overdue) rather than waiting to some unspecified time in the "near future" or "after the House completes its hearings."

2. My Subcommittee on Terrorism, Technology and Government Information has clear cut jurisdiction both as our authority relates to terrorism and government information.

3. I categorically reject your assertions that the Subcommittee's scheduled hearing will "serve only to confuse these important issues" and "convey the wrong message regarding the culpability of those responsible for that atrocity in Oklahoma City." There can be no conceivable misunderstanding that there is no possible justification for the bombing in Oklahoma City regardless of what happened in Waco or Idaho. The public interest requires full disclosure of those incidents through hearings to promote public confidence in government.

Since I have had and am continuing to have media inquiries on these hearings, for your information I am releasing this exchange of correspondence.

Sincerely,

ARLEN SPECTER.

Mr. SPECTER. I thank the Chair and yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

EXTENSION OF MORNING BUSINESS

Mr. DORGAN. Mr. President, I ask unanimous consent that we extend the recess period—my understanding is the Senate was to stand in recess at 12:30—I ask it be extended to allow me to speak for 5 minutes.

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

MEDICARE AND THE BUDGET

Mr. DORGAN. Mr. President, the Senate Budget Committee is meeting today, and they are involved in, I think, a gripping, wrenching debate about how they will try to find a route toward a balanced budget. It is an effort that I think needs to involve all of us because I do not know of anybody in this Chamber who has stood on the floor and said they do not agree that a balanced budget is necessary and desirable for this country.

There were some presentations on the floor of the Senate earlier this morning talking about the issue of Medicare, and I wanted to stand and respond to a couple of those comments, because part of this issue of balancing the Federal budget involves the question of Medicare.

We are in a circumstance described, interestingly enough, by E.J. Dionne today in the Washington Post. I would like to read a paragraph or two from his column:

When the House Republicans passed their big tax cut earlier this year, they were not at all interested in what President Clinton or the Democrats had to say about it. They wanted credit for doing what they said they would do in the Contract With America. And they got it.

But now the time has come to pay both for the tax cut and for even a bigger promise, a balanced budget by year 2002. Suddenly, the Republicans are whining that the President has refused to take the lead in cutting Medicare and Medicaid, which is what the GOP needs to do to make any sense of its budget promises.

Mr. Dionne says:

Let's see: When it comes to passing around the goodies, the House Republicans are prepared to take full responsibility. When it comes to paying for the goodies, they want a Democratic President to take full responsibility. And they act shocked, shocked when he refuses to play along.

You can't blame the Republicans for trying. It's a clever, if transparent, strategy.

The point is, there has been a lot of protest on the floor of the Senate and the House in the last few days about concerns many of us have about the Medicare Program and the tax cut that was passed recently by the House of Representatives.

It seems to me that at least some in Congress dived off the high board and showed wonderful form as they did their double twists and have now discovered there is no water in the pool.

A tax cut first, for the middle class they said. Of course, the chart shows something different. Who benefits from the tax cut bill? If you earn over $200,000 as a family, you get $11,200 a year in tax cuts. If you are a family earning less than $30,000 a year, you get $120 a year in tax cuts. This is not a middle class I have seen anywhere in America. The fact is that it is a tax cut for the wealthy. That was passed, and now they say we should cut Medicare to pay for it.

Well, we are going to have to reduce the rate of growth in Medicare. No one disputes that. But before we engage in a discussion about what you do about Medicare and Medicaid, many of us believe that the first thing you ought to do is get rid of this tax cut for the rich. It is time to deep-six this kind of a proposal, then let us talk about Medicare. Otherwise, what you have is a direct circumstance that cannot be avoided.

The comparison is obvious: $340 billion in tax cuts, for $300 to $400 billion in Medicare and Medicaid health care cuts. Let us back away from the tax cut. As soon as the majority party does that—and I hope they will—then I think this Congress ought to begin, in a joint effort on Medicare and Medicaid and virtually every other area of the Federal budget, to sift through these things to find out where we achieve the means by which we balance the Federal budget.

But you know, some of us have been through all of this before. Talk is cheap. Talking about balancing the budget is very, very easy. Everyone talks about it.

Last week, I proposed a series of budget cuts, real budget cuts in a whole range of areas that totaled some $800 billion, and I am going to propose more. That package does not include Medicare and Medicaid, and I know we have to reduce the rate of growth on both of those. But I also feel very strongly that as we approach this problem, we should not allow the other party to pass a very big tax cut first and then say to others later, "Now help us pay for that by taking it out of the hide of your constituents."

Let us join together and work together, but let us do it in a way that gets rid of the tax cut that was ill-advised, bad public policy, not middle class, but essentially a tax cut that benefits the wealthy. Get rid of it, disavow it and then move on together in every single area of the Federal budget and do what is right for the country.

That is what the American people expect and deserve, and I think that is what will benefit this country's future in a real and meaningful way.

Let me thank the President for allowing me to extend the time. With that, I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m., plus the unanimous consent for additional time, having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, at 12:37 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The Senate continued with the consideration of the bill.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. What is the pending business and what is the status of the pending business?

The PRESIDING OFFICER. The pending unfinished business is H.R. 956, and the pending question is amendment No. 709. The Senate is operating under cloture.

Mr. GORTON. Is that the Gorton-Rockefeller-Dole amendment to the Coverdell-Dole amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. GORTON. Mr. President, since we are now under cloture and without the presence of my colleague, Senator ROCKEFELLER, I should like, very tentatively, to announce what I hope the course of action will be this afternoon.

I will, unless there is objection, within a reasonable period of time, ask unanimous consent for a minor but significant amendment to the Gorton-Rockefeller-Dole amendment, a proposition that does require unanimous consent to keep the undertaking that Senator ROCKEFELLER made with respect to the right of a new trial after a judge imposed additur.

After that, I would propose that we go forward by adopting the Gorton-Dole-Rockefeller amendment and the underlying amendment and then having a debate on any further amendments to the bill, some of which will require unanimous consent in order to bring them up, as I understand from the Parliamentarian, because of the position in which we find ourselves.

Senator ROCKEFELLER and I have agreed that amendments from the other side, during the pendency of cloture, that Members opposed to this bill want to bring up ought to be allowed to be brought up, and certainly we will grant unanimous consent for that taking place.

Each of these will require cooperation and essentially unanimous consent. Senator ROCKEFELLER is not back yet. One of the opponents to the bill is here. I am going to suggest the absence of a quorum so that Members can digest this request, so that the leaders can get together if they wish, and so we can proceed for the rest of the day. I hope that we will end up being able to finish the entire bill and having our final vote on final passage before the day is out, as the leader would like to go on to other bills.

Mr. HEFLIN. If the Senator will withhold the quorum call, regarding what the Senator has said about asking unanimous consent, I think Senator HOLLINGS should be on the floor to respond to that. I think he has some feelings on it. However, I do realize this: It is my information that unless that happens, then unanimous consent is going to be necessary for each and every amendment to occur. Now, I have

been talking with various people on our side who are very knowledgeable on parliamentary proceedings. I think it is something we will want to look at. If we enter into a quorum call, we ought to investigate and see exactly what the parliamentary status is and what Senator HOLLINGS' feelings are on that. He articulated to me earlier rather strong feelings against it. But he may have reconsidered it since that time.

Mr. GORTON. I think the Senator from Alabama is correct about the parliamentary situation. Certainly, given Senator HOLLINGS' views on the subject, I want his full knowledge and participation before we go ahead. My announcement was just in hopes that we can get interested people here to make those decisions. Awaiting our ability to do so, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. 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.

Mr. WELLSTONE. Mr. President, am I correct that we are now on the product liability bill?

The PRESIDING OFFICER. The Senate is now on that matter, H.R. 956, the product liability bill under cloture.

Mr. WELLSTONE. I thank the Chair.

Mr. President, I want to speak about this legislation that is before the body, and I would like to talk about what I think is at stake in the vote that we just cast and what would be at stake in some votes that we will also be casting over the next day or day and a half.

As I see it, we started out with a bill that was unfair, which I think tipped the scale of justice away from consumer protection and in favor of corporate wrongdoers. Then as we went along, there was an overreaching by some of the insurance companies and other big corporate defendants, and yet more amendments were attached onto this bill making it truly awful. Then as a result of several cloture votes—when it was clear that this piece of legislation with all of the additional awful amendments could not pass—it was stripped down to now being just profoundly wrong for people in this country, which is not what I would call much of an improvement.

Mr. President, I am not a lawyer. But as I understand the features of this bill there is a tremendous amount of unfairness. I quite frankly cannot figure out why this body went ahead and invoked cloture. First of all, there is still a cap on punitive damages, as I understand it, of $250,000 or twice compensatory damages. Compensatory means both the economic and the noneconomic damages. So that, for example, if you were not an executive of a large company but a wage earner, if you did not make as much money, if you were a woman—women generally speaking make less than men in the work force—or if you were a senior citizen, and you were hurt by exactly the same behavior and received exactly the same harm from exactly the same defendant as some CEO, there would be differences in terms of what the award would be. The punishment would be greater for hurting the CEO.

This is still an absurd result and still an indefensible one. When I spoke last week I asked my colleagues to consider the faces of people who will be hurt by this provision. LeeAnn Gryc from my State of Minnesota was 4 years old when the pajama she was wearing ignited leaving her with second- and third-degree burns over 20 percent of her body. An official with the company that made the pajamas had written a memo 14 years earlier stating that because the material they used was so flammable the company was "sitting on a powder keg". This latest proposal, the Gorton-Rockefeller substitute, would cap the punishment the defendant receives. How would this affect LeeAnn? It is not clear. All of that would depend upon what kind of compensatory damages the jury awards. Are we really willing to sit here in Washington, DC, and change that and preempt Minnesota law and make that kind of determination?

Mr. President, this proposed improvement has new language which would allow a judge to award higher punitive damages than the caps would otherwise provide if the judge thinks it is necessary to serve the twin purposes of punishment and deterrence. Again, first of all, what we do is set this cap and it is either $250,000 or twice a combination of economic and noneconomic damages which is discriminatory, by the way, toward low income, moderate income, middle income in terms of how that formula works out. Then we go on.

When you think about the case of LeeAnn Gryc, or the case of a whole lot of other people who are hurt in this country, who is prepared to say that the cap ought to be $250,000 or a little above? Who is prepared to say that a defendant should be punished less because he or she hurt a wage earner as opposed to a CEO of some of the largest companies in this country? I do not see the Minnesota standard of fairness.

The new language then, in what is apparently supposed to be an improvement, allows the judge to award more punitive damages than the caps would otherwise provide, if the judge thinks that it is necessary to serve the twin purposes of punishment and deterrence. But what happened to the jury? People on juries elect us to office. We have all the confidence in the world in the people who sit on juries to elect us to office. But all of a sudden we do not trust them to sit in judgment of their peers. They sit in judgment of us, do they not? Are not they usually the finders of fact? I would think that it would be difficult to find some standard of fairness where we essentially remove juries from this important process.

Then I was surprised to find in what is apparently supposed to be an improvement a provision saying that if we are worried about the backlog of cases and paperwork reduction and all of the rest, we tell judges that it is OK to go above the caps whenever they think it is necessary, but we can also count on an additional court proceeding. On the bottom of page 22 in the Gorton-Rockefeller substitute, it says that if a defendant does not like the judge's decision to go above the caps, "the court shall set aside the punitive damages award and order a new trial on the issue of punitive damages only.".

So what we get back to is essentially a meaningless provision where we go to yet another trial if the defendant does not like the decision the judge has made. My colleague, Senator LEVIN from Michigan, I thought came out here with a lucid presentation of this problem.

Joint liability I think is the thorniest issue. Actually in the Labor Committee, when we were talking about this question, I may or may not have said thinking out loud that I struggled with this question. But I do not think the substitute does anything to correct the problem. It eliminates joint liability for noneconomic damages. Some of my colleagues have referred to this as the "deep pocket pays problem." But I think they are wrong. This is really a "victim pays problem."

I will tell you that it is really a difficult question. Suppose a company is responsible for only a portion of what it would take to restore a victim to whole, compensatory damage. Yet with joint liability that company might have to be responsible for more than its fair share. That does not make a lot of sense. It does not seem as if it is fair.

But, Mr. President, now what we have is a provision which essentially says to the consumer, to the citizen that is hurt, to the citizen that is injured, maimed, that they will always have to assume some of those damages, if one of the responsible parties cannot pay. I do not see the standard of fairness. In my State of Minnesota we came up with what I think is a reasonable compromise; that is, we set a threshold. I think it was 15 percent. What we said was that, if you are responsible for less than 15 percent of the overall damage, then you would not have to be responsible for more than your fair share.

But, Mr. President, it does not make any difference what Minnesota has done. We have struggled with the problem. We have come up with a middle

ground. But that all is preempted by this piece of legislation.

Mr. President, it just sounds like a clever political argument. But it really is not. So many people have talked about decentralization. So many people have talked about relying more on States and local governments being the decisionmakers. But in this particular case, we are preempting some of the good work that has been done in a good many States in this country, and I would put Minnesota at the very top.

Mr. President, there are huge problems with this piece of legislation. It is a giveaway to corporate wrongdoers. I think it is a profound mistake. We did not really have that much debate on the whole question of the 20-year statute of repose. But, again, let me just simply say, that regardless of how you look at it, I think again this is arbitrary and indefensible. What possible justification is there for it? After all, if a product is defective and does not hurt anybody until it is over 20 years old, is the harm to the victim any less? Is the responsibility of the manufacturer any less?

I talked about Patty Fritz from Minnesota. She is pretty well known in our State, and she is pretty well known in our country for her courage. In her particular case, her daughter, Katie, was crushed to death by a defective garage door opener.

If it had been after 20 years, if the company had produced this product which was defective from the word go but she had only been hurt after 20 years, does that mean the damage to that family is any less? Does that mean the responsibility of the company is any less?

Mr. President, we are closing the courthouse door to people who are hurt by products produced by some of the businesses—thank God, not many of the businesses—within our country. Some of my colleagues came out on the floor of the Senate with a bill last week. Then there were amendments, which, as I said before, made it a truly egregious piece of legislation. We were successful in opposing a good number of cloture motions. Now the bill has been stripped away of some of the worst provisions, but it is still a piece of legislation which is profoundly anticonsumer, profoundly antiordinary citizen, and I think it tips the scales of justice way too far in the direction of corporate wrongdoers and really denies people some of the redress for grievances that they currently have within our court system.

Finally, I think there is a gigantic problem with this Federal preemption. If a State like the State of Minnesota has come up with some reasonable middle-ground proposals to deal with the problems of excessive litigation, to deal with some of the problems of joint liability, to try to have some fairness between the businesses and the consumers and the lawyers, it seems to me States ought to be able to hold on to some of the legislation they passed and not be preempted by this national legislation.

So, Mr. President, I hope we will have further debate on this piece of legislation, and I hope my colleagues will oppose it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. Mr. President, I would like to thank my southern neighbor, Senator GORTON from Washington, for agreeing to clarify a few points about S. 565, the Product Liability Fairness Act. I also want to thank Senator GORTON's staff for their willingness to work out some of the finer points of this legislation.

Section 102(c) of S. 565 lists a number of laws that are not superseded or affected by the act. My first question seeks to clarify the language in section 102(c)(2). Section 102(c)(2) provides: "Nothing in this title may be construed to * * * (2) supersede or alter any Federal law;"

The committee report at page 28, footnote 101, gives examples of Federal statutes that are not superseded by S. 565. The examples in the committee report include the Federal Tort Claims Act, the Oil Pollution Act of 1990, and the Trans Alaska Pipeline Authorization Act.

My question to my friend is whether the language "any Federal law" in section 102(c) also includes Federal common law. I assume that it does and, therefore, that S. 565 does not supersede any Federal statutory or common law, such as admiralty law. Would my friend clarify this point for me, please?

Mr GORTON. The assumption of the Senator from Alaska is correct. Section 102(c)(2) provides that S. 565 does not supersede "any Federal law," and that includes both Federal statutory law and Federal common law. The act, therefore, would not affect any causes of action or any remedies, including punitive damages, determined under Federal statutory or common law, including admiralty law.

Mr. STEVENS. I thank the Senator from Washington for that confirmation. My second question seeks to clarify the so-called environmental exclusion—section 102(c)(7)—which I support. Could you elaborate on the statutory exclusion and the statement in the committee report that provides: "The exception for environmental cases in this section makes clear that this act does not apply to actions for damage to the environment."?

Mr. GORTON. I would be happy to elaborate on this section for the Senator from Alaska. Section 102(c)(7) reads:

> Nothing in this title may be construed to * * * (7) supersede or modify any statutory or common law, including any law providing for an action to abate a nuisance, that authorizes a state or person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief for remediation of the environment * * * or the threat of such remediation.

As the Senator notes, the committee report explains that the exception for environmental cases is intended to exclude from S. 565 all causes of action and remedies that are available under Federal or State statutory or common law for damage to the environment. Therefore, this act would not place a cap on any punitive damage award or other remedy under any cause of action related to damage to the environment, including an action under a product liability theory.

Mr. STEVENS. Mr. President, I would like to focus on this point for a moment, if I may. Section 102(c)(7) excludes from coverage under the bill any actions for "remediation of the environment." The section refers to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 for the definition of "environment," which includes the navigable waters, the waters of the contiguous zone, the ocean waters of the United States, and any other surface water, ground water, drinking water supply, land surface or subsurface strata, or ambient air within the United States. The section does not define "relief for remediation," which is not a legal term of art.

It is not clear whether "relief for remediation of the environment" includes all other remedies to make injured parties whole, such as relief for damage to private property and lost revenues, or whether the exclusion is limited strictly to damage to the environment. I note that the committee report states with respect to section 102(c)(7) that the bill "does apply to all product liability actions for harm" which is defined as "any physical injury, illness, disease, death, or damage to property caused by a product." I ask the Senator if he could please explain how this exclusion is intended to be applied in the case of an oilspill that causes damage to the environment and damage to private property?

Mr. GORTON. The exclusion in section 102(c)(7) would apply to all causes of action and remedies for damage to the environment. As the Senator from Alaska has correctly noted, the bill would apply to actions under State law for injury to persons or property that are caused by a product. As mentioned earlier, this bill would not apply to any Federal statutory or common law cause of action.

To expand on the Senator's question, in the case of an oilspill caused by the failure of a storage tank in which the plaintiffs seek to recover for both damage to the environment and loss of property, the rules in the bill would establish the standard of proof and the limit of punitive damages with respect to recovery on the basis of damage to property under any applicable State law.

The bill would not apply to any aspect of the recovery for environmental damages, including any recovery for cleanup costs, remedial measures, damages or penalties for loss of wildlife, or punitive damages that are assessed for damage to the environment, whether under State or Federal law and even if the cause of action is based on a product liability theory. As is noted on page 22 of the committee report in the discussion of the definition of "harm" "it is the nature of the loss that triggers the application of the act" with respect to State law, not the cause of action used.

Mr. STEVENS. I thank the Senator for that explanation. My final question is whether the owner or operator of a product, such as a tank which contains oil, who is sued following an environmental accident may sue the manufacturer of the ship or tank under a product liability cause of action without limitation by this bill if it was product failure that caused the damage to the environment? My concern is that the equipment operator will be unable to recover fully from the manufacturer. Ultimately, the original plaintiff may only be able to recover to the extent that the operator is able to recover.

Mr. GORTON. I appreciate the Senator's request for absolute clarity. Further reference to the example of the ruptured oil tank may best illustrate the answer to your question. Suppose the oil tank ruptures as a result of a manufacturing defect. It leaks oil, causing damage to the environment and the neighboring private property, as well as damage to the tank owner and the tank.

The statutory construction of the environmental exemption is clear. This bill will not alter any law under which any injured party could recover for damage to the environment.

To the extent that the owner or manufacturer of the tank is liable for civil damages or civil penalties, cleanup costs, restitution, cost recovery, punitive damages or any other form of relief ordered to restore, correct, or compensate for damage to the environment, the rules in this bill would not apply. The bill would apply to an action by the private property owner to recover under State law for damage to that property based on the failure of the tank or on the basis that the oil, which is also a product, caused the harm.

Similarly, under section 102(c)(7) this bill would not apply to third party actions related to environmental damages. For example, the tank owner could implead or cross-claim against the manufacturer of the tank for damages awarded against the tank owner for remediation of the environment under any theory, including product liability. S. 565 would not apply as a limitation on the causes of action or remedies available to the tank owner in an action against the manufacturer, but only to the extent that the tank owner is seeking to recover against the manufacturer for damages awarded against the tank owner for remediation of the environment. Applicable Federal or State law, other than this bill, would continue to govern the action with respect to environmental damage.

However, this bill would apply with respect to any action under a product liability theory by the tank owner against the manufacturer for harm, as defined by this bill, caused by the product. In the case of a tank owner which has been held liable under a strict liability regime such as that found in section 1002 of the Oil Pollution Act of 1990, any damages assessed against the tank owner, including damages for injury to real or personal property caused by the product, should be considered economic damages to the tank owner for purposes of this bill, and an action to recover those economic damages from the manufacturer under a product liability theory would be without limitation under this bill.

Mr. STEVENS. Mr. President, I thank my good friend from Washington for taking the time to clarify the scope of these two provisions. I want to thank, again, him and his staff for assisting me and Annie McInervey and Earl Comstock of my staff to clarify these issues which are of vital importance to my State.

Mr. GORTON. Mr. President, I do believe there is one other clarification that needs to be made. The questions that have been propounded by the Senator from Alaska refer to S. 565. Technically speaking, S. 565 is not before us. We are dealing with a House bill and a Senate amendment which incorporated all of the provisions of S. 565 in it. And so the questions and answers are applicable equally to that amendment as they would be if the identical S. 565 were before the Senate.

Mr. STEVENS. Will this still be called the Product Liability Fairness Act?

Mr. GORTON. It will be.

Mr. STEVENS. Then our comments should be addressed, for legislative history, to that act. I thank the Senator from Washington for clarifying that.

Mr. COATS. Mr. President, this has truly been a year of reform. Since the outset of this Congress, the pervasive theme has been to fundamentally change a system of government that has gone awry. Thus far, most of these efforts at reform have been targeted at the Congress, and rightfully so. As some have said, we must first stop the bleeding. However, there are many very formidable tasks before us. One of which we discuss today.

Mr. President, I rise today to dedicate my support to the effort to reform the product liability system.

Justice in America is fundamentally rooted in the principles of the equality, expedience, and accessibility. Our current system of product liability is in conflict with all of these principles.

Where product liability cases are concerned, we certainly, cannot say that there is equality in the system. There is a total lack of uniformity in the current product liability system. Due to the broad diversity of legal standards from jurisdiction to jurisdiction, it is absolutely impossible to predict what, when and how you will be compensated for losses resulting from a faulty product. Where businesses are concerned, this unpredictability leads to disproportionately high risk calculations and insurance rates as companies are forced to calculate the worst-case-scenario in assessing liability risk.

These risk costs have, not only an adverse effect on those directly involved in any particular case, but on all Americans. Disproportionately high insurance costs have several negative effects on American business. In each case, that negative impact effect all of us.

Confronted with impossible-to-calculate liability costs, American businesses often choose not to introduce new technologies and innovations into the marketplace. Thus denying consumers the benefits of enhanced products and services.

Nowhere is this more evident than the biomedical industry. In my State of Indiana, there is a large biomedical industry. Among other things, these companies make artificial limbs. This is an industry that provides hope and freedom to so many people who may otherwise find their lives limited by disability. However, due to disproportionate liability costs, the manufacturers of the raw materials utilized in the construction of these prosthetic device are increasingly choosing to forego the market. The sales to the biomedical industry represent such a small percentage of total profits that liability costs outweigh benefits.

Furthermore, American businesses are confronted with insurance costs 20 times greater than their European competitors and 15 times greater than those of Japanese industries. In addition to making American products more expensive at home, this adversely effects competitiveness in a global marketplace. That means damage to job creation.

An excellent example of this is a case in Coatesville, IN. A small community of around 600 people, Coatesville is the

home of the Magic Circle Corp.—a company employing around 30 people from Coatesville and Filmore, a small town next door.

Magic Circle is a small business that produces riding lawn mowers. The engine of these mowers is manufactured to automatically shut off when a person gets up from the mower seat. Unfortunately, in a cemetery in a nearby State, someone decided to tape down the seat so that the mower continued to run when that person left it unattended on a hillside. The mower rolled forward and injured their foot.

That person, the one who taped down the seat and left the mower unattended on the side of a hill, sued Magic Circle for $7 million. There was no alteration or misuse defense in the State in which the incident occurred. The amount of damages requested exceeded the total of all Magic Circle profits and assets. In the end, they were forced to pay $10,000 in attorney fees and its insurance company paid out $35,000 to the claimant.

There is an interesting footnote to this case. Officials of a foreign government later contacted the owners of Magic Circle to see if they would be interested in relocating in that country. One of the selling points of their presentation was the country's product liability laws.

There are those who argue that the threat of large punitive damages is what makes America's products safe. This argument is fundamentally flawed. What makes American products the best in the world is not a lottery-style product liability legal system. The American consumer operating in a free market, who demands quality and excellence, is what makes American manufactured products the most high-quality products in the world today. However, the impact of our current product liability system is beginning to take its toll. If we do not take action now, we will be in danger of losing our competitive edge.

Even the most adamant defenders of our current system certainly cannot say that it is expedient. A GAO report shows that product liability cases take an average of 2½ years to move from filing to verdict. One case cited took nearly 10 years to move through the judicial process.

The cynical result of these delays is that both parties are ultimately forced to negotiate compromises because they are overwhelmed with legal costs. These compromises often have little to do with guilt or innocence and much to do with predatory lawyers and a bizarre patchwork of legal standards and procedures.

Mr. President, I am an attorney. Many of my distinguished colleagues are attorneys. I am not here to attack lawyers. However, in the legal industry, as in any industry, there are those who lack scruples. There are those who will pursue personal financial interests above ethical considerations. In civil liability cases, lawyer's fees account for 61 percent of funds expended on product liability claims. These expenses include both defendant and plaintiff costs. The net effect of this incredible statistic is that realistic accessibility to the legal system and legal defense is a mere myth in most situations.

Mr. President, clearly there is a need for fundamental reform to the product liability legal system. We have debated this issue since I came to Washington.

Fundamental product liability reform offers the hope of removing one of America's most destructive obstacles to job growth. When frivolous suits are traded, when weak cases are brought, when litigation explodes, our economy is crippled. New technology never comes to market. Medical costs increase. The doors to factories close. Insurance costs increase. American products are unable to compete around the world. Perhaps most sorrily, a legal system that was once the envy of the world, has been twisted and distorted to a point where the very principles on which it was originally constructed cannot even be recognized. We must turn this tide.

A Rand Corp. study found that most of the money awarded in injury cases is taken by the legal process itself. Less than half actually gets through to victims. According to a GAO study, 50 percent or more of payments made by defendants in a product liability trial goes to lawyers. Victims get less than 50 percent. This same report discovered that when a case is appealed, defense costs can actually double.

Estimates vary, but one professor at the University of Virginia has estimated that when all the costs are finally counted, a mere 15 percent of injury litigation awards go to a victim.

Innocent victims must find relief and the help they deserve—and this bill preserves that obligation. But a runaway legal system must not be allowed to make victims of us all.

The current state of product liability law does not work for victims, it does not work for manufacturers, for consumers, for America.

Like so many of the reforms that we have already passed and stand to take action on, product liability reform is long overdue and at a critical stage. For the sake of our workers, for our economy, and for the victims trapped in a legal morass, I urge my colleagues to support this legislation.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SANTORUM). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GORTON. 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. GORTON. Mr. President, by consent of all parties, I ask for action on the Gorton-Rockefeller-Dole amendment.

VOTE ON AMENDMENT NO. 709, AS MODIFIED

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment No. 709, as modified.

The amendment (No. 709), as modified, was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KYL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I ask unanimous consent to proceed as in morning business for the next 15 minutes.

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

Mr. DOLE. I thank the Chair.

(The remarks of Mr. DOLE pertaining to the introduction of S. 770 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GORTON. 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. GORTON. Mr. President, I ask unanimous consent that it be in order for me to offer the amendment I have in my hand which the Democrats have also seen and it be in order notwithstanding the provisions of rule XXII. This is the so-called additur fix amendment requested by the White House.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Mr. President, on behalf of Senator HOLLINGS, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. GORTON. 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. HEFLIN. 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. HEFLIN. Mr. President, during the course of debate in discussing the breadth of the products liability bill, I mentioned that a nuclear power plant or a component part thereof could be

included within the purview of the products liability bill. I also stated that maybe the bill might not cover a nuclear power plant or a component part thereof.

I, in effect, raise two issues: One being the issue of pain and suffering, and the other being the statute of repose. In regard to these issues, I mention the Chernobyl melt-down.

Since that time, my office has been contacted by reliable and informed individuals who feel that I misspoke on this issue.

First, they say the difference between design and operation of the United States and Soviet plants make a Chernobyl-style accident virtually impossible.

Second, they state that the bill would not in any way prohibit compensation for injured parties in the event of a nuclear accident regardless of the time of the manufacture of the plant or components. They particularly point out that Congress has provided a sure and certain recovery system for any member of the public injured as a result of a nuclear power plant accident—the Price-Anderson Act—and, further, that Congress in 1988 increased the amount of funds available for claims to more than $6.8 billion and pledged to review the situation in the case of an accident where more funds were needed to compensate the injured. The nuclear power industry, I am told, has willingly agreed to be assessed up to $63 million against each licensed reactor in order to pay damage claims. The nuclear power industry has met this obligation to provide a clear and reliable source of liability compensation when it is justified.

While I have not researched this issue completely, I do find that following the case of *Klick* v. *Metropolitan Edison Co.* (1986, CA3 Pa) 784 F2d 490, which limited certain damages to an "extraordinary nuclear occurrence," Congress did amend the Price-Anderson Act to include a "nuclear incident."

In the exclusion clause of the products liability bill there is a statement to the effect that the bill does not supersede any Federal law.

I have great confidence in the knowledge and reliability of the individuals who have brought this to my attention, and I would like to put the record straight. I will continue to research this matter; and if there is anything different from what I have been told, I will make it known to the Senate.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DEWINE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURNS. 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. BURNS. Mr. President, I ask unanimous consent that I may be allowed to proceed as in morning business for the next 10 minutes.

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

(The remarks of Mr. BURNS pertaining to the introduction of S. 768 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. 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.

UNITED STATES-JAPAN TRADE RELATIONS

Mr. BYRD. Mr. President, I have a Senate resolution which has been cleared with both leaders, and they are both cosponsors. I have the clearance from them to take up the resolution and proceed with its immediate consideration. I therefore send a Senate resolution to the desk and I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will read the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 118) concerning United States-Japan Trade Relations.

The Senate proceeded to consider the resolution.

Mr. BYRD. Mr. President, this resolution is being jointly cosponsored by Senators DOLE, DASCHLE, BAUCUS, REID, ASHCROFT, WARNER, LEVIN, HOLLINGS, PRESSLER, DORGAN, BROWN, and SARBANES.

Mr. President, the long and difficult negotiations between the United States and Japan over United States access to the Japanese automotive market collapsed last Friday, May 5, 1995, in Whistler, Canada. Japan simply cannot kick the habit of a closed automotive market, that is the antithesis of free trade. It is not clear as to whether the Japanese will return to the negotiating table with a changed position, or whether Japan's automakers will themselves announce an agreement with specific measures of progress to allow American products to compete fairly there. Let us hope that they do break the impasse, but this disappointing result of strenuous, long-term efforts by the United States to get fair access to this lucrative market brings us to a watershed in our trading relations with Japan. This blow cannot help our overall relationship with a nation that we have worked with for decades to promote our mutual goals of security, stability, and peace in the Pacific.

My distinguished colleague from West Virginia, Senator ROCKEFELLER, stated on this floor this past Wednesday that the nature of the difficult problem in getting fair access to Japan's market. Japan rigs her market against us, despite economic pressures to be more open. Despite the recent increase in the value of the yen, which would make United States products more competitive in Japan, Japan keeps her market closed to cheaper imports and overprices goods offered to the Japanese consumer. Increased savings which should be passed on to Japanese consumers, resulting from the increased strength of the yen vis-a-vis other currencies are never passed on to the Japanese consumer. The increased profits which are accumulated by Japanese producers are used to subsidize exports, keeping prices for those same goods artificially low here in the United States, making Japan artificially more competitive. It is a controlled pricing situation, not based on free market principles. The devastating result of these practices in the automotive industry, for both new cars and parts, has been an unacceptably high and persistent trade deficit with Japan.

The result in 1995 was a ballooning record trade deficit with Japan of $66 billion, up 10 percent over 1994, of which $37 billion, or 56 percent of the total is attributable to cars and auto parts. The automotive trade deficit with Japan constituted some 22 percent of our entire trade deficit with the world. American manufacturers cannot get Japanese distributors to put American cars in their showrooms. Overall, while Japanese automakers hold some 22.5 percent of the American market, the share of the Japanese market held by the Big Three United States automakers is less than 1 percent. As for parts, it is extremely difficult for United States parts, which are highly competitive from both a price and value standpoint, to break into the "Karetsu" system of interrelationships between Japanese car manufacturers, suppliers and dealers. Despite the fact that United States government studies show that Japanese aftermarket repair parts cost, on average, some 340 percent higher than comparable United States parts, the Japanese consumer is essentially denied the ability to buy those American parts. The result is that Japanese vehicle manufacturers control about 80 percent of the parts market, as compared to a wide-open American market in which independent replacement parts producers account for some 80 percent of the United States market. So, our market is open, Japan's is closed.

These important economic realities are well known to both governments and industry on both sides of the Pacific. The impact on our domestic auto

industry is crucial. Every $1 billion of U.S. exports means some 17,000 jobs. The health of our aluminum, glass, steel, rubber, electronics, and many other industries is tied to the auto sector. It is our largest manufacturing industry, with some 700,000 people employed directly by the automakers, and another 2.3 million employed in the parts industry supplying the automakers.

There is extensive support across the board from industry and labor organizations for the current negotiations. They have been grinding on for some 18 months before the stinging Japanese rebuff on Friday in Canada. Last October 1994, our Trade Representative opened an investigation under section 301 of the Trade Act of 1974 of the unfair practices in the aftermarket parts market, which constitutes about a third of the automotive deficit with Japan. The unwillingness of Japan to address this unfair automotive trade balance demands a strong administration response and equally strong supportive actions by this body and American industry, both business and labor. President Clinton and our Trade Representative, Ambassador Kantor, have made it clear that the end of long, long American tolerance and give has now been reached on this issue. On Friday, Ambassador Kantor indicated that the "government of Japan has refused to address our most fundamental concerns in all areas" of automotive trade, and that "discrimination against foreign manufacturers of auto and auto parts continues." The President indicated on the same day that the United States is "committed to taking strong action" regarding Japanese imports into the United States in the absence of an agreement.

Pursuant to the 301 case, trade sanctions, meaning tariff retaliation against a variety of Japanese goods imported into the United States, are now in order. Such retaliation has been openly discussed regarding these negotiations for months, and so the Japanese are saying, either "we do not believe you will do it," or "we do not care," or, lately, that "you cannot impose sanctions under the 301 law bilaterally on Japan because it is illegal under the newly created World Trade Organization rules."

Mr. President, the stakes of these automotive negotiations and U.S. actions under 301 are very high. The auto trade is very lucrative, and thus there is a major financial stake. But there is more at stake than money here. At issue is whether nontariff barriers, discriminatory treatment by foreign economic interests, aided by a maze of regulatory, bureaucratic obstacles to open trade, will dominate large sectors of international trade. As opposed to an open United States market, our major Asian trading partners practice wide discriminatory treatment against our goods. China and Korea appear to be taking a cue from Japanese behavior and the apparent success of these unfair practices. Other sectors will continue to follow suit, such as the highly explosive and rich trade in telecommunications, where we are experiencing similar problems.

The inability of our two nations to resolve our differences on trade in a way which demonstrates a real commitment to fairness by Japan will inevitably corrode our overall relationship. It is unrealistic to expect to insulate the costly effects to the U.S. economy, to jobs, and the health of so many of our important industries from the total relationship. Our economic health is critical to our national security and to our staying power as the key deployed military power in the Pacific. It all hangs together. The fabric of our economic health and Japan's national security is a seamless web, and a strong United States auto industry is an important strand in that web. I hope the Japanese will come to understand that this is all interrelated.

The Japanese have threatened to bring a case against United States imposition of sanctions under section 301 before the World Trade Organization, in the hope the WTO would rule against the United States and declare the imposition of sanctions a violation of WTO rules. I am gratified that Ambassador Kantor has said he would welcome such a challenge, because, according to his comments in the New York Times of May 7, 1995, "it would give us an opportunity to make clear to the world the full range of Japan's discriminatory practices" in the automotive market. I hope Japan does bring the case to the WTO. I am fully confident that our Trade Representative would conduct a vigorous defense of United States actions, and turn the tables against the Japanese, whose trade sanctuary regime is anathema to the goal of an open world trading system. We should insist on a complete review of Japan's practices. Either we are heading toward a more open world system or we are not. This would be a litmus test of the actions and posture of the WTO. It would be a key test of the future of the WTO. I cannot conceive of continued U.S. commitment to an organization that would reward blatant discrimination and the perpetuation of sanctuary behavior. Thus, the case would be a welcome, early test of what kind of world organization we have created.

Mr. President, I am offering this resolution as a sense-of-the-Senate resolution that puts the Senate on record as supporting the President's actions. First, it expresses the Senate's regret that negotiations between the United States and Japan for sharp reductions in the trade imbalances in automotive sales and parts, through elimination of restrictive Japanese market-closing practices and regulations have collapsed. Second, it states, if negotiations under section 301 of the Trade Act of 1974 fail to open the Japanese auto parts market, the United States Senate strongly supports the decision by the President to impose sanctions on Japanese products in accordance with section 301.

There is still opportunity for Japan to return to the negotiating table and satisfy the legitimate case of the United States that immediate action to open Japan's market is urgently needed. I hope the Japanese see the light before it is too late. There are press reports that the Japanese think we may shrink from the imposition of sanctions. I hope that we here in the Senate will send a strong message of support for the President on this matter, and help disabuse the Japanese of that view.

Mr. President, I yield the floor.

(Ms. SNOWE assumed the chair.)

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. DOLE. Madam President, I am a cosponsor of the resolution. I thank my distinguished colleague from West Virginia for adding me as a cosponsor of the resolution. I think it is very timely and very important. I hope my colleagues will strongly support the efforts of Senator BYRD in this area.

This resolution is not an example of Japan-bashing. The United States has now negotiated in good faith for 2 years in this administration. Previous administrations tried to pry open the Japanese auto market through serious negotiation. The results have been disappointing, at best.

Congress has passed market-opening trade laws because U.S. negotiators have needed effective tools. They are there to be used, if negotiations fail. They are not empty threats.

Section 301 is not a threat, it is an effective tool. I happen to believe Ambassador Kantor has wielded this tool responsibly.

That is why, if a negotiated solution cannot be found, I support the use of section 301 to impose appropriate sanctions.

Madam President, this would be strong medicine. Some people might not like it. Some people might think it disruptive.

But there has always been bipartisan agreement that the United States must pursue more open markets. We have always provided leadership on this issue, and we will continue to do so.

There comes a time in every trade negotiation, when all other means have been exhausted, to take strong, decisive action. That time may have come, Madam President, if a last minute solution cannot be found. I urge my colleagues to support this sense-of-the-Senate and stand up for American commercial interests abroad.

In my view, if nothing else, a strong vote on this resolution will send an urgent message to the negotiators, more particularly the Japanese negotiators, that we are serious, we mean business, we stand behind the administration and their efforts to break the logjam.

So I encourage my colleagues on both sides of the aisle to support the sense-of-the-Senate resolution.

I ask unanimous consent that Senator SPECTER be added as a cosponsor.

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

Mr. BYRD. Madam President, I thank the distinguished majority leader for his cosponsorship and for his fine statement. I believe we would like to have the yeas and nays.

Mr. DOLE. Madam President, I ask for the yeas and nays on the resolution.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BRADLEY. Madam President, I rise to explain my opposition to this resolution. Although this resolution calls attention to a serious problem, the persistence of Japanese trade barriers, it does not identify a workable solution.

Japanese trade barriers need to come down. They need to come down because they contribute to America's bilateral trade deficit with Japan. Studies cited by the administration have found that removing every single Japanese barrier would reduce the bilateral merchandise trade deficit by around 20 percent.

Note, however, that Japanese trade barriers do not themselves account for America's global trade deficit, only its composition. As the administration itself admits in the President's 1994 annual report on the Trade Agreements Program:

> The United States still suffers from relatively low savings at a time when domestic investment is growing rapidly. The shortfall between domestic saving and investment was larger in 1994 and was filled by a net increase in foreign capital inflows. The United States thus had a large surplus on its international capital account and a large offsetting deficit on its trade or current account.

In plain English, our domestic budget deficit crowds out savings and requires us to import capital. This leads to our global trade deficit.

Japanese trade barriers also need to come down because they reduce the Japanese people's quality of life and impede the process of democratization in Japan. Japan's democratization is also in our interest; it is the only way we will have a stable, democratic, prosperous Japanese partner in our efforts to secure a stable international environment.

So, on this point, we agree, Japan's trade barriers must come down.

However, the administration's strategy, which this resolution supports, is the wrong way to do this. Declaring unilateral trade war on Japan—and, make no mistake, [illegible] is what we are talking about—would once again leave the United States isolated in the world. Europeans, Latin Americans, and Asians, fearing similar treatment from us in the future, would line up with Japan.

Currency markets will react badly. If you think a rate of 80 yen to the dollar is disadvantageous to this country, as I do, imagine a rate of 75 or even 70. I am not alarmist when I say that this could threaten the position of the dollar as the international reserve currency. Indeed, Japan is already talking of switching its reserves out of dollars and into deutschmarks.

This dispute is likely to end in the fledgling World Trade Organization. No matter what happened there, support would be weakened. Either the United States would lose, causing a tidal wave of calls to leave the World Trade Organization, or Japan would lose, leading to reduced Japanese support for the international trading system. Either way, we all lose.

Finally, by strengthening the power of the bureaucrats, who are standing up to the Americans, a trade war would cut across the forces of transparency, democratization, and accountable electoral politics which are the ultimate answer to our trade imbalance.

I have spoken many times of a better way to reduce Japan's trade barriers, one that works with the forces shaping Japan, does not cut across our interests in the new World Trade Organization, and depoliticizes the trade relationship. To repeat, I believe we can best address Japan's trade barriers by establishing a dispute resolution mechanism, similar to the ones in the United States-Japan and United States-Canada free trade agreements, to impartially adjudicate United States-Japan trade disputes.

Madam President, it is ironic that we are voting on this resolution. In many ways, it is like judo. What appears strength is actually revealed as weakness.

I, for one, believe in strength. This is why I believe we must take a strategic, long-term approach to the United States-Japan trade relationship. A strong America will negotiate and adjudicate, as I have described. A weak America will only, impotently, bash.

The PRESIDING OFFICER. Is there further debate on the resolution? If not, the question is on agreeing to the resolution. The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Minnesota [Mr. GRAMS], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Virginia [Mr. WARNER] are necessarily absent.

Mr. FORD. I announce that the Senator from New York [Mr. MOYNIHAN] is necessarily absent.

The PRESIDING OFFICER (Mr. COATS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 88, nays 8, as follows:

[Rollcall Vote No. 158 Leg.]

YEAS—88

Abraham	Exon	Lugar
Akaka	Faircloth	Mack
Ashcroft	Feingold	McConnell
Baucus	Feinstein	Mikulski
Bennett	Ford	Moseley-Braun
Biden	Frist	Murkowski
Bingaman	Glenn	Murray
Bond	Gorton	Nickles
Boxer	Graham	Nunn
Breaux	Gramm	Pell
Brown	Grassley	Pressler
Bryan	Gregg	Pryor
Bumpers	Harkin	Reid
Burns	Hatch	Robb
Byrd	Heflin	Rockefeller
Campbell	Helms	Roth
Chafee	Hollings	Santorum
Coats	Hutchison	Sarbanes
Cochran	Inhofe	Shelby
Cohen	Jeffords	Simon
Conrad	Kempthorne	Simpson
Coverdell	Kennedy	Smith
Craig	Kerrey	Snowe
D'Amato	Kerry	Stevens
Daschle	Kohl	Thomas
DeWine	Lautenberg	Thompson
Dodd	Leahy	Thurmond
Dole	Levin	Wellstone
Domenici	Lieberman	
Dorgan	Lott	

NAYS—8

Bradley	Johnston	McCain
Hatfield	Kassebaum	Packwood
Inouye	Kyl	

NOT VOTING—4

Grams	Specter
Moynihan	Warner

So the resolution (S. Res. 118) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 118

Whereas, the United States and Japan have a long and important relationship which serves as an anchor of peace and stability in the Pacific region;

Whereas, tension exists in an otherwise normal and friendly relationship between the United States and Japan because of persistent and large trade deficits which are the result of practices and regulations which have substantially blocked legitimate access of American automotive products to the Japanese market;

Whereas, the current account trade deficit with Japan in 1994 reached an historic high level of $66 billion, of which $37 billion, or 56 percent, is attributed to imbalances in the automotive sector, and of which $12.8 billion is attributable to auto parts flows:

Whereas, in July, 1993, the Administration reached a broad accord with the Government of Japan, which established automotive trade as one of 5 priority areas for negotiations, to seek market-opening arrangements based on objective criteria and which would result in objective progress;

Whereas, a healthy American automobile industry is of central importance to the American economy, and to the capability of the United States to fulfill its commitments to remain as an engaged, deployed, Pacific power;

Whereas, after 18 months of negotiations with the Japanese, beginning in September 1993, the U.S. Trade Representative concluded that no progress had been achieved, leaving the auto parts market in Japan "virtually closed";

Whereas, in October, 1994, the United States initiated an investigation under Section 301 of the Trade Act of 1974 into the Japanese auto parts market, which could result in the imposition of trade sanctions on a variety of Japanese imports into the United States unless measurable progress is made in penetrating the Japanese auto parts market;

Whereas, the latest round of U.S.-Japan negotiations on automotive trade, in Whistler, Canada, collapsed in failure on May 5, 1995, and the U.S. Trade Representative, Ambassador Kantor, stated the "government of Japan has refused to address our most fundamental concerns in all areas" of automotive trade, and that "discrimination against foreign manufacturers of autos and auto parts continues."

Whereas, President Clinton stated, on May 5, 1995, that the U.S. is "committed to taking strong action" regarding Japanese imports into the U.S. if no agreement is reached. Now, therefore, be it

Resolved, That it is the Sense of the Senate that—

(1) The Senate regrets that negotiations between the United States and Japan for sharp reductions in the trade imbalances in automotive sales and parts, through elimination of restrictive Japanese market-closing practices and regulations, have collapsed;

(2) If negotiations under Section 301 of the Trade Act of 1974 fail to open the Japanese auto parts market, the United States Senate strongly supports the decision by the President to impose sanctions on Japanese products in accordance with Section 301.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 693 TO AMENDMENT NO. 690

(Purpose: To provide that a defendant may be liable for certain damages if the alleged harm to a claimant is death and certain damages are provided for under State law, and for other purposes)

Mr. SHELBY. Madam President, I have an amendment at the desk—No. 693, I believe it is.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

The Senator from Alabama [Mr. SHELBY], for himself and Mr. HEFLIN, proposes an amendment numbered 693 to amendment No. 690.

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

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

The amendment is as follows:

At the appropriate place insert the following:

SEC. . LIABILITY FOR CERTAIN CLAIMS RELATING TO DEATH.

In any civil action in which the alleged harm to the claimant is death and, as of the effective date of this Act, the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant may be liable for any such damages without regard to this section, but only during such time as the State law so provides.

Mr. SHELBY. Madam President, I offer today on behalf of myself and the senior Senator from Alabama [Mr. HEFLIN] an amendment to ensure that individuals guilty of wrongful deaths are not provided unfair and unwarranted protection by the product liability reform legislation we are considering today.

This amendment we are offering was accepted last week by both sides but was excluded from the Gorton-Rockefeller-Dole amendment today. I believe that all of my colleagues will support this measure once they take time to examine its merits. It is unique to the State of Alabama. My State of Alabama has a wrongful death statute, the damages of which are construed as only punitive in nature—not compensatory but only punitive in nature. Under the product liability bill that we are considering today, along with some of the proposed amendments to this bill, people who have committed or are guilty of a wrongful death in my State of Alabama, the damages available will be severely limited. While the bill here allows for additur, the additur procedures in this legislation are cumbersome at best and possibly unworkable.

Madam President, in 1852, I believe it was, the Alabama Legislature passed what is known as the Alabama Homicide Act. This act permits a personal representative to recover damages for a death caused by a wrongful act, omission, or negligence. For the past 140 years, the Alabama Supreme Court has interpreted this statute as imposing punitive damages for any conduct which causes death.

Alabama believes that all people have equal worth in our society so the financial position of a person is not used as a measure of damages in wrongful death cases in Alabama as it possibly is in other States. The entire focus of Alabama's wrongful death civil action is on the cause of death.

The amendment I am offering today on behalf of myself and Senator HEFLIN will provide that in a civil action where the alleged harm to the claimant is death and the applicable State law only allows for punitive damages, the punitive damages provision of this bill will not apply. In other words, this amendment will only apply to my State of Alabama.

Madam President, I believe there are legitimate reasons to exclude from the coverage of this bill actions such as those brought under Alabama's wrongful death statute. Cases of wrongful death are often some of the most legitimate instances where punitive damages should be awarded.

Everyone in this body knows that I have great reservation about this legislation now before us. However, I do believe the addition of this amendment will help ensure that this bill will not unduly—not unduly, Madam President, penalize the citizens of my State.

I urge my colleagues to support this important amendment.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. I join with the distinguished Senator from Alabama [Mr. SHELBY] in his amendment.

Of all of the 50 States, Alabama has a different method pertaining to the recovery of damages when a death occurs as a result of culpable action, regardless of whether it be simple negligence, gross negligence, willful conduct, intentional conduct, wanton conduct, any type of conduct that allows for the recovery. It allows under the interpretation given for this statute that punitive damages only can be recovered. It is different from other States where most of the other States allow a plaintiff, the executor or the administrator or the parent of the child, if deceased, to be able to introduce, for example, hospital bills.

A person may have died after 6 months in a hospital, and under hospital bills of today they can accumulate to over $150,000. Burial expenses in most States can be introduced into evidence and can be an element of compensatory damages. Loss of earning capacity, noneconomic damages, pain and suffering in some instances in some States can be introduced as an element of damages, and so on down the list of all of the types of damages.

But in Alabama you are not allowed to introduce any of that. You attempt to introduce a hospital bill, and a doctor's bill, and whether they were $150,000 or whether, on the other hand, they amounted to $500 or $25, you cannot introduce that in evidence as an element of damages under the Alabama wrongful death statute as has been interpreted, and the charge to the jury is that it is a matter of punishment for the wrongdoer, and therefore it is limited to that.

Over the years, the companies, corporate America, in Alabama, insurance companies, defense counsel who represent them, have fought to maintain this, and over the years the plaintiffs' lawyers have come to live with it, and therefore it is accepted as being the measure of damages.

However, under the provisions that we have here under this bill in product liability cases the provisions pertaining to this would apply. And under the DeWine amendment, you would be limited in a situation with regard to that

to almost zero, where there would be nothing that could be recovered, and it would limit it, restrict it substantially.

So I support the Shelby amendment in this regard. This is a situation that applies only to Alabama. The language of this bill is basically the same language that was considered in the 101st Congress and in the 102d Congress. They came out of the Commerce Committee. We had pointed this defect out, and the drafters of the bill, including people who had been working on product liability, put a provision in those bills that would allow for the Alabama law to prevail. We offered it as an amendment in regard to the Gorton and Rockefeller underlying substitute, and it was accepted after they made some changes in the language. Senator SHELBY and I are agreeable to any changes in the language of the Shelby amendment that they might want to propose provided it allows for recovery—it is limited strictly to the wrongful death cases, and therefore we are amenable to any change that they might make as long as it does not abolish, or greatly minimize the recovery under the Alabama statute.

So we feel that this is something which should be adopted. Otherwise, it is singling out Alabama, and Alabama has a very unique, they argue, uniformity, and the preemption matters ought to be uniform among all of the 50 States. But what it means is that in the preemption which does bring about some uniformity as it would apply to the preempted sections, that it will not apply to Alabama. And it is a very discriminatory act in regard to Alabama. I would think that it has, from a Federal constitutional basis, some imperfections in regard to it.

I urge my colleagues in the Senate to support the Shelby-Heflin amendment.

AMENDMENT NO. 693, AS MODIFIED

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Alabama.

Mr. SHELBY. Mr. President, I ask unanimous consent to amend the amendment that I have filed that is the subject of debate.

I send the modification to the desk.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. HOLLINGS. Reserving the right to object. That is a modification to the Senator's amendment?

Mr. SHELBY. The Senator is correct. It just clarifies this amendment. I mention in the amendment section 107. That is all it does.

Mr. HOLLINGS. The distinguished Senator from Washington and I had a discussion about another amendment. I am sitting around making sure that unanimous consent is not given for that amendment.

Mr. GORTON. This is not that amendment.

Mr. HOLLINGS. I thank the Senator. I have no objection.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 693), as modified, is as follows:

At the appropriate place insert the following:

SEC. . LIABILITY FOR CERTAIN CLAIMS RELATING TO DEATH.

In any civil action in which the alleged harm to the claimant is death and, as of the effective date of this Act, the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant may be liable for any such damages without regard to section 107, but only during such time as the State law so provides.

Mr. HEFLIN. I assume section 107, I ask Senator GORTON, is the section dealing with punitive damages.

Mr. GORTON. It is.

Mr. HEFLIN. So it is limited to that. But does that include the DeWine amendment and language in regard to small business, and the individual relative to the $500,000?

Mr. GORTON. It does. That is in section 107, as well.

Mr. HEFLIN. That is all included in section 107, all punitive damages?

Mr. GORTON. It is.

I simply pointed out to the distinguished junior Senator from Alabama that the way the amendment was set up it did not have any reference to any section, but it was about punitive damages. His correction is to see to it that it applies to the punitive damages section. But that is the section that has all the punitive damages in it.

Mr. HEFLIN. I thank the Senator.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I regret that I have to oppose the amendment sponsored by the two Senators from Alabama. In some respects, I am sorry that I have to do so, but I believe that I have good and sufficient reasons for doing so.

First, the senior Senator from Alabama said that this was included in previous product liability bills, which is certainly true. But those previous product liability bills did not have rules like this relating to punitive damages.

Mr. HEFLIN. Did not have what? I did not understand the Senator.

Mr. GORTON. There were no DeWine amendments and there were no Snowe amendments in previous bills.

Second, this is, Mr. President, to be candid, a very peculiar rule in the State of Alabama where negligence is accounted to be the subject of punitive damages. It is not the rule in any other State in the Union.

Nothing in this bill, without this amendment, prevents Alabama from providing any kind of damages for wrongful death that it wishes to, either through its legislature or through its court interpretations. So Alabama is not going to be penalized any more than any other State by this bill unless Alabama wants to be, and willfully refuses to conform its laws to those of other States.

But, more significant than that, Mr. President, are two other features about this amendment. The first, one of the most carefully worked out elements in this entire bill, the most carefully worked out element in this bill, is the triple set of requirements we have with respect to punitive damages, one of which, in the ultimate analysis, allows judges to impose unlimited punitive damages when they find the conduct of the defendant to have been sufficiently egregious. The second is the Snowe amendment which, in most cases, will limit punitive damages to twice the total amount of all compensatory damages. And the third, Mr. President, is the fact that this body, I think, with a wide majority, determined that we were not going to allow punitive damages in a single case simply to destroy small businesses or individuals of relatively modest assets, with total assets of less than $500,000.

Now, if this amendment passes, that will be the rule in 49 States—in 49 States, Mr. President. It will not be the rule in Alabama. In Alabama, there will not be any Snowe limitation in general cases, and there will not be any protection for small businesses or for individuals with net assets of less than half a million dollars.

Mr. President, this is only 1 State out of 50, but Alabama is the single most notorious State in the United States of America related to its size for punitive damage awards. It is a cottage industry in that State to award very, very large, huge punitive damages awards against, generally speaking but not necessarily limited to, out-of-State corporations.

So what we are saying is that the set of rules that we have adopted, in most of these cases by very large majorities in this body, will apply in every State except the State that comes first in the alphabet, Alabama, and none of the limitations will apply in the State of Alabama. Why? Because it has a peculiar law which can be changed by one word by its State legislature or, for that matter, by its supreme court. And we are going to do this, for all practical purposes, permanently.

Finally, Mr. President, a profound change has taken place in this body since the time this amendment was first proposed in this debate. When it was first proposed in this debate, the absolute maximum for punitive damages was the Snowe amendment—twice compensatory damages—which, as the two Senators from Alabama pointed out, under this peculiar Alabama law, would be zero. And, of course, twice zero is zero. So that is no longer the case.

So the bill, the way it exists now, the way it has been amended now, allows

the judge in any case on certain findings to impose punitive damages in unlimited amounts. That, in the bill as it exists now, without this amendment, of course, applies in Alabama, and will allow those Alabama judges to impose whatever they wish, if they meet the standards for punitive damages, themselves. So at that level, at least, this proposal is entirely unnecessary in a way that was not the case or not the argument just a few days ago in this bill.

So even if Alabama is perverse enough to keep its law in its present peculiar fashion, this will not mean that there cannot be any recovery in wrongful death cases. But if it is passed, we set one rule for Alabama in which everything is the sky is the limit in a State where the sky is higher already than it is in any other State in the Nation, and a quite different rule for 49 other States.

Mr. President, that is absolutely unfair; that is profoundly unfair that this State, because of one peculiar rule, should be exempted from all of the rules which the great majority of Members here have said are appropriately applied to all of the States.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I will be brief.

I would just like to say again, I believe it was in 1852, the Alabama Supreme Court decreed that there would be, in a wrongful death action, punitive damages only, and that has worked in my State since 1852. That is one reason I oppose all of this legislation.

Every State has different problems. Alabama, my State, is unique as far as measuring the wrongful death damages. They do it by punitive damages. It is not anything new. It goes back way over 100 years. But it has worked. It has worked for my State. This would only deal in wrongful death cases, nothing else. All we are asking the Senate to do is to preserve what we have and what we have had for over 100 years.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, I am rather surprised to hear my good friend from Washington, who has long been an advocate of federalism, come forward with language from the screaming Federal Eagle over States saying: "Alabama, you change your law or else you don't get even peanuts."

In other words, this is federalism in reverse, the big Federal Government that we have heard so much about telling the Alabama Legislature and the Alabama courts, "You change your law." Now you have preemption that takes place. This is a mandate as to whether a claimant is going to recover or not.

I am rather surprised that we would hear that language coming from such a strong supporter of the concept of federalism. If the Federal Government is going to tell a State you do this or not, we usually give them a carrot or some type of incentive. But my colleague's position is, to me, an example of brute force—"you change your law or you're not going to be able to protect your people."

Then we have the additur provision pertaining to the judge. Clearly, that is unconstitutional. The Supreme Court of the United States, in the case of Dimick versus Schiedt, has already ruled on that issue. In practice what will occur is where an additur is made by the judge but the defendant does not want to accept the new amount, the defendant or defendants will request a new trial. However, that is what appeals are for—new trials.

So, automatically a defendant will ask for a new trial if he does not like what the judge added to the judgment. If the judge, therefore, feels that the punitive damage award was inadequate, because the defendant's conduct was extremely egregious and the plaintiff's injuries were great, the judge could award additional punitive damages.

In the normal course of events, when the judge adds that to the damage award, a defendant takes an appeal to reverse it where he could get a new trial. But, the punitive damages provisions of this bill give defendants the automatic opportunity to request a new trial.

Well, what defendant is going to not take advantage of it? Every defendant is going to say, "Give me a new trial. I can keep my money, draw interest on my money in the meantime, and delay a new trial for 2 years." Therefore, if the overall award was $300,000, and if the judge added to it above the $250,000 cap that is in this bill, the defendant takes its $300,000 and draws interest or makes investments with it.

Defendants are going to follow that course of action with the idea also that they have to go back to a new trial which means that every issue will have to be litigated all over again. There is not much to lose in following this course of action. So automatically you are going to find that every defendant is going to demand a new trial. What happens? A defendant knows he is not going to get any more than what was originally put in the judgment, the amount he put there. Then it comes back to the judge again and the judge says, "Well, I believe that that conduct was so egregious and find this is a terrible case and that the defendant ought to be punished, and therefore, I will again make an additur."

What does the defendant say? "Well, I have under this bill automatically a right to a new trial, and I demand a new trial." So the defendant delays it 2 more years, draws his interest, and makes his investments in the meantime.

Then he goes back and retries it and gets the same judgment. Then the defendant says, "All right, I'm going to take advantage of my opportunity for a new trial" and receives a new trial. So the case is tried a third time and, finally, the plaintiff says, "It doesn't make any difference what the judge adds, there is no way in the world that I can collect it, and I just have to give in, there is nothing I can do." The judge and the jury felt that defendant's conduct was egregious and met the extremely high standards of this bill. However there is no way under this language that a defendant can ever recover because instead of having the normal event of trying to reverse a case on appeal and have a new trial, the defendant just has an automatic right to a new trial on punitive damages."

When you think about it, the situation is just plain ridiculous. I think Alabama's legislature and its courts have the clear right to determine that its wrongful death statute is to be punitive in nature only, recognizing the sacredness and value of human life. The concept of federalism that every State has its right to choose its laws ought to respect that right of my state. But here we have the American Federal Government imposing, and intruding, and saying: "All right, you can't recover for the death of an Alabamian or the death of a Washingtonian if you are traveling in Alabama or any other individual that might be there."

What we are asking is, let us allow federalism to prevail, and if the State of Alabama wants to, it can continue to recognize the validity of its wrongful death statute which is designed to protect its citizens by making it of a punitive nature only.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, very briefly on the subject. No, I say, Mr. President, nothing in this law limits the State of Alabama from providing unlimited compensatory damages in the case of wrongful death. It is Alabama that has said that it will not grant compensatory damages in the case of wrongful death, and Alabama can change that at any time that it wants. Nothing in this bill puts any limit on compensatory damages awarded by courts in the State of Alabama for wrongful death; absolutely nothing.

What this bill does do is to take a modest step toward bringing under a certain degree of control punitive damages with rules for small business, rules for larger organizations and an exception when a judge wishes to go above any of the latter limitation. That is all. This amendment seeks for

a single State to be totally exempt from that rule, therefore, in the view of this Senator is wrong.

Mr. President, I am going to suggest the absence of a quorum because it is my hope that we are about to reach a unanimous consent agreement on all of the rest of the amendments that are to be offered and perhaps a chance to vote on them all and on final passage of this bill the same time tomorrow and serve the convenience of our colleagues. And so I will do that in just a moment, though I do not want to limit anyone else having a right to say something.

I do need to say two other things. First, with respect to this constant new trials for large punitive damage awards, the Senator from West Virginia considered that last night, worked with his friends and supporters on his side of the aisle on that subject last night and worked with staff on this side. We agreed to take that section or subsection out of the bill. Because of cloture rules, we can only do that by unanimous consent. Opponents of the bill—Senator HOLLINGS—have refused that unanimous consent.

I am here publicly to assure all Members that it will not appear in any bill coming out of conference, because Senator ROCKEFELLER and I have made that commitment. We will not bring back a conference report with that proposal in it. We wish that we could have the courtesy of such unanimous-consent agreement. But we cannot, and they are certainly operating under the rules. But it is not going to appear in any final bill. We can assure them of that.

With that, Mr. President, hoping that we will soon be able to reach a unanimous-consent agreement about votes, I will suggest—I withhold that.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, my distinguished colleague from Washington just made a very, very important point, one which he and I have already made in public at a press conference which we held several hours ago, and that is that we are, in spite of the fact that the Senator from South Carolina, my esteemed, cherished ranking member of the Commerce Committee—who is a very good friend and has been, and his wife and my wife for a long, long time—does not wish to give consent for us to be able to do this—I think with the idea being that if he does not give consent, then the chances that this bill would be less attractive to the White House would increase.

Senator GORTON and I are trying to make this more attractive to the Members of the Senate, Members of the House, and the White House. But I have also taken the same blood oath that the Senator from Washington has, and that is that we are so committed in terms of the additur amendment that we will not come back from conference without its being in the proper condition, and that, in fact, if it does not come back from conference in the proper condition, as we said at our press conference, we will vote against a motion for cloture.

I do not know how it is possible for any two floor managers to put anything in stronger terms, or to say anything with greater faith and, therefore, it grieves me very much that we will not be granted unanimous consent to do that here when we are being so direct and honest and forthright with our colleagues.

There were just timing problems in terms of submitting this, or else the amendment would have been filed and could have been brought up as a matter of the order. Nevertheless, that was not done. The Senator from South Carolina does have the power to grant us unanimous consent, but he chooses not to do so.

Mr. President, I also want to simply indulge my colleagues in a couple of thoughts, to make some comments on the discussion here about the section in the compromise now pending. We are there. It deals with punitive damages. No. 1, the whole section is the result of many, many months of negotiation and discussion on, in fact, how a product liability reform bill might best deal with the costs and the problems and the erratic nature which we all recognize is at play—punitive damages.

I have tried to represent the Clinton administration's discomfort—expressed discomfort—with the idea of imposing a flat cap on punitive awards, while accommodating the strong desires of Senators on both sides of the aisle to include some reform in this bill, to pursue the idea that the punishment impleaded in punitive damages should have some sense of connection, in fact, to the crime.

I also have to say that in my own personal experience, I do not like to vote for caps. I am on the Finance Committee, and when medical malpractice was before us last year and there was a vote on a cap on noneconomic damages, I voted against it. I do not like caps. It has been my own personal purpose in which I have negotiated in good faith with Members of my own party and the other party to find a way to make sure that the cap would be uncapped. I think we have done that. The Senator from South Carolina knows that. And I say this with respect because he is within his rights and he is a very skilled legislator and a very good friend. I repeat that. He understands that we are, in fact, trying to improve the bill in a way which would appeal to virtually all Members on my side of the aisle, including, in fact, in truth, I believe the Senator from South Carolina himself, because it would be a better amendment with the judge additur provision refined and nobody could dispute that.

It would be better than simply two times compensatory damages with an alternate ceiling of $250,000 because one can construe that—although one can never guess what noneconomic damages will be—one can construe that, in theory, to be a cap. So I have been trying my best in negotiating with both sides to try and get that out and have succeeded. I have some sense of accomplishment in that, which is now being put aside by the Senator from South Carolina.

Mr. President, I also want to make a correction for the record regarding the discussions of the constitutionality of the judge additur provision in the Gorton-Rockefeller amendment.

The judge additur provision in section 107 (b) of our amendment, as it exists now, creates a right to a new trial for defendants if they do not accept the additional punitive awards set by the judge. This provision was inserted to address a perceived constitutionality concern with the judge additur provision—perceived. Senator GORTON and I are now in agreement that this right to a new trial provision is in fact unnecessary to meet any constitutionality test.

The Associate Attorney General, in several conversations with my staff, has asserted that he believes the judge additur provision in Senator GORTON's and my amendment is constitutional on its own—free standing—without the provision creating a right to a new trial for the defendant should the defendant object to an award which results from the judge additur provision.

Indeed, the Department of Justice prepared a list of precedents and authorities for judicial determinations of the amount of punitive damages which I ask unanimous consent to have printed in the RECORD.

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

AUTHORITIES WHICH SUPPORT THE CONSTITUTIONALITY OF REQUIRING JUDGES TO DETERMINE THE AMOUNT OF PUNITIVE DAMAGES

SOME OF THE CASES

Tull versus United States, 481 U.S. 412 (1987), held it did not violate the Seventh Amendment to have a judge determine the amount of a civil penalty under the Clean Water Act. The Supreme Court indicated that "[n]othing in the Amendment's language suggests that the right to jury trial extends to the remedy phase of a civil trial." 481 U.S. 426 n.9. It also reasoned that "highly discretionary calculations that take into account multiple factors are necessary in order to set civil penalties * * * These are the kind of calculations traditionally performed by judges." 481 U.S. at 427.

Smith versus Printup, 866 P.2d 985 (Kan. 1993), upheld the constitutionality of Kansas Stat. §60-3701, which requires courts to determine the amount of punitive damages.

The Kansas Supreme Court reasoned: "Because a plaintiff does not have a right to punitive damages, the legislature could, without infringing upon a plaintiff's basic constitutional rights, abolish punitive damages. If the legislature may abolish punitive damages, then it also may, without impinging upon the right to trial by jury, accomplish anything short of that, such as requiring the court to determine the amount of punitive damages * * *"

Federal statutes. Various existing federal statutes require judicial assessment of punitive damages. See Petroleum Marketing Practices Act (PMPA), 15 U.S.C. §2805(d)(2); Fair Credit Reporting Act, 15 U.S.C. §1681n(2); Patent Act, 35 U.S.C. §284; Equal Credit Opportunity Act, 15 U.S.C. §1691e(b). None of these statutes has ever been held unconstitutional See Swofford versus B & W, Inc., 336 F.2d 406 (5th Cir. 1964) (holding that plaintiffs in patent action were not entitled to jury trial on issues of exemplary damages).

Courts have also upheld judicial determination of punitive damages in a variety of other contexts. See, e.g., Tingely Systems, Inc versus Norse Systems. Inc., 49 F.3d 93 (2d Cir. 1995) (holding that remittitur of jury verict was not reversible error because judge was entiteld to determine punitive damages under the Connecticut Unfair Trade Practices Act).

SOME OF THE COMMENTATORS

Dean Dorsey D. Ellis, Jr., Punitive Damages, Due Process, and the Jury, 40 Ala. L. Rev. 975, 1005 (1989). ("Under a traditional legal analysis, punitive damages are more analogous to fines than to damages. The determination of the appropriate amount of a fine is traditionally treated as a question of law, hence an issue for the judge, and not a question of fact for the jury. By analogy, the judge, not the jury, should decide the amount of a punitive damage award * * *")

Victor E. Schwartz & Mark A. Behrens, The American Law Institute's Reports' Study on Enterprise Responsibility for Personal Injury: A Timely Call for Punitive Damages Reform, 30 San Diego L. Rev. 263 (1993) ("Some critics have challenged judicial assessment of punitive damages as a violation of a defendant's right to jury trial under the Seventh Amendment * * * This criticism is unlikely to hold up if asserted in court. In the past, defendants in criminal cases have challenged judges' activity in sentencing as a violation of their Sixth Amendment right to a jury trial. The Supreme Court, however, has held that no violation exists because sentencing is not a determination of guilt or innocence.* * *[A] criminal defendant's Sixth Amendment right to trial by jury is given a broader scope than a civil defendant or plaintiff's rights under the Seventh Amendment. Thus, we believe that [judicial determination] is constitutional under the Seventh Amendment.")

Robert W. Pritchard, The Due Process Implications of Ohio's Punitive Damages Law A Change Must Be Made, 19 U. Dayton L. Rev. 1207 (1994). ("Because assessing the amount of civil penalties is not a fundamental element of the right to trial by jury and because judges are better able to perform the highly discretionary calculations of punitive damage assessments, the statutory mandate of judicial assessment of punitive damages awards is constitutional."

Colleen P. Murphy, Integrating the Constitutional Authority of Civil and Criminal Juries, 61 Geo. Wash. L. Rev. 723 (1993). ("The Constitution should not be deemed to guarantee jury calculation of punitive damages, just as it does not guarantee jury participation in either civil penalty assessment or in certain aspects of sentencing. Federal courts therefore will not violate the Seventh Amendment if they enforce legislation that * * * authorizes judges to calculate awards.")

Jonathan Kagan, Toward a Uniform Application of Punishment: Using the Federal Sentencing Guidelines as a Model for Punitive Damage Reform, 40 U.C.L.A. 753, 767–68 (1993). ("While it seems clear that there is a right for juries to determine if plaintiffs have met their evidentiary burdens, it seems clear whether this right extends to the calculation of damages. The Supreme Court resolved this issue in Tull. It held that the defendant was entitled to a jury trial on the issue of liability, but not on the issue of civil damages.")

Stanley L. Amberg, Equivalent and Claim Construction: Critical Issues En Banc in the Federal Circuit, P.L. Inst. (1994) ("Consistent with the right under the Seventh Amendment to have a jury determine entitlement to punitive damages, * * * Congress may authorize judges to assess the amount of punitive damages or civil penalties.")

Mr. ROCKEFELLER. This list sets the precedents and authorities supporting the constitutionality of requiring judges to determine the amount of punitive damages. And is therefore valuable information to be considered in this debate.

I rely on the word and the integrity of the Associate Attorney General and his staff at the President's Justice Department. They believe, as I have indicated, that a freestanding judge additur provision as it is written in the Gorton-Rockefeller amendment, and we would like to modify it by striking section 107(b)(3)(C), passes constitutional muster. I have said that several times purposely.

In my view, as an author of this legislation, that is sufficient authority to say that a severability amendment regarding additur is superfluous.

To reiterate, relying on the Justice Department's determination that a judge additur provision is constitutional, I do not believe it is necessary to further amend this provision to sever the judge additur requirements of this bill in an effort to guard against a circumstance where this provision would be deemed unconstitutional. It will not be deemed unconstitutional for the reasons I have articulated.

Mr. President, I just want to take this opportunity to make my colleagues aware that we have, in fact, addressed the concerns raised about constitutionality.

The judge additur provision, coupled with the modification that strikes the defendant's right to a new trial, is a constitutional provision. Again, some of my colleagues on the other side of the aisle would like to add additional language which makes this particular provision severable, to make absolutely certain that the constitutionality of this bill will not be tested as a result of this provision.

I have assured them, based upon my conversations with the Department of Justice and others, that their extra cautious approach is not required.

In concluding, I cannot remember in the 10 years that I have been in the Senate where the two managers of different political persuasions have publicly said that they are so committed to rectifying something which is of concern to the Senator from South Carolina, to some of my colleagues, and to the White House; that the Senator from Washington has said, "We will not come back from the conference with these provisions;" and where the Senator from Washington this morning at a public press conference said that he would vote against the motion to invoke cloture, assuming that the conference report was filibustered. I share exactly that same view.

I think that is pretty strong and dealing in good faith. We would like to hope that we can be dealt with in good faith also.

Mr. President, I thank the presiding officer. I yield the floor.

Mr. McCONNELL. Will the manager of the bill, Senator GORTON, yield for a question about a particular section of the bill?

Mr. GORTON. Yes, I would be glad to do so.

Mr. McCONNELL. I thank the Senator. The bill, at section 106, sets out a provision to hold individuals who misuse or alter a product accountable for any injury resulting from the misuse or alteration. This provision would allow for the reduction of damages based on such misuse or alteration.

This section, at 106(b), also provides that this provision only supersedes State laws that do not already impose such apportioning of damages among responsible parties, including the injured party found to have misused or altered the product, is that not correct?

Mr. GORTON. That is correct.

Mr. McCONNELL. But, this apportioning of damages would only occur if the court has found the defendant liable for at least some portion of the plaintiff's injuries. In other words, if, under State law, the defendant has no liability, for example under the "common knowledge" doctrine, then this provision would not change that result. Am I reading this section correctly?

Mr. GORTON. Indeed. Under the "common knowledge" doctrine the defendant is not held responsible for injuries to the plaintiff caused by the plaintiff's misuse of a product that is commonly known and recognized to be dangerous by ordinary users.

Mr. McCONNELL. So, the Senator shares my understanding that this bill would not overturn the result in, for example, *Friar* v. *Caterpillar, Inc.*, (539 So. 2d 509, La. App. 5th Cir., 1988) or *Colson* v. *Allied Products Corp.* (640 F.2d 5, 1981)? Those both involved situations in which the plaintiffs were injured using products that the courts found

presented a danger of which plaintiffs were aware.

Mr. GORTON. Yes. The Friar case involved a forklift and the Colson case involved the use of a lawnmower. In both of those cases the courts held there was no duty to warn where the dangers are of common knowledge.

Mr. MCCONNELL. This basic principle is part of case law and it is also set forth in the Restatement of Torts, at section 402A, which I would like to include in the RECORD. The relevant part provides that defendants

> Are not required to warn with respect to products, or ingredients in them, which are only dangerous, or potentially so, when consumed in excessive quantity, or over a long period of time, when the danger, or potentiality of danger, is generally known and recognized. Again the dangers of alcoholic beverages, are an example, as are also those foods containing such substances as saturated fats, which may over a period of time have a deleterious effect upon the human heart.

I thank my colleague for responding to my inquiries.

Mr. GORTON. I am glad we clarified the meaning of section 106.

Mr. HOLLINGS. Mr. President, I have been at the Budget Committee all afternoon, and so I have not been able to monitor all the nuances, but we are now hearing that reasoned objections need not be given to this provision because the distinguished Senators say that they are going to take care of this issue in conference.

That could be. I have served on many a conference committee and I have learned that you are never able really to control it. Each Senator is given a vote, along with the House Members.

Be that as it may, I will not give the reasons why I am concerned about this provision at this particular time, other than to say that I am also honestly objecting. I am courteously objecting. I do not know how to say it any better than that.

When the proponents make a request, a unanimous-consent request, and assume that theirs is the only honest request, courteous request, and sincere request, and how they can be more honest, then that constrains me to stand and say that I am just as courteously objecting and honestly objecting as I know how to object. And I object.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS CONSENT AGREEMENTS

Mr. DOLE. Mr. President, I ask unanimous consent that notwithstanding rule XXII, that the following amendments be the only remaining amendments in order to H.R. 956, and not be in order after the hour of 11 o'clock a.m. on Wednesday: Harkin, punitive damages; Boxer, harm to women; Dorgan, punitive cap; Heflin-Shelby, Alabama wrongful death cases; Heflin, punitive damage insurance.

I ask unanimous consent that the vote occur in relation to the Shelby-Heflin amendment number 693 at 9:45 a.m. on Wednesday, to be followed by a vote on or in relation to the Harkin amendment.

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

Mr. DOLE. I further ask that following the disposition of the above listed votes, if no other Senator on the list is seeking recognition to offer their amendment, the Senate proceed to the adoption of the Coverdell-Dole substitute, as amended, the Gorton substitute, and the bill be advanced to third reading without any intervening action or debate.

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

Mr. DOLE. I further ask that following third reading, the following Members be recognized for the following allotted times, to be followed immediately by a vote on H.R. 956, as amended:

Senator HEFLIN, followed by Senator ROCKEFELLER, 15 minutes each; followed by Senator GORTON, 15 minutes; followed by Senator HOLLINGS, 15 minutes; and followed by Senator LEVIN, 10 minutes.

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

ORDER TO PROCEED TO S. 534

Mr. DOLE. Mr. President, I ask unanimous consent, and this has been cleared by the Democratic leader, at 12 noon on Wednesday, May 10, the Senate proceed to calendar 74, S. 534, the Solid Waste Disposal Act.

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

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The Senate continued with the consideration of the bill.

Mr. DOLE. Mr. President, I think Senator HARKIN plans to offer his amendment in about 20 minutes, at 7 o'clock. I am not certain whether the amendments by Senator BOXER or DORGAN will be offered.

We have the agreement, in any event. I want to thank my colleagues on both sides of the aisle. This means no more votes tonight. We can alert our colleagues but there will be debate on the Harkin amendment, and I assume other amendments if they want to be called up. I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ABRAHAM. 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. ABRAHAM. I thank the Chair.

Mr. President, I rise this evening in support of the product liability reform bill now under consideration, and I would like to just preface my remarks by offering my compliments to the bill's managers for their tenacity in sticking with this process as we have moved through all the various perspectives to find a point of common agreement between 60 Members of the Senate. I think both Senator ROCKEFELLER and Senator GORTON worked very effectively on this product liability reform effort.

I believe the bill represents an excellent start at reforming our civil justice system, a system that eats up over $300 billion a year in legal and court costs, awards, and litigants' lost time, not to mention the loss to consumers and the economy from higher prices for products, innovations and improvements not on the market, and unnecessarily high insurance costs.

By placing reasonable limitations on punitive damages in product liability suits, this legislation will begin the process of reforming our litigation lottery without harming anyone's right to recover for damages suffered.

I am especially pleased that the bill now includes a special provision limiting punitive damages for individuals with assets of less than $500,000 and for small businesses with fewer than 25 employees. This provision is modeled on a proposal that Senator DEWINE and I cosponsored and provides that the maximum award against such individuals or entities is the lesser of $250,000 or twice compensatory damages.

Mr. President, no one benefits when businesses go bankrupt because of arbitrary punitive damage awards. Small businesses are particularly susceptible to such problems as are the millions of Americans employed by them.

The bill will also eliminate joint liability for noneconomic damages in product liability cases. Thus the bill would end the costly and unjust practice of making a company pay for all damages when it is only responsible for, say, 20 percent just because the other defendants are somehow judgment proof.

The bill would replace the outmoded joint liability doctrine with proportionate fault in which each defendant would have to pay only the amount necessary to cover the damage for which he or she was responsible.

The bill also creates some important limitations on the liability of sellers of products generally as well as on the liability of suppliers of raw materials critical to the production of lifesaving medical devices.

These provisions go a good way toward restoring individual responsibility as the cornerstone of tort law. They also recognize an important fact about

our legal system. Ultimately, in its current form, it is profoundly anticonsumer. By raising the prices of many important goods, our legal system makes them unavailable to poor individuals who cannot afford them when an exorbitant tort tax has been added. And in extreme cases our legal system can literally lead to death or misery by driving off the market drugs that, if properly used, can cure terrible but rare diseases or medical devices for which raw materials are unavailable on account of liability risks.

These are important reforms, Mr. President; reforms that will increase product availability, decrease prices and save jobs.

When we allow our tort system to stifle production and innovation the real losers are consumers—who must pay higher prices and choose between fewer and less advanced goods—and workers—whose job opportunities disappear.

By eating up 4.5 percent of our Gross Domestic Product, the tort system costs jobs. Besides causing companies to discontinue or not introduce products, it also hurts American businesses overall by making them less competitive in the world market.

A 1994 Business Roundtable survey of 20 major U.S. corporations reveals that they receive 55 percent of their revenue from inside our country, but incur 88 percent of their total legal costs here. Clearly such discrepancies in legal costs put our companies at a disadvantage in the world marketplace.

It is no secret that I wish we had gone farther with this bill, to protect the nonprofit organizations, the towns and villages and the ordinary Americans who remain victims of our current broken legal system. I hope that Members of this body who support this legislation but at this time do not want to apply its reforms more broadly will on further reflection see their way clear to taking the next step; to enact similar reforms to assist homeowners, accountants, farmers, volunteer groups, charitable organizations, all small businesses, State and local governments, architects, engineers, doctors and patients, employers and employees. But I feel strongly that the legislation under consideration, even limited to its present scope, is an important step toward making our civil justice system fair and efficient and improving the lives of our citizens. I urge its prompt final passage.

I urge its prompt final passage.

Mr. President, as I say, I hope that we will go further in the days ahead, whether in the form of independent legislation or as part of further discussions of legal reform that may come before the Senate in the context of securities litigation or some other issue before us, because I think that we need an overall and comprehensive reform of the system.

I know that I speak for a number of the Senators who are active and working on this bill in saying that we are delighted with the progress we have made so far and, while we may not think we are yet close to our final destination, we have taken a good first step. And, most importantly, I can say that, at least for this Senator, I am dedicated and committed to continuing the fight to keeping this whole issue of reforming our legal system before the Senate and I remain hopeful that we will enact more reforms in the months ahead.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. HARKIN. Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

Mr. HARKIN. Mr. President, I ask unanimous consent that the amendment I am about to send to the desk be made in order.

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

AMENDMENT NO. 749 TO AMENDMENT NO. 690

(Purpose: To adjust the limitations on punitive damages that may be awarded against certain defendants)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 749 to amendment No. 690.

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

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

The amendment is as follows:

In section 107(b) of the amendment as amended by amendment No. 709 insert the following:

"(6)(i) Notwithstanding paragraph (1), the amount of punitive damages that may be awarded in any product liability action that is subject to this title against an owner of an unincorporated business, or any partnership, corporation, unit of local government, or organization that has 25 or more full-time employees shall be the greater of—

"(I) an amount determined under paragraph (1); or

"(II) 2 times the average value of the annual compensation of the chief executive officer (or the equivalent employee) of such entity during the 3 full fiscal years of the entity immediately preceding the date on which the award of punitive damages is made.

"(ii) For the purposes of this subparagraph, the term 'compensation' includes the value of any salary, benefit, bonus, grant, stock option, insurance policy, club membership, or any other matter having pecuniary value.".

Mr. HARKIN. Mr. President, this is a very straightforward amendment. It simply provides that the caps on punitive damages that are in the amendment will not apply in cases where a business is sued and the chief executive officer's salary over the previous 3 years is greater than the total compensatory damages in the case for businesses with 25 or more employees.

This is less than 13 percent of all businesses, according to the Census Bureau. In those instances, the cap on punitive damages, in my amendment, would be raised to twice the compensation of the chief executive officer for 1 year averaged over the last 3 years.

Again, let me try to put it in plain English. What my amendment provides is that if a corporation is sued and it has over 25 employees, then the cap on punitive damages that is in the Gorton substitute amendment will not apply. The formula to be used would be that punitive damages would be capped at twice—just twice—the annual compensation of the chief executive officer of that corporation and that annual compensation would be determined by averaging the last 3 years.

Mr. President, we all agree that punitive damages that are paid should not be disproportionate, but proportionate to what? This legislation basically says that a multibillion-dollar corporation can consciously and flagrantly disregard the safety of others and have that conduct proven, not just by a preponderance of the evidence but by clear and convincing evidence. So what this means is that the legislation before us says this multibillion-dollar corporation can consciously, flagrantly disregard the safety of others, be sued and go to court, have it proven that they consciously and flagrantly disregarded the safety of others by clear and convincing evidence, and the maximum punitive damages for this kind of heinous conduct is only twice the compensatory damages of the plaintiff, even if those damages are such a small amount that they are only a tiny proportion of the company's profits and assets.

I believe the more important comparison in punitive damage cases is the proportion of the damages to the size and the financial strength of the business.

The compensation package of the CEO of a company with at least 25 employees, as my amendment provides, is inevitably going to be a reasonably fair proportion of the total cash flow of the company. Now, I have chosen to have it apply to only those businesses that have 25 or more employees so that a small business, a sole proprietor, who

retains all of the profits of the company as his or her compensation is not affected.

There is only one purpose for punitive damages, and that is deterrence. That is the only purpose of punitive damages, to deter that flagrant, irresponsible action, that disregard from the safety of others, from happening in the future. Yet, who believes that a punitive damages award of a few hundred thousand dollars is going to have a significant impact on a company the size of, say, a major motor company, a multibillion-dollar corporation?

The CEO's of some companies make $250,000 a week. So how great of a deterrent will it be to a big corporation if their total punitive damages is $250,000? That is what they pay their CEO for 1 week.

So why did I choose the compensation packages of the CEO's of these large companies? Because I believe that unless executive compensation is ruinously disproportionate to the resources of the company—and that is seldom the case—twice that compensation package will not be so large that it will cause the company to close. No one can argue that a multibillion-dollar corporation that pays its CEO, say, $5 million a year is going to close its doors because a punitive damage award comes to $10 million or 2 years' salary.

The other reason I have chosen executive compensation is because it is something that is entirely within the control and discretion of the company's management. And it also takes into account the cash flow of the company. It is, therefore, more fair than a system based on the total assets of the company which may be fixed productive resources.

Mr. President, let me read a few examples of the compensation packages in a few of the major corporations. This is from the recent issue of Forbes Magazine in the May 22 issue. The cover says "Pigging it up: Corporate management who subdues their directors into submission." In this issue it says 800 chief executives are paid $1.3 million per year. That would be one of the lower ones. Some of them are extremely high. I am just going to read a few. These are some of the companies that may be involved in the potential lawsuit we are talking about here.

Here is the compensation of the CEO of General Electric: $8.6 million per year. Let us see now; that would come out to be about $300,000 every 2 weeks, or about $600,000 a month. So you can see, if General Electric were to make a product that they knew consciously, flagrantly disregarded the safety of others—and this was proven in a court of law by clear and convincing evidence—under the bill before us, they get $250,000, or twice the compensatory damages. Well, as I showed you, the CEO makes almost $250,000 a week. So what kind of a deterrent is that going to be?

Here is Trinity Industries. The CEO there makes $6.2 million a year. That is about $250,000 every couple of weeks.

Here is Morton International, where the CEO makes $7.5 million a year.

Here is Chrysler, where the CEO, Mr. Eaton, makes $6.2 million a year.

Here is Premark International. I do not even know what they do. They pay their CEO $12.121 million a year. Well, let us see, that is a million dollars a month. That is $250,000 a week, I guess. So if Premark consciously, flagrantly made a product in disregard of the health and safety of others and were sued and taken to court, and that was proved by clear and convincing evidence, one of the highest standards, they could have their damages capped for a figure as low as what their CEO makes in 1 week.

Do you think that is a deterrent? That is not a deterrent at all. They would laugh that off.

Here is Colgate-Palmolive. Mr. Mark makes $13.460 million a year as the CEO. I think you get the picture.

Here is Mattel Toys. Their CEO makes $7.6 million per year. Yet, we are going to say that some kid who got injured by a toy, permanently disabled for life—and again, let us think again; is it just some kid who got hurt by a toy because they were misusing it? No, they have to go to court and prove that the company flagrantly and consciously disregarded the safety of that child in making that toy. It has to be not by a preponderance of the evidence but by clear and convincing evidence, a higher standard. After all that, we will slap their hands and cap the punitive damages at a small fraction of their company's worth.

So, again, I think, Mr. President, you get the picture. There are 800 companies here. I am not going to run through them all. Again, I am not mentioning these companies because I want to cast aspersion on these companies. I have nothing against them. In fact, they are probably pretty decent, good companies. I have had dealings with some of them before. I am sure they want to be good citizens and want to employ people, and they want to make our country great. I am not saying these companies are bad. I am just using this as an example of the kinds of compensation they pay their CEOs.

Again, my amendment says that if you go through all of these hoops and you get punitive damages, we are going to cap it just at twice the annual compensation of the CEO. Mr. President, here is an article from the Tampa, Florida, Tribune, April 13. I want to read the first couple of paragraphs. It says:

> The Nation's corporate chief executives find their jobs an enriching experience these days. "Greed clearly is back in style," says Robert Mongs, a principal of Lenz, Inc., an activist investment fund in Washington.
>
> There is almost a feeling among CEO's that the money is there to be taken.

If these companies want to pay their CEO's $12 million a year, or $7 million a year, that is their business. I believe it is our business as lawmakers charged with responsibility to provide for the general welfare of our people.

Now, Mr. President, the word "welfare" appears twice in the Constitution of the United States. Most people do not know that. It first appears in the Preamble of the Constitution, which is part of the Constitution, where it lays out the reasons for the Constitution. One of the reasons is to promote the general welfare. It does not say stand back and let the States do it. It charges Congress with promoting the general welfare of our people.

Then in article I, section 8, which lays out the duties and responsibilities of Congress to lay and impose duties and customs, to regulate the Army and Navy—it has a whole list—to regulate commerce, a whole list of things that Congress is specifically charged to do, in article I, section 8.

One of those is to provide for the common welfare of the people. That is our responsibility. We are charged by that when we raise our hand and swear our oath to uphold and defend the Constitution.

The Constitution says clearly that we are to provide for the general welfare. In providing for the general welfare, we want to make sure that people—average citizens of this country—have the assurance that when they buy a product, consume a product, or use a product, when they travel on our highways, that they can be reasonably certain that what they are using, what they are buying, what they are consuming, is not going to harm them. That is our responsibility.

That is why we pass safety and health laws. That is why we put stoplights on our intersections. Now a stoplight, Mr. President, restricts my freedom. I want to go down that street. I do not want to stop at a stoplight but that stoplight restricts my freedom of movement. We have decided for the public safety that we will regulate the flow of traffic and we put up stoplights.

That is why we have food inspection laws. That is why we have all kinds of safety laws. And that is another reason why we have left untouched in our country for these 200-plus years the common law that we inherited from Great Britain that goes back over 600 years, the concept of tort feasor, the concept that someone must take due care and concern that his actions do not harm others. If those actions do harm others, I am held accountable and responsible.

I believe it promotes responsibility. It makes people think twice about their actions and about what we make, how we act, and what we do. That is why I find this bill before the Senate so out of step with what we have been doing for 600 years and so out of line

with what we in our offices and in our speeches say we want. We want people to act responsibly. We say if someone is not responsible we want them held accountable.

In the bill as it is, a corporation could make something, hurt somebody. As I pointed out, they could be maimed for life. How are they held accountable in terms of deterrence and punitive damages if we have these low caps?

I believe that is a modest amendment. It is not going to bust any company. There is no company—no company in this magazine, not one company—could say that if they had to give up 2 years of their CEO's compensation, that they will go broke. If they are, their board of directors will fire everybody running that company.

I believe that at least 2 years of compensation of what a CEO makes could be a deterrent to that company in terms of their future actions. Certainly, $250,000 is not a deterrent.

Does any person think that a company with the resources to pay one person $12 million a year would flinch from paying even $1 million in punitive damages? Some of the individuals make as much money as the salaries of all the U.S. Senators combined, and no one thinks we are undercompensated here.

We all agree with the Dole proportionality of punitive damages award. It ought to be apportioned to the damages caused and the pain and suffering and the injury to the person. It also ought to be apportioned to the resources of the person or the company that caused that injury. This goal of proportionality has been served for centuries by the jury system, under the watchful eye of a judge.

Mr. President, I must also say that this bill surprises me. Many of the proponents of the bill keep talking about returning power to the local level. It does not get any more local than putting a decision in the hands of a jury of one's peers. These are not people who ran for office. These are not people who went through years of law school or other special training for their jobs.

The people who the proponents of this bill apparently think can apparently no longer be trusted to come up with fair verdicts are good citizens, the ones who serve on juries, pay their taxes, and go to the polls.

Now we are being told by the proponents of this bill, "We cannot trust you." Well, considering that everyone here was put here by those same citizens who sit on the juries, how can we now doubt their wisdom? Juries, by and large, are fair and come up with reasonable verdicts. And they have been doing it since the dawn of our democracy.

What is it about juries that now makes them constantly make these so-called foolish decisions that the bill's proponents have been reading? Will the proponents of this bill say that the people who serve on juries are ignorant? If so, stand up and say so. Will the proponents of this bill say that the people who serve on juries are easily misled? If so, let them stand up and say so. Do the proponents of this bill say that the people who serve on juries lack common sense or they have no sense of fairness? If so, let them get up and say so. Do the proponents of this bill say that a jury cannot look at a person who has had a serious injury and then go on to decide that the product that was involved was not negligently manufactured? Do the proponents say that? If they believe so, let them get up and say it.

The facts are just the opposite. In fact, juries decide against plaintiffs about half the time. Juries have had a long track record in dispensing wisdom, a record about three or four times as long as the U.S. Senate.

I find it very interesting that the proponents of this legislation, some of them are the strongest voices about returning government to the local level, giving power back to the local level. There is nothing more local than a jury of your peers. Now the proponents of this bill are saying, "We cannot trust you to make these kind of decisions. We will take it out of your hands."

As far as I know, there is nothing more fair, there is nothing that dispenses wisdom and justice more evenly, than juries of our peers. I may not agree with every jury verdict. Sometimes I believe a jury makes a mistake. But I was not sitting there. I did not listen to all the testimony. I was not able to weigh all the pros and cons.

So what I read in the paper may upset me. I can honestly say that there are times when I have heard of jury decisions that make me mad. But then after I dig into it, find out about it, and read more about it, then I find out why the jury reached the decision they did.

So juries are not ignorant. Juries are our neighbors, our relatives, our friends, the people who put Members in this body in the first place.

All I say, Mr. President, is that I have opposed caps on damages, but if we are going to have a cap, and this bill says we are going to have a cap, let it at least be high enough that punitive damages can serve their purpose to deter truly heinous actions by the largest companies in this country.

We should not make it so that they would be so high as to bankrupt a company. We should not make it so that it would put small businesses out. That is why I have exempted those businesses of less than 25 employees.

I believe that the amendment I have offered accomplishes that fine balance and the balance of deterrence, punitive damages high enough to really deter that kind of action in the future. Not high enough to bankrupt the company. And not so low as in this bill as to where companies will just laugh it off. Just laugh it off—$250,000.

Now, I know the proponents of the bill will say, well, the judge can raise the $250,000 if he wants. True. But then the defendant can say, well, I do not like it. I want to go back to another trial and go right back to the process again. And again these multibillion-dollar corporations will get to write off, of course, all the attorney's fees and expenses as an ordinary business expense, and we taxpayers pick that up. They go right back through the process again. Thus, the cycle just keeps going. So really what we really have in this bill is a $250,000 cap. That is not enough to be a deterrence.

I believe this amendment will be a deterrence, I believe it is fair, and I believe it is reasonable.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, the Senator from Iowa assumes the question of deterrence, misconstrues the actual impact of punitive damages, and totally misstates the provision that he purports to amend. There is no $250,000 punitive damage cap. In the case of serious injuries, for anything other than the small business, which is exempted both in the bill and in the amendment of the Senator from Iowa, for anything other than a small business, the cap is $250,000 only if the damages to the plaintiff are minimal. In the cases repeatedly cited by the Senator from Iowa, the individual maimed for life—that was the last quotation I remember—it is obvious that the economic damages to that individual together with the award for pain and suffering, unlimited by any feature of this bill, added together and multiplied by two is infinitely greater than $250,000.

Every week in the United States we have compensatory damage awards well up into the millions of dollars, and in each of those cases, except for the very, very small business, the maximum award of punitive damages on the part of the jury under the bill as it exists now is twice whatever those damages are. The $250,000 figure was only put back into this proposal to say that you could go that high in case of a jury award for actual damages that was extremely small. And, Mr. President, if a claimant goes all the way through a trial and proves that his or her damages are only $10,000, why should we allow a $4 million punitive damage award? That is, of course, the essence of what this debate is about.

Moreover, even the figure twice the sum of economic and noneconomic or

pain and suffering damages contained in the bill has an exception pursuant to which the judge can increase that award, if the judge finds the conduct of the defendant to be as egregious as the description propounded to us by the Senator from Iowa. The Senator from West Virginia and I have said that this bill in its final form will not contain any automatic new trial right for a defendant in any such cases.

So, Mr. President, the present bill that we are being asked to vote on does not have any ultimate cap at all on punitive damages in that extraordinarily rare case in which a judge felt that a very, very high such award was appropriate. So the Senator from Iowa is wrong that a badly injured, maimed individual is not going to have a $250,000 cap on punitive damages when an injury was caused by the deliberate acts or the outrageous acts of the large corporation. In fact, that individual is not going to be subject to any cap at all if he or she can prove the kind of case which was given us here as this horror story. But what we are doing in this bill is to provide some remote connection between the actual losses an individual suffers and how much can be added to that amount by a jury acting without any rules or instructions whatsoever. It is neither more nor less than that.

We should not have the legal system of the United States of America as a national lottery where, under certain circumstances with a handful of juries in modest cases with almost no damages, the lottery can create a bonanza partly for an individual but basically, this is what the debate is all about—for the lawyer class in this country who find these actions to bring.

More fundamentally, and we have not gotten back to this point recently in this debate, and I speak not just of the remarks of the Senator from Iowa but of all of the opponents of this bill, none has shown that their slogans about deterrence have any true meaning. No single study has ever shown that punitive damages, the lottery of a huge punitive damage award, has any real effect on deterrence or on safety.

I am astounded that a Member of this body who believes so firmly in the presence of government in our life and of its regulatory capacities has so little faith in the ability of all of the statutes of the United States and of all of the statutes of the States dealing with safety in the production of products to cause them actually to be safe. We passed measures on automobile safety, on toy safety, and on all other kinds of product safety, and on the way in which we license drugs and the way in which we build airplanes to see to it that they are safe and effective. Yet, apparently, according to the opponents of this bill, nothing would be safe in America if we did not have unlimited punitive damages. That is the only way we can see to it that corporations behave, that we can have a reasonable society.

Mr. President, retired Justice Powell said—and I paraphrase him but I agree with him—the jury system of litigation taken as a whole is the most irrational method of business regulation imaginable.

It is not a criticism of a particular jury to say so, Mr. President. That jury deals with a single instance. It does not know what other instances there are in many cases. The Congress of the United States, the legislatures of the several States, when they determine on regulation, determine it on the basis of all of the evidence, of all of the weighing of how much we want to encourage certain kinds of production and what kind of cautions we put on them. This is the way in which the job is done.

No study shows that punitive damages do anything other than have an utterly irrational impact of telling many companies it is not worthwhile going into a new line of business—it is not worthwhile, as one of our major companies has said, to try to go into the business of finding a new drug which helps AIDS. We cannot make enough money on it to risk that lottery that some lawyer someplace will persuade some jury to whack us with a $25 million punitive damage award.

So we have had dozens of companies get out of the business of producing the vaccine against whooping cough. Is that a triumph of the American system, that the cost of whooping cough vaccine has gone up 500 percent and only one or two companies are even willing to make it?

Is it a triumph of the American system that 18 of the 20 companies that used to manufacture football helmets are not in the business anymore because it just simply is not worthwhile? Is it a vindication of the American system that a large company which produces plastic piping for heart implants, on which it might possibly make $1 million in a several-year period, has paid close to 40 times that in defending successfully product liability actions, and looks at the bottom line and says, what in the world are we doing this for? Why should we produce this particular product? Those legal fees adhere to defendants who win just as much as they do to those who lose. And when the company says it is just costing us too much, we will abandon this line of research; we will abandon this product; the American people are not benefited. Who is benefited? A tiny handful of lucky players and a larger group of trial lawyers.

So what we do in this bill, much more modestly than I would prefer, is to say at least in the great bulk of cases there ought to be some relationship to how badly the plaintiff or claimant is actually damaged and what the maximum punitive damages are. Let there be a ratio. If in fact the individual is maimed for life, then they are going to be entitled to huge punitive damages. But if in fact they are damaged $10,000 or $500, why should they win the lottery when there is no evidence that this does anything but to constrict our economy?

I say once again, the State immediately adjacent to the State of the Senator from Iowa, Nebraska, like my own State of Washington, just does not have punitive damages in the kind of cases we are talking about here. It does not allow them at all. Why? Because the Constitution of the United States protects anyone accused of a crime. They have fifth amendment rights. The case against them has to be proven beyond a reasonable doubt. There is a maximum sentence. But those who uphold those constitutional protections as fundamental to our system of justice say, oh, no, but a civil jury can punish without any limitation or without any guidelines whatsoever, rationally or totally or temporarily. There just is no connection between those two.

Moreover, there is also no relationship at all between the responsibility of business enterprises, the safety with which they build their products, that is related to whether or not they operate in a State which has punitive damages or one which bans punitive damages. Not a scintilla of evidence, not any instance has been imparted to this body that oh, boy, we better keep punitive damages because look at how irresponsible companies are that operate in Nebraska or Washington or one of the other States. Not a peep, Mr. President, about that.

The bottom line is we are dealing with a system that is a great system for a handful of lawyers in this country. They and their sidekicks get 60 percent of all of the money that goes into this product liability system. Claimants get 40 percent of it. We want to make it a little bit more rational.

The Harkin amendment does not make it more rational. The Harkin amendment does not even recognize the nature of the $250,000 cap, which does not apply to anything he talked about, or the fact that there is no cap at all when the judge finds that the conduct of the defendant has been particularly egregious, and the Harkin amendment should therefore be rejected.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, not only do I agree with everything that my able colleague from the State of Washington has said, the Harkin amendment adds a new section to the bill for setting punitive damages against businesses with 25 or more employees. It has to be greater than the

amount recorded or using a formula laid out in the compromise bill which is twice compensatory damages or $250,000, whichever is greater, or twice the value of annual compensation of the business' chief executive officer.

Well, that last one obviously is an eye-catcher, ear-catcher. It sounds innocent enough—and fun. It is kind of fun, cute. But we are on a deadly serious bill. The people who voted today to make sure that we would continue to discuss and amend product liability reform were not trying to have fun with this.

We have been on this bill for several weeks now. I have been doing this for 9 years. I am sure the Senator from the State of Washington has been doing it for longer than that. There is nothing in any of my efforts to sort of do something to amuse myself, enjoy myself. I am trying to make America better. I am trying to help defendants who cannot get their claims in time. I am helping to make things more predictable for businesses so we can strike a balance between consumers and business.

One thing this is not is just kind of fun. When I say it is deadly serious, I mean deadly serious because I truly believe there are products not being developed today which could save lives, and that people are dying because that is not happening.

There are a couple of facts which I think are relevant. There is not a $250,000 cap in the Gorton-Rockefeller compromise on product liability reform, as suggested by the Senator from Iowa. There is not that cap.

I suggest to those who do read the bill, in product liability cases, if the jury agrees that the punitive damages should be awarded, the jury can, and under the bill punitive damages will, set an alternative ceiling of $250,000, or twice the amount of compensatory damages. And then the judge, under the additur provision, decides if that is not enough, to take it up. So there is no floor.

We are not talking about treating people unfairly. In fact, I think we are trying to talk, for the first time in a long time, about treating people fairly.

To highlight some more information about the suggestion of the Senator from Iowa that there is any sort of special protection for businesses which are tempted to make defective or unsafe products, everybody needs to remember that juries under our bill can award compensatory damages in amounts that span from hundreds of dollars to millions and millions of dollars.

I have made this point several times, but I will make it again and I will give you a few more examples this time. I have already talked about the State of the Senator from Washington, not even considering punitive damages at all, and within the last 5 or 6 weeks there was an award of $40 million. I have no idea what the circumstances were. But that was economic plus noneconomic—compensatory damages, $40 million.

You do not need punitive damages to get a big award. I am for the punitive damages, but you do not need them to get major awards.

There was a $70 million compensatory award, again, not even considering punitive, to the family of a woman who died when a defective helicopter crashed—in, as it turns out, Missouri. But that did not stop the jury from awarding $70 million. So we are not kidding here. We are not doing anything fun here.

There was a $15 million compensatory award—again, not even considering punitive damages; but a compensatory award—to a boy in a case involving a defective seat belt. Now, I do not know the circumstances. This was in Los Angeles County, 1993. I do not know the circumstances, but this is just compensatory award.

Almost $20 million, Mr. President, in compensatory damages was awarded to a man injured in some circumstances in which a motorcycle spun around on the ground during a turn. My eloquence cannot exceed that, unfortunately, because I do not know what it was. But the man was injured by a motorcycle and got almost $20 million—I say again, in compensatory damages alone.

So there is no kind of joking around here. We are trying to do the right thing.

I might say, on the other side of it—and I do not want to stretch this out—that there are a lot of things that are not happening in this country because of the fact that our punitive damages situation is scaring people away from new products, new research, new improvements, or whatever.

I have used this case before and I will use it again, because I think it is devastatingly powerful.

I care a lot about health care and I have worked a lot on health care. I have been into kidney dialysis clinics. They are not a lot of fun to go into. The former Governor of Missouri knows what I am talking about, the Presiding Officer. It is kind of dark and people are lying back in chairs, and their blood is being completely changed. It is kind of depressing to be there. I do not think they enjoy it much. Nobody is talking to anybody else. They cannot work. They are tied into these huge machines which rise up beside them and behind them.

This was carried a little step further and they developed a dialysis machine that you could take home with you so that if you worked within 2 or 3 miles, or 4 or 5 miles away, you could come home to that dialysis machine, do it yourself and then go back to work. It was a tremendous improvement, because you could go back to work, if your work was close enough so that you could come back two or three times to do that.

But then Union Carbide comes along and really comes up with the answer. They put the whole thing into a suitcase-sized dialysis machine that you can take to your job with you and do the dialysis on the job.

My 15-year-old son has one of his best friends who, a couple of years ago, we discovered had diabetes. That is not a lot of fun for a young kid to find something like that out. I cannot get over the way that young man, 12 years old at the time, simply adjusted to his new circumstances and was able to give himself insulin; just disappear for a few minutes and do it. His courage—he actually grew, grew in my eyes, and I think he grew in his own realization in the sense of mortality and what he could do and how precious everything was. He is a remarkable boy. In fact, I think his aunt is Madeleine Albright, our Ambassador to the United Nations—a wonderful boy.

But Union Carbide, when they came up with this same kind of you-can-do-it-right-on-the-spot kidney dialysis machine, had to sell their business to a foreign company where uniform product liability laws did not give the same litigation potential because Union Carbide, an enormous company, determined that the potential liability risk made the product uneconomical.

So I have to assume there are hundreds of thousands of people who need these blood changes in this country who are deprived of that now because Union Carbide could not do that.

I have 20 examples. I will not give them. It is late.

So I know that the amendment has sort of a nice, populist ring to it—CEO's salary. But this is dead-serious business that we are involved in.

Product liability reform is something I have fought for as a nonlawyer because I want to see people's lives get better and I want to see products developed and I want to see—just on personal grounds, my mother spent years dying from Alzheimer's disease. There is a cure out there, but somebody has to put the money up to find that cure. It is probably not going to be the Federal Government, because we are cutting back.

So all of this is deadly serious. This is not a bill that should be used to beat up on business. This is a bill that should be used to beat up on a legal system which is failing us and, as the Senator from Washington said, in which the lawyers get 50 to 70 percent of the money. I do not respect that. I do not like that. I want to change that.

And for that, among other reasons, I oppose the amendment of the Senator from Iowa.

I thank the Chair.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

MORNING BUSINESS

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

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

NOMINATION OF JOHN DEUTCH TO BE DIRECTOR OF CENTRAL INTELLIGENCE [DCI]

Mr. GLENN. Mr. President, I rise in strong support of the nomination of John Deutch to become Director of Central Intelligence [DCI]. As a longtime member of the Senate Armed Services Committee, I have enjoyed working with him in his various roles at the Department of Defense—and I look forward to working with him as DCI. Dr. Deutch has an extremely impressive résumé, and I ask unanimous consent that a copy of his biography be included in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. GLENN. Mr. President, his background and training clearly indicates that Dr. Deutch brings a broad background to the DCI position. His scientific background makes him particularly prepared to deal with the many, formidable technical issues confronting the Intelligence Community from satellites to signals intelligence [SIGINT]. Dr. Deutch also brings significant administrative and national security expertise to the DCI job from his past and current senior management experiences at the Defense Department. His toughness in making difficult decisions and his knowledge of, and experience in, national security matters will make him a very capable manager of the U.S. Intelligence Community.

I have been especially pleased with the principal purposes Dr. Deutch has articulated for the Intelligence Community: Striving to assure that the President and other national leaders have the best information available before making decisions; providing adequate support to military operations; the need for intelligence to address the growing problems of international terrorism, crime, and drugs; and that our counterintelligence capabilities are able to assure that America's enemies do not penetrate our national security apparatus.

The new CIA Director comes along at an important time for the U.S. intelligence community. For almost half a century, the intelligence community—indeed our Nation's entire national security infrastructure—has been focused primarily on the Soviet threat. And during the cold war period, our Government viewed most national security issues—justifiable or not—through the prism of the United States-Soviet competition.

Obviously, this is no longer the case as America is coming to terms with a rapidly changing world. And having a robust and effective intelligence community is an indispensable means to that end. Timely and accurate intelligence forms the foundation of our foreign policy and defines the threat to U.S. national security that is—or should be—the basis of our defense spending.

Yet with the end of the cold war, some have argued that the CIA is a relic which has outlived its usefulness, and we should do away with it. I strongly disagree with such views. In this unprecedented time of enormous change and uncertainty in the world—as the on-going problem of the proliferation of weapons of mass destruction and recent acts of terrorism at home and around the world clearly demonstrate, our need for the intelligence community and a robust intelligence budget is greater than ever before.

The requirement for an intelligence capability is by no means a cold war aberration. This year, we are celebrating the 50th anniversary of the end of World War II. And history has ultimately revealed to the public the important role of intelligence in that war.

Mr. President, like all veterans of that conflict, the 50th anniversary commemorations of specific events of World War II have special meaning to me. One of the most moving ceremonies I have ever attended was last June's ceremony in France commemorating the D-Day invasion of Normandy.

And unsurprisingly, intelligence made an extraordinary contribution to the success of D-Day's planning and implementation. Intelligence agents acquired an accurate map of the German Atlantic Wall fortifications, and an intelligence deception operation code-named Body Guard used German spies captured in England as double agents who sent false messages to the Nazis regarding the precise location of the planned invasion of Europe. This latter operation also successfully passed along false information regarding the location of Allied invasion forces in England.

Intelligence played a decisive role in Allied victory in World War II in many ways. Signals intelligence [SIGINT], for example, played an instrumental role in winning World War II as Allied intelligence successfully broke German and Japanese codes.

And as we enter one of the most unpredictable and dangerous periods in world history, we must ensure that our SIGINT as well as human intelligence [HUMINT] and other intelligence capabilities will be able to meet the intelligence challenges of tomorrow.

Mr. President, in addition to the other recommendations being made to Dr. Deutch, as DCI, I would like to add one more.

Next March, the Commission on the Roles and Capabilities of the United States Intelligence Community—which was initiated by this committee last year—will issue its report, including recommendations to reorganize the intelligence community in the post-cold-war era. While I look forward to reviewing the Commission's report, I must admit that I have been somewhat skeptical over the years about the utility of Government by "Blue Ribbon Panel"—and have sought to educe the number of such commissions through oversight action of the Senate Governmental Affairs Committee, where I am now the ranking member.

As Dr. Deutch assumes his duties as DCI and he perceives significant problems—organizational and otherwise—that are impending the intelligence community's ability to meet its requirements, I sincerely hope that he will act expeditiously to remedy these problems and not wait for the Commission's report next March.

Mr. President, I urge my colleagues to vote in support of Dr. Deutch as DCI.

EXHIBIT 1

JOHN M. DEUTCH

The Honorable John M. Deutch was sworn in as Deputy Secretary of Defense on 11 March 1994, following a unanimous vote in the Senate. He previously served as the Under Secretary of Defense (Acquisition and Technology) from 15 April 1993 until his confirmation as Deputy Secretary.

Prior to his nomination to these positions, Mr. Deutch served in a number of educational government posts. Mr. Deutch became a member of the faculty of the Massachusetts Institute of Technology in 1970 and since then has been an associate professor and professor of chemistry, chairman of the Department of Chemistry, dean of science, provost, and Institute Professor.

His government assignments include service in the Department of Energy as Director of Energy Research, Acting Assistant Secretary for Energy Technology, and Under Secretary of the Department. In recognition of his contributions, he was honored with the Secretary's Distinguished Service Medal and the Department's Distinguished Service Medal. He has been a member of the White House Science Council, the Defense Science Board, the Army Scientific Advisory Panel, the Chief of Naval Operations Executive Panel, the President's Commission on Strategic Forces, the President's Foreign Intelligence Advisory Board, and the President's Nuclear Safety Oversight Committee. He also served as a consultant to the Bureau of the Budget.

He has been a trustee of the Urban Institute, a member and Chair of the National Science Foundation Advisory Panel for Chemistry, an overseer of the Museum of Fine Arts in Boston, a trustee of Wellesley College, a director of Resources for the Future, a member of the Trilateral Commission, and a member of the Governor of Massachusetts Technology and Economic Development Council.

A graduate of Amherst College with a B.A. in history and economics, he earned both a B.S. in chemical engineering and a Ph.D. in physical chemistry from M.I.T. He holds honorary doctoral degrees from Amherst

College and the University of Lowell. Mr. Deutch has been a Sloan Research Fellow and a Guggenheim Fellow and is a member of Sigma Xi and the American Academy of Arts and Sciences.

Mr. Deutch was born in Brussels, Belgium, and became a U.S. citizen in 1946. He has three sons, and his permanent residence is in Belmont, Massachusetts.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

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–880. A communication from the Under Secretary of Defense (Acquisiton and Technology), transmitting, pursuant to law, a report relative to the M1A2 Abrams Upgrade; to the Committee on Armed Services.

EC–881. A communication from the Under Secretary of Defense (Acquisiton and Technology), transmitting, pursuant to law, a report relative to the Maneuver Control System; to the Committee on Armed Services.

EC–882. A communication from the Under Secretary of Defense (Acquisiton and Technology), transmitting, pursuant to law, a report relative to the ADDS, C-17, and Javelin programs; to the Committee on Armed Services.

EC–883. A communication from the Deputy and Acting Chief Executive Officer of the Resolution Trust Corporation, transmitting, pursuant to law, a report relative to the Affordable Housing Disposition Program for calendar year 1994; to the Committee on Banking, Housing, and Urban Affairs.

EC–884. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, a report relative to a transaction involving Turkey; to the Committee on Banking, Housing, and Urban Affairs.

EC–885. A communication from the Deputy and Acting Chief Executive Officer of the Resolution Trust Corporation, transmitting, pursuant to law, the semi-annual reports of the RTC, FDIC and the TDPOB for the period October 1, 1994 to March 31, 1995; to the Committee on Banking, Housing, and Urban Affairs.

EC–886. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the fiscal year 1993 report of the Congregate Housing Services Program; to the Committee on Banking, Housing, and Urban Affairs.

EC–887. A comunication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the 1993 report pursuant to the Cigarette Labeling and Advertising Act; to the Committee on Commerce, Science, and Transportation.

EC–888. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to the incidental harvest of sea turtles; to the Committee on Commerce, Science, and Transportation.

EC–889. A communciation from the Under Secretary of Commerce for Oceans and Atmosphere, transmitting, pursuant to law, a report on the National Marine Sanctuary Logo Pilot Project; to the Committee on Commerce, Science, and Transportation.

EC–890. A communication from the Secretary of Commerce, transmitting, pursuant to law, the annual report of the Department for fiscal year 1994; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE REPORTS OF COMMITTEES

The following executive report of committee was submitted:

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation:

The following officer, NOAA, for appointment to the grade of Rear Admiral (O–8), while serving in a position of importance and responsibility as Director, Office of NOAA Corps Operations, National Oceanic and Atmospheric Administration, under the provisions of title 33, United States Code, section 853u: Rear Adm (lower half) William L. Stubblefield, NOAA.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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. 766. A bill to protect the constitutional right to travel to foreign countries; to the Committee on Foreign Relations.

By Mr. DOMENICI:

S. 767. A bill to amend the Clean Air Act to extend the deadline for the imposition of sanctions under section 179 of the Act that relate to a State vehicle inspection and maintenance program, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GORTON (for himself, Mr. JOHNSTON, Mr. SHELBY, Mr. BREAUX, and Mr. PACKWOOD):

S. 768. A bill to amend the Endangered Species Act of 1973 to reauthorize the Act, and for other purposes; to the Committee on Environment and Public Works.

By Mr. KOHL:

S. 769. A bill to amend title 11 of the United States Code to limit the value of certain real and personal property that the debtor may elect to exempt under State or local law, and for other purposes; to the Committee on the Judiciary.

By Mr. DOLE (for himself, Mr. KYL, Mr. INOUYE, Mr. D'AMATO, Mr. HELMS, Mr. BROWN, Mr. MACK, Mr. SPECTER, Mr. BOND, Mr. THURMOND, Mr. PRESSLER, Mr. DORGAN, Mr. FAIRCLOTH, and Mr. BRADLEY):

S. 770. A bill to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes; ordered held at the desk..

By Mr. PRYOR:

S. 771. A bill to provide that certain Federal property shall be made available to States for State use before being made available to other entities, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DORGAN (for himself and Mrs. HUTCHISON):

S. 772. A bill to provide for an assessment of the violence broadcast on television, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. KASSEBAUM (for herself, Mr. GREGG, Mr. GORTON, Mr. COATS, Mr. JEFFORDS, Mr. FRIST, Mr. HARKIN, Mr. CRAIG, Mr. LUGAR, Mr. INHOFE, Mr. GRASSLEY, Mr. MCCONNELL, Mr. KYL, Mr. SANTORUM, Mr. HEFLIN, Mr. BOND, Mr. PRYOR, Mr. KERREY, Mr. BENNETT, and Mr. HELMS):

S. 773. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MACK:

S. 774. A bill to place restrictions on the promotion by the Department of Labor and other Federal agencies and instrumentalities of economically targeted investments in connection with employee benefit plans; to the Committee on Labor and Human Resources.

By Mr. BAUCUS (by request):

S. 775. A bill to amend title 23, United States Code, to provide for the designation of the National Highway System, the establishment of certain financing improvements, and the creation of State infrastructure banks, and for other purposes; to the Committee on Environment and Public Works..

By Mr. CHAFEE (for himself and Mr. KERRY):

S. 776. A bill to reauthorize the Atlantic Striped Bass Conservation Act and the Aradromous Fish Conservation Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SIMON:

S. 777. A bill to amend the National Labor Relations Act to provide equal time to labor organizations to present information relating to labor organizations, and for other purposes; to the Committee on Labor and Human Resources.

S. 778. A bill to amend the National Labor Relations Act to permit the selection of an employee labor organization through the signing of a labor organization membership card by a majority of employees and subsequent election, and for other purposes; to the Committee on Labor and Human Resources.

S. 779. A bill to amend the National Labor Relations Act to require the arbitration of initial contract negotiation disputes, and for other purposes; to the Committee on Labor and Human Resources.

S. 780. A bill to amend the National Labor Relations Act to require Federal contracts debarment for persons who violate labor relations provisions, and for other purposes; to the Committee on Labor and Human Resources.

S. 781. A bill to amend the Occupational Safety and Health Act to require Federal

contracts debarment for persons who violate the Act's provisions, and for other purposes; to the Committee on Labor and Human Resources.

S. 782. A bill to amend the National Labor Relations Act and the Labor-Management Relations Act, 1947, to permit additional remedies in certain unfair labor practice cases, and for other purposes; to the Committee on Labor and Human Resources.

S. 783. A bill to amend the National Labor Relations Act to set a time limit for labor rulings on discharge complaints, and for other purposes; to the Committee on Labor and Human Resources.

S. 784. A bill to amend the National Labor Relations Act to impose a penalty for encouraging others to violate the provisions of the National Labor Relations Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. PACKWOOD:

S. 785. A bill to require the trustees of the Medicare trust funds to report recommendations on resolving projected financial imbalance in Medicare trust funds; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. ROTH (for himself, Mr. BAUCUS, Mr. D'AMATO, Mr. ABRAHAM, and Mr. KEMPTHORNE):

S. Res. 117. Resolution expressing the sense of the Senate that the current Federal income tax deduction for interest paid on debt secured by a first or second home located in the United States should not be further restricted; to the Committee on Finance.

By Mr. BYRD (for himself, Mr. DOLE, Mr. DASCHLE, Mr. BAUCUS, Mr. REID, Mr. ASHCROFT, Mr. WARNER, Mr. LEVIN, Mr. HOLLINGS, Mr. DORGAN, Mr. SARBANES, Mr. SPECTER, Mr. BROWN, and Mr. D'AMATO):

S. Res. 118. Resolution concerning United States-Japan trade relations; considered and agreed to.

By Mr. DOLE (for himself and Mr. DASCHLE):

S. Res. 119. Resolution to authorize testimony by Senate employees and representation by Senate legal counsel; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SIMON:

S. 766. A bill to protest the constitutional right to travel to foreign countries; to the Committee on Foreign Relations.

FREEDOM TO TRAVEL ACT

Mr. SIMON. Mr. President, today I introduce legislation dealing with the constitutional right of American citizens and legal permanent residents to travel to foreign countries.

Last October 5, I held a hearing in my capacity as chairman of the Constitution Subcommittee of the Judiciary Committee on the constitutional right to international travel. The hearing focused on the derivation of this well-established constitutional right, on the circumstances under which the right can be restricted, and on the wisdom as a policy matter of restricting the ability of Americans to visit nations with whom we may have political differences.

In the course of this hearing, it became clear to me that there are limited instances in which the right of Americans to travel abroad should be restricted—namely, instances where international travel endangers the safety of the traveler or implicates national security concerns. Otherwise, as a matter of both constitutional law, the first and fifth amendments as well as other constitutional provisions, and policy, the right to a free trade in ideas and to investigations into other nations and cultures should be not only left untrammelled, but encouraged.

When such restrictions on foreign travel are in place, they do great damage to a number of interests that we hold dear. When Americans are denied the right to travel to a foreign country:

Businessmen are prevented from exploring opportunities in that country that might confer economic benefits on this country;

American scholars are denied the opportunity to engage in a dialog with their foreign colleagues;

Americans with families abroad are prevented from visiting their loved ones;

Human rights organizations concerned about abuses abroad are prevented from seeing those abuses firsthand, and from giving corrupt foreign governments the kind of close scrutiny that forces reform of repressive systems;

Average Americans with an interest in world affairs are denied the opportunity to become better informed citizens by virtue of their direct exposure to nations that play an important role in our own foreign policy;

Finally, our own Government loses the ability to influence foreign governments through the transmission of American ideals of democracy and justice. It is no coincidence that in those nations to which American travel was not restricted—such as the nations of the former Soviet bloc—the infusion of American ideas contributed mightily to the downfall of repressive regimes.

The fact that travel abroad should in most cases be encouraged, and not restricted, however, has not prevented administrations both past and present from limiting the right of Americans to travel abroad. In response to these efforts, Congress has often stepped in to limit the President's right to restrict foreign travel. Most recently, last year's Foreign Relations Authorization Act limited the President's authority to impose travel related restrictions on Americans seeking to visit foreign countries that are not currently the subject of such restrictions. The Foreign Relations Authorization Act, however, permitted the President to continue to impose travel, restrictions to those countries now subject to such restrictions—even though none of these countries pose any threat to the health or safety of prospective visitors, or to America's national security. These countries include Libya, Iraq, North Korea, and, most controversially, Cuba.

The bill I now introduce—the Freedom to Travel Act of 1995—would extend the Foreign Relations Authorizations Act's limitations on the President's power to restrict travel to those countries that are currently the subject of travel restrictions. The bill would also make clear that the President may only restrict travel to countries with which the United States is at war, where armed hostilities are in progress, or where there is imminent danger to the public health or the physical safety of U.S. travelers. This is the standard that currently governs the Government's right to deny a passport to a U.S. citizen. I believe that this standard should apply to any Government effort to restrict foreign travel.

I believe this legislation to be necessary both as a matter of policy and as a matter of international and constitutional law. Protecting the right of Americans to travel abroad is constitutionally required, is internationally recognized as part of the Universal Declaration of Human Rights, and is an important way of safeguarding and furthering our intellectual, economic, and political interests. I hope my colleagues will join our efforts to work for this protection.

Mr. President, I ask unanimous consent that the 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. 766

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 "Freedom to Travel Act of 1995".

SEC. 2. TRAVEL TO FOREIGN COUNTRIES.

(a) FREEDOM OF TRAVEL FOR UNITED STATES CITIZENS AND LEGAL RESIDENTS.—The President shall not restrict travel abroad by United States citizens or legal residents, except to countries with which the United States is at war, where armed hostilities are in progress, or where there is imminent danger to the public health or the physical safety of United States travelers.

(b) INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.—Section 203(b) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)) is amended—

(1) by striking "or" at the end of paragraphs (2) and (3); and

(2) by amending paragraph (4) to read as follows:

"(4) any of the following transactions incident to travel by individuals who are citizens or residents of the United States:

"(A) any transactions ordinarily incident to travel to or from any country, including the importation into a country or the United States of accompanied baggage for personal use only;

"(B) any transactions ordinarily incident to travel or maintenance within any country, including the payment of living expenses and the acquisition of goods or services for personal use;

"(C) any transactions ordinarily incident to the arrangement, promotion, or facilitation of travel to, from, or within a country;

"(D) any transactions incident to nonscheduled air, sea, or land voyages, except that this subparagraph does not authorize the carriage of articles into a country except accompanied baggage; and

"(E) normal banking transactions incident to the activities described in the preceding provisions of this paragraph, including the issuance, clearing, processing, or payment of checks, drafts, travelers checks, credit or debit card instruments, or similar instruments;

except that this paragraph does not authorize the importation into the United States of any goods for personal consumption acquired in another country other than those items described in paragraphs (1) and (3); or".

(c) AMENDMENTS TO TRADING WITH THE ENEMY ACT.—Section 5(b) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)) is amended by adding at the end the following new paragraph:

"(5) The authority granted by the President in this section does not include the authority to regulate or prohibit, directly or indirectly, any of the following transactions incident to travel by individuals who are citizens or residents of the United States:

"(A) Any transactions ordinarily incident to travel to or from any country, including importation into a country or the United States of accompanied baggage for personal use only.

"(B) Any transactions ordinarily incident to travel or maintenance within any country, including the payment of living expenses and the acquisition of goods or services for personal use.

"(C) Any transactions ordinarily incident to the arrangement, promotion, or facilitation of travel to, from, or within a country.

"(D) Any transactions incident to nonscheduled air, sea, or land voyages, except that this subparagraph does not authorize the carriage of articles into a country except accompanied baggage.

"(E) Normal banking transactions incident to the activities described in the preceding provisions of this paragraph, including the issuance, clearing, processing, or payment of checks, drafts, travelers checks, credit or debit card instruments, negotiable instruments, or similar instruments.

This paragraph does not authorize the importation into the United States of any goods for personal consumption acquired in another country other than those items described in paragraph (4).".

SEC. 3. EDUCATIONAL, CULTURAL, AND SCIENTIFIC ACTIVITIES AND EXCHANGES.

(a) INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.—Section 203(b) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)) is amended by adding after paragraph (4) the following new paragraph:

"(5) financial or other transactions, or travel, incident to—

"(A) activities of scholars;

"(B) other educational or academic activities;

"(C) exchanges in furtherance of any such activities;

"(D) cultural activities and exchanges; or

"(E) public exhibitions or performances by the nationals of one country in another country,

to the extent that any such activities, exchanges, exhibitions, or performances are not otherwise controlled for export under section 5 of the Export Administration Act of 1979 and to the extent that, with respect to such activities, exchanges, exhibitions, or performances, no acts are prohibited by chapter 37 of title 18, United States Code.".

(b) TRADING WITH THE ENEMY ACT.—Section 5(b) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)) is amended by adding at the end the following new paragraph:

"(6) The authority granted to the President in this subsection does not include the authority to regulate or prohibit, directly or indirectly, financial or other transactions, or travel, incident to—

"(A) activities of scholars;

"(B) other educational or academic activities;

"(C) exchanges in furtherance of any such activities;

"(D) cultural activities and exchanges; or

"(E) public exhibitions or performances by the nationals of one country in another country,

to the extent that any such activities, exchanges, exhibitions, or performances are not otherwise controlled for export under section 5 of the Export Administration Act of 1979 and to the extent that, with respect to such activities, exchanges, exhibitions, or performances, no acts are prohibited by chapter 37 of title 18, United States Code.".

SEC. 4. FOREIGN ASSISTANCE ACT OF 1961.

Section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)) is amended by adding at the end thereof the following:

"(3) Notwithstanding paragraph (1), the authority granted to the President in such paragraph does not include the authority to regulate or prohibit, directly or indirectly, any activities or transactions which may not be regulated or prohibited under paragraph (5) or (6) of section 5(b) of the Trading With the Enemy Act.".

SEC. 5. APPLICABILITY.

(a) INTERNATIONAL ECONOMIC EMERGENCY POWERS ACT.—The amendments made by sections 2(a) and 3(a) apply to actions taken by the President under section 203 of the International Emergency Economic Powers Act before the date of the enactment of this Act which are in effect on such date of enactment, and to actions taken under such section on or after such date.

(b) TRADING WITH THE ENEMY ACT.—The authorities conferred upon the President by section 5(b) of the Trading With the Enemy Act, which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, and are being exercised on the date of the enactment of this Act, do not include the authority to regulate or prohibit, directly or indirectly, any activity which under section 5(b)(5) or (6) of the Trading With the Enemy Act (as added by this Act) may not be regulated or prohibited.

By Mr. DOMENICI:

S. 767. A bill to amend the Clean Air Act to extend the deadline for the imposition of sanctions under section 179 of the act that relate to a State vehicle inspection and maintenance program, and for other purposes; to the Committee on Environment and Public Works.

CLEAN AIR ACT AMENDMENT LEGISLATION

Mr. DOMENICI. Mr. President, I am introducing a bill that I believe will help States and municipalities in their efforts to comply with the requirements of the Clean Air Act. Specifically, this bill will extend the deadline for sanctions under section 179 of the act that relate to State vehicle and inspection programs. Congressman SCHIFF has introduced similar legislation in the House of Representatives.

As you know, Mr. President, the 1990 amendments to the Clean Air Act set forth requirements for areas that are not in attainment for certain air pollutants. These requirements include submission and implementation by those nonattainment areas of extensive and detailed remediation plans. Since enactment of the 1990 amendments, many States and municipalities have made great strides in fulfilling these requirements.

Under section 179 of the act, however, the Environmental Protection Agency can levy sanctions on those areas that fail to meet the requirements, sanctions which include the cutting off of highway funding. Unfortunately, implementation of some of the requirements has proven to be much more time-consuming than originally thought. Prime examples of this problem are the provisions for vehicle inspection and maintenance programs, also known as I/M programs. The EPA has promulgated very complex—and often controversial—rules for I/M programs. Although States and municipalities are trying very hard to implement the I/M rules, and although many are getting very close to compliance, it has become clear that in some cases they will simply need more time.

This bill addresses this situation by delaying sanctions for failure to implement I/M programs by 12 months, thus allowing States and municipalities to finish coming into compliance with these Federal mandates without losing critically needed highway funds. I urge my colleagues to join me in this effort.

I ask unanimous consent that the 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. 767

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

SECTION 1. EXTENSION OF SANCTIONS DEADLINE.

(a) EXTENSION.—Section 179(a) of the Clean Air Act (42 U.S.C. 7509(a)) is amended in the matter following paragraph (4) by inserting "(or, in the case of a requirement relating to a State vehicle inspection and maintenance program, 30 months)" after "18 months".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to any finding, disapproval, or determination made under section 179(a) of the Clean Air Act after the date that is 18

months prior to the date of enactment of this Act.

By Mr. GORTON (for himself, Mr. JOHNSTON, Mr. BREAUX, Mr. SHELBY, and Mr. PACKWOOD):

S. 768. A bill to amend the Endangered Species Act of 1973 to reauthorize the act, and for other purposes; to the Committee on Environment and Public Works.

ENDANGERED SPECIES ACT REFORM ACT

Mr. GORTON. Mr. President, today is an important day for working people and their families across America whose lives have been impacted by the implementation of the Endangered Species Act. Today I am proud to introduce legislation, together with Senator JOHNSTON, Senator SHELBY, Senator BREAUX, and Senator PACKWOOD to amend the Endangered Species Act to require that the act consider people.

For 6 years, this Senator has fought to bring legislation before the Senate to amend the Endangered Species Act. For much of these 6 years, I have been unsuccessful in forcing the Senate to debate reauthorization of the act.

This year, however, is different. I believe that this year proponents of reform have a unique opportunity to bring legislation to reform the act before the Senate for debate. I intend to work very hard to see that this does, in fact, happen. I am committed to working with Senator CHAFEE, as the chairman of the Environment and Public Works Committee, and with Senator KEMPTHORNE, as chairman of the Drinking Water, Fisheries and Wildlife Subcommittee, to see that legislation to reauthorize the act is passed by the Senate this year.

The debate over the ESA is all about choices. Difficult, yet fundamental choices that as people who live in a free and productive society have to make. How important to society is this species?

What is the biological significance of the species? Is it the last of its kind? Will it provide a cure for a deadly disease? How many people will lose their jobs as a result of protecting this species? How will species protection impact the lives of people, their families, and their communities? In short, the debate will be about people, and choices we must make.

Earlier this year, a wonderful book entitled "Noah's Choice" focused on these choices. The title is designed to remind us of the story in the book of Genesis, where God commands Noah to build an ark to house his family and a male and female pair of every species. As the story goes, it then rained for 40 days and nights, and when the rain stopped, and the water dried, Noah had saved every living substance. The authors write:

Noah had it easy. The materials he needed to build his Ark were at hand and the design, provided by the Supreme Deity, was guaranteed to be sufficient for the task. Two by two, the creatures walked aboard, filling the vessel just to capacity. When the parade finished, Noah had fulfilled his obligations. He had saved "every living substance." There had been no need to exercise judgement or agonize over tough choices. He and his sons just stood on the gangplank and let everything in. When no creature was waiting outside, he shut the door and waited for rain.

Unfortunately our choices are not so simple. The act must be reformed to include choices, Mr. President, because currently it does not. The current act is all about uncompromising, intrusive, and unrelenting Federal mandates, and little about choices. To prove this point, you only have to take a look at the Pacific Northwest.

PACIFIC NORTHWEST AS A TEST CASE FOR THE ESA

Consider this: less than a decade ago, rural timber communities across my State were thriving. Families were strong and together. Fathers had a steady job at the mill, that paid a good family wage. Mothers could afford to stay home and take care of the children, to be there when they got home from school. Parents could save for their kids' education. Kids could be kids.

These were good places to live and work. Rural areas, surrounded by our national parks and forest lands. Communities built up around the timberlands. Families who had worked for generations in the woods, continued to pass the trade down to the next generation. These were communities where you didn't have to lock the front door. Places where strangers get a wave, or a nod of acknowledgement as they drive through town. That was 10 years ago.

Today it's different. Unemployment is up. Families that were once strong, and together, are falling apart. Divorce and incidents of domestic violence have dramatically increased. People can't find work. Mills have shut down. Food bank use has skyrocketed. Homes are for sale. Once proud, and productive members of our society, have, reluctantly, become society's burden.

All of this, Mr. President, in the period of 6 short years.

It began when the northern spotted owl was listed under the Endangered Species Act in 1989. And in the time since that listing, the destruction of rural timber communities has followed. But I want to make clear, it was not the listing of the owl that caused this devastation. It was the implementation of the act that caused it—the implementation of an act that does not consider the impacts on people, and their communities.

Last month, I held a timber family hearing in Olympia, WA. The purpose of my hearing was to hear from the people whose lives have been impacted by the Endangered Species Act, to hear from them, once again, as to why this act must be changed. Over the course of 6 years, I have heard the personal stories of people who live—or once lived—in my State's timber communities. Their stories are hard to listen to, because their stories could have been different—if only their Federal Government had listened to their plight. Here are a few of the stories I heard.

One man, probably close to 40 years old, told me that before the listing of the spotted owl, he went to work each day and came home to his wife and children. In other words, he lived a normal life. But today he's got to go across the State in order to find work. He's away from home for weeks at a time. He told me that he can't afford to buy a video camera or VCR to record his children as they grow up. He told me that he misses his children, that he misses his wife. He asked me if I could fix this law so that he could go home to stay, so that he could live with his family again.

Another story. Barbara Mossman and her husband used to own a logging truck company. Today they live day to day, and, if they are lucky enough to find work, paycheck to paycheck. Before the owl crisis, Barbara and her husband were hardworking small business owners.

Barbara told me about the first time she and her husband had to go to a food bank. They didn't want to do it, that's not the way they were raised. They were brought up to believe that if you are a hard worker, you will always find a job, that you should take care of yourself, your family, and help your neighbor. They were proud. But, as Barbara told me, they had to set aside their pride and go to the food bank, because they did not have anything to eat.

But if anything captured the spirit of my timber family hearing it was a plea from Bill Pickell, of the Washington Contract Loggers Association. The people in this room, he said, do not want a handout. They do not want a government program. They want to take care of their neighbors, help their community spring back to life. They want to work.

Mr. President, the stories are real. They are not made up. There are hundreds of stories like this from across my State. The message is the same—the act does not consider people.

Of course, if you read the newspapers, or listen to the nightly news you would never realize that people are suffering across my State, and the Nation, because of misguided Federal policies. The media spins a different tale. In 1990, in the media frenzy to pit people against nature, there was a rush to judgment. A judgment was made that people who live and work in natural resource-based industries cannot coexist with their environment. That the two are mutually exclusive. That the timber worker was an evil raper of the

land. That the environment would perish because of his life's work.

In this rush to judgment, Time magazine put a spotted owl on its cover with the heading "Who Gives a Hoot? The timber industry says that saving this spotted owl will cost 30,000 jobs. It isn't that simple."

Time got one thing right—it is not that simple. But I wonder, in 1995, would Time put a picture of the unemployed timber worker and his community on the cover of its magazine, under the heading "Can it be saved?" The answer? Probably not.

It's a tactic often used by the media to oversimplify. To make it, us versus them. Jobs versus the environment. People versus owls. This Senator believes that the media does the public a great disservice in its efforts to provide trite, oversimplifications of complex issues. This Senator gives the American public more credit.

The legislation that I have introduced today, with that of my primary sponsors, recognizes that in order to find the appropriate balance between people and their desire to protect the environment difficult choices must be made. My legislation recognizes that these decisions are not simple, and that the people and the communities most directly affected by these decisions must have a say in the process. My legislation attempts to achieve the delicate balance that has long been absent from the current act.

THE ESA REFORM ACT OF 1995

Mr. President, 22 years ago Congress passed, and President Nixon signed, legislation creating the Endangered Species Act. The legislation was written in broad brush stokes—leaving the details to Federal bureaucrats to plug in. Not having been a Member of the U.S. Senate at the time the original law was enacted, one can only guess that most Members of Congress were enthusiastic about passing such legislation. This was legislation, after all, that would protect our Nation's symbol of freedom, the bald eagle, and the other precious and unique creatures that we identified with as Americans. Simply put, the legislation was as American as baseball and apple pie.

In writing the original legislation, Congress, in all its wisdom, decided that it could, in fact, become Noah. The Endangered Species Act was developed, as most laws are, to address a seemingly one-dimensional situation—to stop species from extinction. But 22 years later, the details of the legislation have been filled in, and slowly people have begun to realize that the original act was written without an eye to the consequences.

Mr. President, from the start of this debate in 1989, I have advocated for a balance—a delicate balance between the needs of people and that of their environment. The two are not mutually exclusive. In 1989, my call for balance was viewed as radical and extreme. In 1995, newspaper editorials in my State consistently use the word to describe how the act should be reformed. The administration has even put forward 10 principles for ESA reform that advocate for a more balanced decisionmaking process.

Under my legislation, sound, peer reviewed science would drive the listing process. Economic considerations are not included in the listing process. Upon a final decision to list a species, an interim management period would begin, in which the listed species would be provided with the protection against a direct killing or injury to the species. This is a dramatic departure from current law. Under current law, with the final listing decision comes a whole host of regulations restricting the use of property and ongoing activities. Under my legislation, the Secretary is required to make a well informed decision before designating critical habitat or other regulations.

Once a final listing decision is made, the Secretary convenes a planning and assessment team to review the biological, economic, and intergovernmental impacts of the listing decision. The team would consist of representatives of affected local communities, as nominated by the communities, representatives from the State, as nominated by the Governor, and the appropriate biologists, economists, and land use specialists.

The cornerstone of the legislation is the development of the Secretary's conservation objective for the listed species. The team provides the Secretary with the information from which he will develop his conservation objective for the listed species. The team provides the Secretary with the answers to questions like this: What's the biological significance of the species? What is the critical habitat of the species? How many jobs would be lost if the species were afforded the full protections of the act? What would be the impact on the local economy? On social, and community values? In other words, the team provides the Secretary with the information to select the conservation objective for the species.

Under current law, the Secretary must provide for the full recovery of a species once it is listed. No flexibility. No questions asked. My bill changes this by providing the Secretary with a range of options.

In developing a conservation objective for the species, the Secretary selects an objective from a range consisting of, but not limited to: Full recovery of the species, conservation of the existing population of the species, or a prohibition against direct injury or killing of the species. The Secretary must always provide protection for the listed species from direct injury or killing. The selection of this objective is solely at the Secretary's discretion. This is a revolutionary concept. No longer will the Secretary's hands be tied to an inflexible standard.

In selecting a conservation objective, and, if necessary, developing a conservation plan for the listed species, the Secretary is provided the broadest discretionary authority. The only challenge to the Secretary's decision in the courts would be if it could be proven that the Secretary grossly abused his authority, traditionally a very hard challenge to meet. What does this mean? In real life terms it means that the Secretary cannot hide behind the law he is charged with implementing in making a decision to conserve a species. The administration could no longer say that a plan it put together to protect a species, although it might be bad for people, was the best plan it could put forward under the law. Under my legislation, there would be no more excuses. The
Secretary would be held politically accountable for his or her decision.

After the Secretary develops a conservation objective for the species, the Secretary is directed to look toward voluntary, non-Federal conservation proposals that meet the objective. My legislation recognizes that the Federal Government is not the solution to every problem—that individuals, and State and local governments, if given the incentive and opportunity, can effectively provide for the conservation of a listed species.

There is, however, a degree of risk to my legislation. The Secretary has the discretion to totally disregard all of the information—all of the social and economic consequences of draconian recovery measures—and mandate full recovery, for every single species, every time. And, if the Secretary makes this decision, under the full sunshine of public review, then so be it. But the people affected by his decision will know that it was his decision—and his alone—to make. If the people affected by the decision don't like it, they have a recourse. Their recourse comes every other November in the voting booth. Under my legislation, the Secretary and his boss, the President of the United States, will be held politically accountable for their decision.

Throughout my legislation everyday citizens are included in the process. Contrary to old ways of thinking, I believe that people, their families, and local communities know best. They know how to run things better than Washington, DC bureaucrats. To some people—especially for the opponents of change—this is a revolutionary way of thinking. For me, and for the people I have been fighting alongside for 7 years, these are not revolutionary ideas. It is just the way it should be.

ADMINISTRATION'S 10 ESA REFORM PRINCIPLES

Two short months ago, after years of insisting that the ESA did not need to be reformed, the administration put

forward 10 principles for ESA reforms. When I read the reforms, I found myself nodding in agreement with each one. "Minimize Social and Economic Impacts of the Act" reads one. This Senator certainly agrees with that principle. "Base ESA Decisions on Sound and Objective Science" reads another. I agree with this principle too. In fact, Senator JOHNSTON, Senator SHELBY, and I, agreed with each and every principle put forward by the administration and included them in our legislation. I applaud the administration for recognizing that the act must be reformed.

PEOPLE MUST BE CONSIDERED

The fundamental flaw of the current act is that it does not consider people. In the case of the spotted owl in the Pacific Northwest, people, their jobs, and their communities were not considered at all in the decisionmaking process. Their life's work was denigrated. Their views were not considered. Their Federal Government did not care about their plight.

The decisions we must make to protect endangered or threatened species will involve choices. Sometimes these choices will be easy, and most often they will not. But we must give the people whose lives are directly affected by these decisions an opportunity to have their voices heard. To know that they have a say in the decisions that will forever change their lives.

Six years ago, I wish that the people in timber communities in my State had the opportunity to have a say in the decisionmaking process. To tell the Secretary on how their lives would forever be changed by his decision. Maybe the Secretary would have ignored their views, but at least they could say that they had given it a shot. That they had participated in the process. That they went down swinging. But they were not given that opportunity.

We must change the act to give people the opportunity to be heard.

I recall again, Bill Pickell's request of me last month at my timber family hearing:

> The people in this room do not want a handout. They don't want a government program. They want to take care of their neighbors, help their community spring back to life. They want to work.

A simple, heartfelt plea that speaks more eloquently than I can about the need for us to bring balance to this act. To give communities across our Nation the ability to work, to provide for their families, and be productive members of our society.

The debate that we will have this year will be about choices. Choices that will impact people's lives, their families, their communities. This Senator believes that the people who are directly affected by these decisions should have the opportunity to be heard. That is what my legislation seeks to accomplish, and I hope that my colleagues will join me in this effort.

Mr. SHELBY. Mr. President, the defenders of the current wording of the Endangered Species Act have engaged in a desperate attempt over the past few years to claim that the act is flexible, that it takes account of human economic and social needs and that it actually works at recovering species. They are dead wrong on each of these points. The ESA currently takes almost no account of human economic concerns, provides less flexibility for private land owners than for Federal agencies, and is an open-ended statute with no focus on the recovery of endangered species.

Less than 20 species have ever been delisted and most of these actions were the result of listing errors. The effort to reform this law is about bringing flexibility, common sense and effectiveness to the statute. Something that is sorely lacking under the current law. With 4,000 listed and candidate species and virtually the entire country covered by the range of one or more endangered species, the imperative to act to change the law has never been stronger.

As currently constructed, the bill makes many needed changes to what is, in its design and application, a misguided and overly broad statute. The current law provides no mandatory requirement for the independent review of the science supporting listing decisions. This legislation would make such a peer review mandatory, upon request of an affected party. In addition, the bill would create a binding conservation and recovery plan for each listed species.

Currently, recovery plans are not required for each listed species and have no binding effect on the Secretary of Interior even when they are promulgated. As a result, a species listing becomes an open ended commitment with no focus on recovering and ultimately delisting a species.

The bill also provides important flexibility and discretion to the Secretary of the Interior in carrying out the requirements of the act.

Under this legislation, the Secretary will be given broad discretion as to how to proceed with a species' recovery or to decide whether recovery is at all feasible for some species. In addition, the Secretary will be given the authority to issue regional exemptions from the take provisions of the act for particular activities that may or may not affect the habitat of a given species. Such an exemption process could have dramatic effects in preventing future regional train wrecks where entire categories of commercial activities are halted by a species listing.

The bill also narrows the definition of harm to a species back to its congressionally intended scope of meaning actual injury to a member of species. The current broad interpretation of "take" under the act is the single most egregious provision in the law with respect to assaulting the property rights of individuals caught in the path of the ESA.

Finally, I would be remiss if I did not mention that I do not regard this bill as perfect legislation, but instead as an excellent starting point for reform.

Indeed, I would have liked for this legislation to include more substantive protections under the act for private property owners. Comprehensive private property rights legislation becoming law is far from guaranteed in this Congress and I believe that this legislation should have included a provision to compensate property owners for lost land value as a result of the act. Eighty-five percent of the land in Alabama is privately owned and the State is fourth in the Nation in candidate and listed species.

These two statistics speak volumes for the concerns I have about protecting private property rights.

In addition, I would have preferred that the legislation eliminate the ability of the Interior Department to list population segments of larger, healthy species. In Alabama, and across the country, a substantial percentage of new listings and proposed listings deal with arcane population segments like snuffbox mussels and shoal sprite snails.

Preserving these population segments is less often about concerns for the larger species and more likely to be a convenient way to slow or impede commercial activity. Not surprisingly, the Fish and Wildlife Service was prepared last year to list the Alabama Sturgeon as a population segment after failing for years to establish it as a distinct species.

However, we have a long way to go in this process and as part of the team effort to reform the ESA, I will work to further strengthen this legislation in concert with my colleagues here today.

Mr. JOHNSTON. Mr. President, I am pleased today to join my colleagues, Senator GORTON and Senator SHELBY, in introducing the Endangered Species Act Reform Amendments of 1995. This is the first step in reforming and reauthorizing a law that, although well-intentioned, has proven to be unworkable and unnecessarily burdensome. Our purpose is to address the very real shortcomings of the law while maintaining our Nation's commitment to the vitality of our living natural resources.

Mr. President, Louisiana has plenty of experience with the Endangered Species Act. Its provisions have been applied with respect to the Louisiana black bear, the red cockaded woodpecker, and several species of sea turtles. My experience is that the act sometimes requires private parties to take extraordinary and unreasonable

actions, such as the overly burdensome measures that are imposed on the shrimping industry with respect to the sea turtle. The result is that the act has become enormously unpopular with large groups of our citizens, particularly in the West and Southeast, which the Act has been applied most frequently.

Since I entered the Senate in 1972, I have witnessed the evolution of the Endangered Species Act from a noncontroversial bill that passed the Senate by voice vote in 1973 to our most restrictive and controversial environmental law. I particularly remember the prolonged controversy that arose when a creature known as a snail darter was discovered late in the construction of the Tellico Dam in Tennessee. As some of my colleagues may recall, that led to the Supreme Court's decision in TVA versus Hill, which held that the Endangered Species Act is supreme to all other Federal, State, and local law. Congress then created the so-called God Committee to resolve conflicts between the act and other national goals, but this mechanism has proved to be almost entirely unworkable. Ironically, the only good news is that the snail darter has been found in many others rivers since the battle over the Tellico Dam.

The time has come to thoroughly reexamine the act and its implementation. The act has been due for reauthorization since 1993, and we should delay no further. I intend to do everything I can to enact legislation in 1995, and I believe that it is vitally important that the debate be conducted on a solidly bipartisan basis. Although I have no doubt that there is room for improvement in the bill, I think it is a sound starting point for that debate.

As we begin the process of reforming this enormously complex law, we should be guided by certain principles that I believe we all share. Secretary Babbitt did an admirable job of articulating a set of principles in his March 6 publication, "Protecting America's Living Heritage: a Fair, Cooperative, and Scientifically Sound Approach to Improving the Endangered Species Act."

Those 10 principles are:

First, Base ESA decisions on sound and objective science; second, minimize social and economic impacts; third, provide quick, responsive answers and certainty to landowners; fourth, treat landowners fairly and with consideration; fifth, create incentives for landowners to conserve species; sixth, make effective use of limited public and private resources by focusing on groups of species dependent on the same habitat; seventh, prevent species from beginning endangered or threatened; eighth, promptly recover the delist threatened and endangered species; ninth, promote efficiency and consistency; and last, provide State, tribal, and local governments with opportunities to play a greater role in carrying out the ESA.

I believe that our bill reflects these principles. However, I understand that the devil is in the details, and am quite open to suggested modifications that will better achieve these principles.

Although I will not attempt to summarize the entire bill, there are several provisions that should be emphasized. First, the bill requires that the decision to list a species be based solely on sound science, and that the science be independently peer-reviewed. Specifically, the Secretary of the Interior or the Secretary of Commerce, as the case may be, appoints a three-person peer review panel from among qualified persons recommended by the National Academy of Sciences. As my colleagues know, the promotion of sound science is a high priority of mine, and there is no place where science is more important than in implementing the Endangered Species Act.

Second, the bill instills political accountability by requiring the Secretary to establish a specific conservation objective for each listed species. Before we expend tens of millions of public and private dollars on efforts to restore a particular species, we need a high-ranking member of the Federal Government to stand up and take responsibility for that decision. We need the official to explain to us why the species is important. And if the species is important, we need that official to set forth a conservation plan, based on the best reasonably obtainable science, that will actually achieve that conservation goal. And if the species is important, and there is a conservation plan that will actually work, we need to know that the Secretary has formulated that plan after considering the economic and social impacts of the plan.

Third, the bill encourages and facilitates cooperative actions between the Federal Government and States, local governments, and the private sector to conserve species without the need to trigger the more restrictive provisions of the act. The most effective and efficient way to protect species is to take cooperative measures as early as possible, before a species declines to the point that more restrictive and expensive steps are needed.

Finally, I want to mention a matter that we are not addressing in the bill. At least one of the outside groups urging reform of the ESA asked Senator GORTON and me to include a provision that would have compensated private landowners whose property values are lowered by the restrictions of the act. I concluded, and Senator GORTON concurred, that this legislation is not the place to try to resolve the incredibly complex issue of when to compensate landowners for reductions in property value due to governmental regulations. That issue cuts across all of our environmental laws, not just the ESA, and it should be addressed in that larger context. Furthermore, I believe that the reforms of the act that we are proposing in this bill, along with the requirement that the bill be administered so as to minimize impacts on private property, will greatly reduce the frequency and severity of the impacts of the act on the value of private property.

I look forward to working with Senator GORTON and Senator SHELBY, the members of the Environment and Public Works Committee, and other interested Senators to revise the ESA in a way that allows us to effectively protect our natural heritage without imposing unnecessary burdens on our citizens. The present act is not working, and failure to address its problems can only lead to further crisis and confrontation, followed by calls to scrap the act altogether. The bill we are introducing today marks the opening of the debate on how to reform the ESA so as to save it. This bill is a work in progress, and I invite all interested parties to contribute their efforts toward improving it as we move through the legislative process.

Mr. BURNS. Mr. President, this morning, the Senator from Washington State, Senator GORTON, introduced his reauthorization of the Endangered Species Act. I would just like to make a few comments about that act and also the amendments that will be offered in its reauthorization.

Congress was scheduled to reauthorize it this year and, of course, last year, and it has been a while since it has been done. I think it is about time that this Congress take a look at the Endangered Species Act and try to make it more workable.

Currently, there are about 60 listed or candidate species in Montana on the Endangered Species Act. There always seems to be new species from some group that wants it put on the list just about every week. In a recent effort by a group based in Colorado, they want the black-tailed prairie dog placed on the candidate list. This petition is related to the black-footed ferret.

If you want to hear some stories about one act and how it impacts a State or community, we can probably write an entire book about this. But our largest industry in the State of Montana is agriculture. If you ask Montana farmers and ranchers what law they want Congress to fix, most will say this act, the Endangered Species Act. If you are in the western part of the State, near the wood products industry and those folks that work in the woods, and you ask them what law needs fixing, they would also reply the Endangered Species Act, because half of the economy of western Montana is based on wood products. They will tell you a lot of stories about infringing on their ability to make a living for their

families, about the grizzly bears, the road closures, and once again, coming back to the old Endangered Species Act.

There is no doubt that we must reform the law. It is the single most restrictive law that Montanans and other Americans who rely on the land to make a living must deal with. The communities in Montana lack the economic stability and the predictability that they deserve.

When we have 38 percent total land mass in one State that belongs to the Federal Government, it is hard to find that stability and predictability about the policies carried out on those public lands. The current law has many communities in Montana and throughout our Nation living on pins and needles. Jobs have been lost because of this act. The bottom line, of course, is the economic well-being of communities, and our communities are suffering.

We need to change the act, that it really does protect the species and recover species, that it does not cost millions of dollars per species and it will protect the private property rights and also perhaps bring some economic viability and predictability to our communities.

This act should be amended so we can recognize species in trouble and emphasize restoring the populations to healthy levels. Emphasis must be placed on recovery, however.

The current law emphasizes the listing of species instead of protecting and recovering species. In order to do this, the new act should contain the following principles. The new act needs to be amended so it is based on better science. We know that our science has not been too good in the past. Peer review procedures need to be added to improve the overall data collected so that the right decision can be made, or at least to arrive at some decision based on proper science. We must have these decisions made outside of politics, and instead done by objective individuals who have a background in that science.

As I stated earlier, above all, we must concentrate our efforts on recovery plans. I think if we want a simplified solution to it, we have to decouple the listing process from the recovery process. If we do that, we would focus on the least costly alternative and we would have access to impacting the decisions made under the act, and of course take into consideration local economics.

In addition, this would force priorities to be set and would generate recovery plans which are reasonable. And yes, they are attainable. I think that is very, very important. The decoupling process may be the toughest part of this entire debate.

The best decisions are those that are made at the local level. I believe we need increased private participation in our conservation efforts. The fact is that local individuals are the best people to support any kind of a conservation plan. We are finding that out now, with the farm bill, in the 1985 farm bill, which required conservation plans on farms and ranches in order to participate in the farm program.

We need people who live and work in the areas that are affected, because they have a stake in what happens in their own backyard. Washington should not forget that these people want to maintain the quality of life that they have for their families now.

The act should encourage cooperative management agreements for non-Federal efforts. We just talked this morning about several activities going on in Montana that have the cooperation not only of private landowners, but also several environmental groups and Federal land management agencies that are cooperating now in order to provide the best use of a natural resource on public lands, but also to protect the environment and hang onto the economic viability of the area. Just to mention a couple, there are Willow Creek and Fleecer up in Montana and, of course, the Blackfoot challenge that we talked about this morning in our office.

However, we cannot solely rely on these cooperative management agreements. Some landowners and communities will not have the resources to pay for some of these agreements.

It is in these instances that the Federal Government will have to play a larger role. Local involvement is still essential to carry out the objectives of recovering species. Any proposal should require local public hearings in the affected communities.

Local communities must be given the opportunity to express their support, comments and, yes, their areas of concern. Also, the conservation and recovery process must recognize State and local laws. Federal agencies should not be allowed to run roughshod over State management agencies, State laws, or their agreements.

Without a doubt, compensation must be given individuals who lose the use of their private property under a Federal Government conservation plan. Our Constitution and property rights need protection on every front. Anything short of that is selling our constitutional rights down the river.

It is also, if one has to wonder why we take property rights so seriously, because when we pass that property on to our children and our offspring, it is our only thing that we can pass along to them that ensures their freedom for generations to come.

The Endangered Species Act has a good goal. It does make everyone aware of the world. However, since it has become law, it has been twisted and misused for other purposes.

We need some common sense to put back in not only recovering the species but also taking into account the human factor. After all, part of the system, the ecosystem, is man himself. Starting from a new viewpoint in crafting the act, which would truly reflect what we want to do is to conserve and recover the species, has to be the focus.

It cannot let the existing law and regulations run multiple use off of our lands. Most of our lands are under multiple use, use for the highest economic benefit. Of course, most of the time, that is either logging, mining, running of livestock, or grazing, but sometimes it is also recreation. Even recreation can be in conflict with the recovery of the Endangered Species Act.

The bill, introduced by Senators GORTON, JOHNSTON, and SHELBY, is a good starting point. I have added my name as a cosponsor because I am very supportive of this process moving forward. I am supportive of the basic concepts of this reform bill.

The bill makes sure that better science is used. It provides peer review. It also allows for more local participation incentives and non-Federal efforts, and encourages cooperative agreements and habitat conservation plans.

This bill places the emphasis on recognizing the species that are in trouble, coming up with a plan to protect them, and most importantly, recovering the species.

We have a great job ahead of Members. It takes a great deal of cooperation between private landowners, Government agencies, and State and local communities in order to get it done. However, I am a supporter of the bill.

I have some reservations about it. The current act is complicated. I would like to see it reformed, simplified, and made easier for landowners and people who use the public lands to be in compliance with the law.

Basically, the law needs to be streamlined. I also strongly believe in private property compensation if the need arises. The bill ensures that people are not denied reasonable use of their property. However, there is no compensation provision. The consultation provision needs to be strengthened. There are just too many instances where other Federal agencies cannot use plain old common sense because the Interior or Commerce Departments will not let them, based on this and other areas of the law which I think we need to take a closer look at.

I am glad that we have finally started moving the process forward. I am thankful for the work that has been done by the sponsors of this legislation.

In addition, I have made a request to Senator KEMPTHORNE that a hearing on this issue be held in the State of Montana. I do not know whether there is a State in the Union that is impacted more by this action than the State of

Montana. After all, we have been dealing with the grizzly bear a long, long time.

By the way, the recovery has been very successful. In fact, biologically, the animal now can be delisted and taken off the list of those endangered.

I hope this summer Senator KEMPTHORNE's Subcommittee on Clean Water, Fisheries and Wildlife will be able to come to my home State of Montana and hear the testimony from us folks who live in Montana.

Reforming the Endangered Species Act is essential. It is essential to our economy. Our four largest industries, agriculture, timber, mining, and oil and gas, rely on the use of those lands. It is these industries which supply the jobs and the tax base for the State of Montana.

Changing the laws on conserving and recovering endangered species is important for jobs for Montana. It is important for sound land management activities. It is time we took a look at this area. I want to reiterate on how, possibly, we can make the act work. There has to be a different process of listing a species and then the process of how to recover the species.

Right now the law is pretty hard and tough. Once a species is listed as threatened or endangered, the law kicks in and kicks out all conversation or any flexibility, in order to recover the species without large impacts where the species is to be recovered.

I applaud my colleagues for their work on this bill. I am a cosponsor of it. It is a bill that needs reforming and the time has come.

I urge all my colleagues in the Senate to get involved in this debate and let us reform the Endangered Species Act so it will work for this country and the species we are trying to recover.

By Mr. KOHL:

S. 769. A bill to amend title 11 of the United States Code to limit the value of certain real and personal property that the debtor may elect to exempt under State or local law, and for other purposes.

BANKRUPTCY ABUSE REFORM ACT

Mr. KOHL. Mr. President, I rise today to introduce legislation—the Bankruptcy Abuse Reform Act of 1995—to address a problem that threatens Americans' confidence in our Bankruptcy Code. The measure would cap at $100,000 the State homestead exemption that an individual filing for personal bankruptcy can claim. Let me tell you why this legislation is critically needed.

In chapter 7 Federal personal bankruptcy proceedings, the debtor is allowed to exempt certain possessions and interests from being used to satisfy his outstanding debts. One of the chief things that a debtor seeks to protect is his home, and I agree with that in principle. Few question that debtors should be able to keep roofs over their heads. But in practice this homestead exemption has become a source of abuse.

Under section 522 of the code, a debtor may opt to exempt his home according to local, State or Federal bankruptcy provisions. The Federal exemption allows the debtor to shield up to $15,000 of value in his house. The State exemptions vary tremendously: some States do not allow the debtor to exempt any of his home's value, while a few States allow an unlimited exemption. The vast majority of States have exemptions of under $40,000.

My amendment to section 522 would cap State exemptions so that no debtor could ever exempt more than $100,000 of the value of his home.

Mr. President, in the last few years, the ability of debtors to use State homestead exemptions has led to flagrant abuses of the Bankruptcy Code. Multimillionaire debtors have moved to one of the 8 States that have unlimited exemptions—most often Florida or Texas—bought multimillion-dollar houses, and continued to live like kings even after declaring bankruptcy. This shameless manipulation of the Bankruptcy Code cheats creditors out of compensation and rewards only those whose lawyers can game the system. Oftentimes, the creditor who is robbed is the American taxpayer. In recent years, S&L swindlers, insider trading convicts, and other shady characters have managed to protect their ill-gotten gains through this loophole.

One infamous S&L banker with more than $4 billion in claims against him bought a multimillion-dollar horse ranch in Florida. Another man who pled guilty to insider trading abuses lives in a 7,000-square-foot beachfront home worth $3.25 million, all tucked away from the $2.75 billion in suits against him. These deadbeats get wealthier while legitimate creditors—including the U.S. Government—get the short end of the stick.

Simply put, the current practice is grossly unfair and contravenes the intent of our laws: People are supposed to get a fresh start, not a head start, under the Bankruptcy Code.

In addition, these unlimited homestead exemptions have made it increasingly difficult for the Federal Deposit Insurance Corporation and the Resolution Trust Corporation to go after S&L crooks. With the S&L crisis costing us billions of dollars and with a deficit that remains out of control, we owe it to the taxpayers to make it as hard as possible for those responsible to profit from their wrongs.

Mr. President, the legislation I have introduced today is simple, effective, and straightforward. It caps the homestead exemption at $100,000, which is close to the average price of an American house. And it will protect middle class Americans while preventing the abuses that are making the American middle class question the integrity of our laws.

Indeed, it is even generous to debtors. Other than the eight States that have no limit to the homestead exemption, no State has a homestead exemption exceeding $100,000. In fact, 38 States have exemptions of $40,000 or less. My own home State of Wisconsin has a $40,000 exemption and that, in my opinion, is more than sufficient.

Mr. President, this proposal is an effort to make our bankruptcy laws more equitable. We owe it to the average American to ensure that the Bankruptcy Code is more than just a beachball for millionaires who want to protect their assets. I urge my colleagues to support this important measure, and I ask that a copy of the legislation be printed in the RECORD.

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

S. 769

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 "Bankruptcy Abuse Reform Act of 1995".

SEC. 2. AMENDMENTS.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)(2)(A) by inserting "subject to subsection (n)," after "(2)(A)", and

(2) by adding at the end the following:

"(n) As a result of electing under subsection (b)(2)(A) to exempt property under State or local law, the debtor may not exempt an aggregate interest of more than $100,000 in value in real or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor.".

By Mr. DOLE (for himself, Mr. KYL, Mr. INOUYE, Mr. D'AMATO, Mr. HELMS, Mr. BROWN, Mr. MACK, Mr. SPECTER, Mr. BOND, Mr. THURMOND, Mr. PRESSLER, Mr. DORGAN, Mr. FAIRCLOTH, and Mr. BRADLEY):

S. 770. A bill to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes; ordered held at the desk.

JERUSALEM EMBASSY RELOCATION IMPLEMENTATION ACT

Mr. DOLE. Mr. President, today I am introducing legislation, along with the Senator from Arizona, Senator KYL, the Senator from Hawaii, Senator INOUYE, the Senator from New York, Senator D'AMATO, and others, to move the United States Embassy in Israel to the capital of Jerusalem. I am pleased to be joined by a number of my colleagues, and I ask unanimous consent at this time that when I send the bill to the desk, it be held at the desk until noon tomorrow for additional cosponsors.

Mr. President, I know the interest in this legislation is considerable, and that is why I have asked it be held at the desk.

The issue of Jerusalem has many elements—emotional, religious, cultural, spiritual, historical, and political. Jerusalem may be the most remarkable city in the world. Three of the world's great religions have roots in Jerusalem. No other city has been the capital of the same country, inhabited by the same people speaking the same language worshipping the same God today as it was 3,000 years ago. And yet the United States does not maintain its Embassy in Jerusalem.

This issue of where to place the American Embassy in Israel has a long history in the United States Congress. Successive Congresses and successive administrations have been on opposite sides.

At the outset, I want to commend the leadership of some of my colleagues on this issue, in particular Senator MOYNIHAN and Senator D'AMATO. They have led congressional efforts to relocate the U.S. Embassy for many years.

Years ago, I was one of those who expressed concerns about the timing of proposals to move the American Embassy from Tel Aviv to Jerusalem. I felt that doing so could have undermined our efforts and ability to act as a peacemaker. However, much has changed since those earlier efforts. The Soviet Union is gone. We successfully waged war—with Arab allies—to liberate Kuwait. Jordan and the PLO have joined Egypt in beginning a formal peace process with Israel. The peace process has made great strides and our commitment to that process is unchallengeable. Delaying the process of moving the Embassy now only sends a signal of false hopes.

I was proud to join with 92 of my colleagues—Republican and Democratic—in signing the D'Amato-Moynihan letter last March urging the administration to move our Embassy no later than May 1999. As the letter pointed out to Secretary Christopher, the United States enjoys diplomatic relations with 184 countries—but Israel is the only country in which our Embassy is not located in the functioning capital.

Yesterday, I met with Prime Minister Rabin, and we discussed this legislation. As Prime Minister Rabin said after our meeting, the people of Israel "would welcome recognition of the fact that Jerusalem is the capital" of Israel, and "we will welcome embassies that will come."

The time has come to move beyond letters, expressions of support and sense of the Congress resolutions. The time has come to enact legislation that will get the job done—to move the United States Embassy in Israel to Jerusalem by May 1999. The Jerusalem Embassy Relocation Act of 1995 is that legislation.

This is not a partisan effort, and this is not an effort to undermine the peace process. Democrats have historically supported efforts to move the Embassy. In fact, as the Democratic leader TOM DASCHLE pointed out in a speech last night, support for moving the Embassy to Jerusalem has been in the Democratic Party's platform since 1968. It has been in the Republican platform for many years as well.

Placing the American Embassy in Jerusalem is an idea whose time has come. Construction will take time, but we should begin soon. The fact is that Jerusalem has been and should remain the undivided capital of Israel. Let me close by quoting from a speech I gave 18 years ago in Jerusalem:

> In the search for a solution to the dilemma which Israel's first President called "a conflict of right with right," whatever else may be negotiable, the capital of Israel clearly is not.

Let me also thank my colleague from Arizona, Senator KYL, who has actually been in the forefront of this legislation, who had the initial idea. We have been working with him and now put together, I believe, legislation that can be sponsored or cosponsored by nearly all of my colleagues on both sides of the aisle. We certainly welcome cosponsors. The legislation will be held at the desk under the previous consent agreement until noon tomorrow. So anybody wishing to cosponsor the legislation just notify the clerk.

Mr. President, I ask unanimous consent that a summary of the legislation be printed in the RECORD.

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

S. 770, THE JERUSALEM EMBASSY RELOCATION IMPLEMENTATION ACT OF 1995

Provides that construction begin on a new United States Embassy in Jerusalem in 1996, and the new Embassy open by May 31, 1999.

Section 1 states the short title of the legislation is the Jerusalem Embassy Relocation Implementation Act of 1995.

Section 2 states Congressional findings on the history and status of Jerusalem as the capital of Israel.

Section 3 establishes a timetable for the relocation of the United States Embassy including groundbreaking by December 31, 1996, and official opening no later than May 31, 1999. Section 3(b) withholds 50% (approximately $200-250 million) of fiscal year 1997 State Department foreign construction funds until the Secretary of State determines and reports to Congress that construction has begun. Section 3(c) withholds 50% of fiscal year 1999 foreign construction funds until the Secretary of State determines and reports to Congress that the embassy has opened.

Section 4 earmarks $5 million of already appropriated fiscal year 1995 funds for immediate costs associated with relocating the Embassy.

Section 5 authorizes $25 million for fiscal year 1996 and $75 million for fiscal year 1997. Estimates are based on new embassy construction in a high-threat area.

Section 6 requires a report within 30 days by the Secretary of State detailing the Department's plan to implement the Act, including estimated dates of completion and costs.

Section 7 requires semiannual reports to Congress on implementation of the Act.

Section 8 defines "United States Embassy" to include both the offices of the diplomatic mission and the residence of the chief of mission.

MOVING THE U.S. EMBASSY TO JERUSALEM

Mr. KYL. Mr. President, as a member of the committee to commemorate—in 1996—the 3,000th anniversary of Jerusalem as the capital of the Jewish people, I am pleased to join Senator DOLE and introduce the Jerusalem Embassy Relocation Implementation Act of 1995, to begin immediate construction on a United States Embassy in Jerusalem.

It is historic and important that the majority leader and the Speaker of the House are the primary sponsors of this legislation in the Senate and House.

For three millennia—since King David established Jerusalem as the capital of the Jewish people—Jerusalem has been the center of Jewish liturgy. Twice a year, for the last 2,000 years, Jews from around the world have offered a simple prayer: "Next Year in Jerusalem."

And throughout the Jewish people's long exile from the land of Israel, through the Holocaust, pogroms, and countless expulsions the "City Upon a Hill" served as the focal point of their aspiration to rebuild Israel.

In addition to Israel's undisputable historical and biblical claim to Jerusalem, upon regaining control over East Jerusalem in 1967, Israel has restored the holy city as a place open to all for worship.

Memories may be short, but it is important to remember that while Jordan occupied East Jerusalem—1948-1967—Jews were expelled and many Christians, feeling persecuted, emigrated. During this period, proper respect was not given to the spiritual importance of the city. A highway was even built on ancient burial grounds and religious sites desecrated.

Yet, successive United States administrations since 1948—for fear of interfering with the ability of the United States to serve as an honest broker for Arab and Israeli claims—have refused to recognize Israeli sovereignty over Jerusalem, and have refused to locate the United States Embassy in the capital of Israel. While there is superficial logic to that concern, I believe it bases United States policy on a disingenuous position—that if Arab leaders hold out long enough, the United States might abandon our ally and force it to do the one thing Israel has made clear it will never do—abandon its claim to Jerusalem as its eternal and undivided capital.

The fact is, the United States will not do that. Better that all parties understand that at the outset, rather than learning it at the unsuccessful conclusions of negotiations.

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United States Middle East diplomacy should be based on honesty and on the power and loyalty to our friends and our principles. Moving the Embassy to Jerusalem should aid in any peace between Israel and her neighbors by sending a clear, unambiguous message that the status of Jerusalem is not and never will be negotiable.

Israel cannot under any circumstances negotiate this issue any more than Americans would negotiate over Washington being our Capital.

Moving the United States Embassy to Jerusalem does no injustice to the Arab people, nor is it intended, in any way, to be disrespectful to them. During the hundreds of years in which Jerusalem was under Arab or Moslem rule, Jerusalem never served as a capital city for the rulers. And while East Jerusalem was under Jordanian control, Jordan's capital remained in Amman and was never moved to Jerusalem. Islam's holiest text, the Koran, does not mention Jerusalem a single time.

Even Moslems who pray at the Al-Aksa Mosque in Jerusalem face Mecca when they pray. No one can dispute, however, the historical and spiritual vitality of Jerusalem to Israel.

It is time for the United States to locate its embassy in the capital city of Israel, as is the case for every other country that the United States recognizes, whether it be ally or enemy.

Those who have expressed support for United States recognition of Jerusalem as the capital of Israel now have a way to convert words to action, by supporting the Dole-Kyl-Inouye resolution, so that construction of the United States Embassy in Jerusalem will commence in time for the city's 3,000 year anniversary as the capital of the people of Israel. "Next Year in Jerusalem."

Mr. D'AMATO. Mr. President, I rise today to join the distinguished majority leader, Senator DOLE, as an original cosponsor of the Jerusalem Embassy Relocation Implementation Act of 1995.

It is outrageous that the United States has diplomatic relations with 184 countries throughout the world and in every one, but Israel, our Embassy is in the functioning capital. In Israel, our Embassy is in Tel Aviv. I see no reason why this should be the case. It is wrong and it must end now. Jerusalem should not be thrown around like a bone to Yasir Arafat.

Israel has endured much throughout her history and for her to have to suffer the indignity of her main ally refusing to place its Embassy in her functioning capital is an insult. With the exception of the Sinai given back under the treaty with Egypt, she has had to fight again and again for the same pieces of land. Jerusalem, however, is a different case. Jerusalem, the holy city and ancient capital of Israel, must never again become divided.

It was for this reason that Senator MOYNIHAN, myself, and 91 other Members of the Senate sent a joint letter to the Secretary of State urging him to begin planning now for the relocation of the Embassy to Jerusalem by no later than May 1999. This letter was sent in March of this year. To date, there has been no reply. This is unfortunate.

The matter is simple. Jerusalem is and will remain the permanent and undivided capital of a sovereign Israel. I'm not going to let the State Department bureaucrats forget that.

I call on the President to recognize this and to begin the process toward moving the U.S. Embassy to Jerusalem. It is shameful that the United States continues to bend to pressure to place the American Embassy in Tel Aviv and not in Jerusalem.

Mr. President, while I understand that the present negotiations are delicate, I do not want this administration to be under the impression that Jerusalem is some prize to be claimed by the Palestinians or anyone else. Let the message be clear: A united Jerusalem is off limits for negotiation. Jerusalem belongs to Israel and our Embassy belongs in Jerusalem.

I urge my colleagues to support this important bill and I urge its swift passage so that our Embassy in Israel can finally be rightfully located in Jerusalem.

Mr. President, I ask unanimous consent that my remarks appear in the RECORD along with those of Senator DOLE and the other cosponsors of this legislation.

Mr. HELMS. Mr. President, the distinguished majority leader, Mr. DOLE, is right on target with his legislation to move the United States Embassy from Tel Aviv to Jerusalem. Action by Congress is long overdue, and I'm delighted to be a principal cosponsor of Senator DOLE'S legislation.

There has been some murmuring during the past few days by those who oppose moving the United States Embassy from Tel Aviv to Jerusalem. Their contention is that this is a sensitive time in the peace process. Fair enough, but I need to be informed as to when no sensitive time in the peace process exists.

I remember well a time in 1988 when I offered legislation to move the United States Embassy to Jerusalem. After extensive negotiations with the Department of State—that also was a sensitive time in the peace process—we ended with what I understood to be an agreement to acquire land for an Embassy in Jerusalem. I am sorry to hear that my efforts of 1988 are being used today as an argument against passage of the legislation before us today.

Mr. President, the mere acquisition of land in Jerusalem is not enough. My purpose then, as now, was to get the United States Embassy to Jerusalem, not to begin real estate negotiations.

The point, Mr. President, is this: There is only one nation in this world where the United States mission is not in the capital city, and that is Israel.

Jerusalem, the Holy City, was divided by barbed wire for almost two decades. Worshippers were denied access to the Holy places under Jordanian rule in East Jerusalem. In the 28 years during which Israel has presided over a united city of Jerusalem, the rights of Christians, Jews, and Moslems have been fully respected.

Time and again, the Senate has voted overwhelmingly in favor of recognizing United Jerusalem as the Capital of Israel.

I commend Senator DOLE for his leadership in this and other matters.

By Mr. PRYOR:

S. 771. A bill to provide that certain Federal property shall be made available to States for State use before being made available to other entities, and for other purposes; to the Committee on Governmental Affairs.

SURPLUS PROPERTY LEGISLATION

Mr. PRYOR. Mr. President, I rise today to discuss a matter that receives far too little attention here in Washington, but is of vital importance to all of our States. I am speaking about the surplus property donated by the Federal Government to various entities.

As my colleagues know, once a Federal agency has decided that a desk or a computer or some other item of personal property has been declared "excess" to that agency, that piece of property is then offered to other Federal agencies for their use. If no other Federal agency has a need for that property, then the surplus property can be donated to the States or other entities for their use. In 1992, 603 million dollars worth of surplus property was sent to the States.

Mr. President, the surplus property that goes to our States is very important to local jurisdictions throughout the country. For example, the State of Arkansas has received high-quality equipment that enables local jurisdictions to fight forest fires, carry out rescue operations, and repair State and county highways. In each and every State, this surplus property, from trucks to air compressors, provides critical equipment to help jurisdictions to carry out their programs. Furthermore, the local jurisdictions receive this equipment at a vastly reduced rate which provides some much-needed financial relief to their budgets.

However, as a result of years of legislation amending the property disposal program, States are being denied some useful and desirable surplus property. While these legislative initiatives were well-intended, they changed the priorities and placed other entities at the front of the line, limiting the property available to States.

For example, in 1986, the Defense authorization bill contained a provision that permitted the Pentagon to make

some of its excess supplies available for humanitarian relief. Originally, this program was designed to assist the refugee and resistance groups in Afghanistan. While this program had a very modest beginning, and involved only 4 million dollars worth of property the first year, which was mainly clothing, this program has grown rapidly. Some 25,802 items, worth $227 million, were shipped in 1993. Today, our States are concerned that they are losing opportunities to bid on Federal surplus property. While none of our States object to shipping surplus blankets and food items to needy people, this program has expanded and now includes heavy construction equipment as well. These road graders, front loaders, and pick-up trucks were bought and paid for by U.S. taxpayers, but our States did not even get to look at them. This is the type of surplus property that the States would very much like to receive.

Mr. President, I share the concern of our States about this program. While I am glad that our Nation can assist refugees around the world with blankets and surplus food, I think the time has come to examine this donation program. A program that began by shipping clothes to one or two countries now involves hundreds of millions of dollars worth of items going to 117 countries. We already have a number of foreign-aid programs and I do not think we should operate yet another one out of the Pentagon.

Furthermore, Mr. President, I have heard of sketchy reports that quite often this excess equipment is not being used by the recipient country. There are basically two ways that this well-intended program may be abused. First of all, this equipment can be sold immediately by the recipient nation. Instead of being put to good use, this valuable equipment can be sold and the money spent on anything the recipient nation wants. Second, there have been reports that some of this heavy construction equipment is sitting idle due to the lack of skilled mechanics and the resources to repair it. I have been disappointed to discover that despite these reports, there has been no comprehensive review of the final end-use of this equipment. Today I am writing to the inspector general at the Pentagon to ask her to fully investigate this program to determine if these reports are factual.

Another provision of my legislation addresses another program that has caused concern in many of our States. In 1990, the Congress passed a provision that permitted DOD to make available to certain African countries property for use in the preservation of wildlife. While everyone wants to help preserve elephants, the States have a legitimate question as to why does this program receive a higher priority than the interests of U.S. taxpayers? The simple solution is to put the States first. My legislation would allow the States to take a first look at this surplus property to see if they can use any of it. Then, and only then, it could be shipped to help preserve African wildlife.

Mr. President, the legislation I am introducing today returns to the basic principle of the fair and equitable distribution of surplus Government personal property. While there are many worthy entities interested in this property, I think it is time to again put our States first in line.

My bill puts States at the head of the list before the Humanitarian Assistance Program at the Department of Defense and the Foreign Environmental Protection Program; ensures the State agencies for surplus property are part of the process in the Small Business Donation Program; repeals the authority for the Department of Energy to dispose of personal property outside of the regular process involving the State agencies; allows DOD to continue to donate surplus small arms and ammunition to local law enforcement agencies while excluding surplus motor vehicles from the program; and requires the General Services Administration to review the entire range of surplus personal property programs to determine how effective these programs are, the amount of property donated through these programs, and to suggest any legislative recommendations to improve the process and ensure the States participation in this process. GSA, in the course of its review, will not be able to limit the access of local communities impacted by the closure of a military base.

Mr. President, I think it is time to put our States first in line when it comes to receiving surplus property. My bill does just that and I urge my colleagues to support it. I ask unanimous consent that the bill and a summary be printed in the RECORD. I also have a letter from Mr. Gerald Marlin, manager of Federal surplus property in Arkansas that I ask unanimous consent be printed in the RECORD.

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

S. 771

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

SECTION 1. PRIORITY TO STATES FOR THE TRANSFER OF NONLETHAL EXCESS SUPPLIES OF THE DEPARTMENT OF DEFENSE.

Section 2547 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "The Secretary of Defense" and inserting in lieu thereof "Subject to subsection (d), the Secretary of Defense";

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting after subsection (c) the following new subsection (d):

"(d) Nonlethal excess supplies of the Department of Defense shall be made available to a State, a local government of a State, a Territory, or a possession, upon the request of the State, local government, Territory, or possession pursuant to authority provided in another provision of law, before such supplies are made available for humanitarian relief purposes under this section. The President may make such supplies available for humanitarian purposes before such supplies are made available to a State, local government, Territory, or possession under this subsection in order to respond to an emergency for which such supplies are especially suited.".

SEC. 2. AUTHORITIES OF SECRETARY OF DEFENSE REGARDING DISPOSAL OF EXCESS AND SURPLUS PROPERTY.

(a) SUPPORT OF COUNTER DRUG ACTIVITIES.—Section 1208(a)(1) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 10 U.S.C. 372 note) is amended by inserting "and excluding motor vehicles" after "small arms and ammunition".

(b) SUPPORT FOR REGIONAL EQUIPMENT CENTERS.—

(1) NEWPORT TOWNSHIP CENTER.—Section 210 of Public Law 101–302 (104 Stat. 220) is repealed.

(2) CAMBRIA COUNTY CENTER.—Section 9148 of Public Law 102–396 (106 Stat. 1941) is repealed.

SEC. 3. TRANSFERS OF PROPERTY FOR ENVIRONMENTAL PROTECTION IN FOREIGN COUNTRIES.

Section 608(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2357(d)) is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by striking "(d) The" and inserting "(d)(1) Except as provided in paragraph (2), the"; and

(3) by adding at the end the following:

"(2) No property may be transferred under paragraph (1) unless the Administrator of General Services determines that there is no Federal or State use requirements for the property under any other provision of law.".

SEC. 4. AMENDMENT TO SMALL BUSINESS ACT.

Section 7(j)(13)(F) of the Small Business Act (15 U.S.C. 636(j)(13)(F)) is amended by adding at the end the following: "This subparagraph shall be carried out under the supervision of the Administrator of General Services in consultation with State agencies responsible for the distribution of surplus property.".

SEC. 5. DEPARTMENT OF ENERGY SCIENCE EDUCATION ENHANCEMENT ACT AMENDMENT.

Section 3166(b) of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381e(b)) is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively.

SEC. 6. STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980 AMENDMENT.

(a) REPEAL.—Section 11(i) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(i)) is repealed.

(b) DELEGATION OF AUTHORITY TO DIRECTORS OF FEDERAL LABORATORIES.—Section 203(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(j)) is amended by adding at the end the following new paragraph:

"(6) Under such regulations as the Administrator may prescribe, the Administrator may delegate to the director of any Federal laboratory (as defined in section 12(d)(2) of

the Stevension-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(2)) the authority of the Administrator under this subsection with respect to the transfer and disposal of scientific and technical surplus property under the management or control of that Federal laboratory, if the director of the Federal laboratory certifies that the equipment is needed by an educational institution or nonprofit organization for the conduct of scientific and technical education and research.".

SEC. 7. REPORT ON DISPOSAL AND DONATION OF SURPLUS PERSONAL PROPERTY.

No later than 180 days after the date of the enactment of this Act, the Administrator of General Services shall review all statutes relating to the disposal and donation of surplus personal property and submit to the Congress a report on such statutes including—

(1) the effectiveness of programs administered under such statutes (except for any program that grants access to personal property by local communities impacted by the closure of a military base), and the amount and type of property administered under each such program during fiscal years 1993 and 1994; and

(2) legislative recommendations to integrate and consolidate all such programs to be administered by a single Federal authority working with State agencies while accomplishing the purposes of such programs.

BILL SUMMARY

Purpose: To ensure that certain surplus Federal personal property is available to States for their use before being made available to other organizations.

Background: In 1977 Congress approved legislation permitting Federal personal property no longer needed by an agency to be offered to other Federal agencies and afterward to State and local governments through designated state agencies for surplus property within each state (Public Law 94-519). The regulations require that the General Services Administration administer the disposition of this personal property to ensure its fair and equitable distribution.

This program was a good example of Federal-State cooperation. However, beginning in 1986 Congress has enacted legislation that placed a variety of interests higher on the priority list to receive surplus property. The National Association of State Agencies for Surplus Property (NASASP) has compiled a partial listing of these legislative provisions:

1986—Humanitarian Assistance Program. (Section 2547), 10 USC) Program gives foreign countries excess DOD property before it is available to the States.

1987—Southern Regional Amendment. Congress authorized DOD to make equipment available to base rights countries prior to its being available to other Federal agencies or states.

1989—Small Business Administration. Congress authorized SBA to make Federal surplus property available to 8A contractors before the states.

1990—Wildlife Preservation in Africa. Congress authorized DOD to make available to certain African countries excess property for use in the preservation of wildlife, prior to its becoming available to other Federal agencies or states.

1990—Law Enforcement Assistance. Authorized DOD to make property available directly to state law enforcement agencies to combat drugs prior to its becoming available to other Federal agencies or states.

The total effect of these, and other provisions, has been to erode the idea that one agency within each state would work with the Federal government and with localities to ensure "fair and equitable distribution," While these programs are worthwhile, taken as a whole, they fragment our surplus property disposal system.

Summary of bill: The bill has seven sections:

Section 1—Places States before foreign countries. The humanitarian assistance program (HAP) began as an effort to get food and blankets to the Afghanistan refugees. It has grown to include the shipping of construction equipment and motor vehicles. The dollar value of the property shipped in 1994 was $136 million. Of particular interest to the States is construction equipment that is being sent overseas. The bill would leave HAP intact, but would allow states to review the DOD inventory and bid on any item for which they have a need. The truly humanitarian portion of the property (i.e. food rations, blankets) would continue without disruption.

Section 2—Excludes motor vehicles from the DOD program to aid law enforcement. The states are concerned that the larger local jurisdictions are receiving trucks and other vehicles before other jurisdictions have a chance to bid for them. DOD would still be able to provide surplus ammunition and firearms directly to local police departments, however, motor vehicles would be distributed through the state property agencies. This section also repeals the provisions creating the special equipment depots that receive the surplus before the States bid on it.

Section 3—Amends the Wildlife preservation program so that property may not be transferred unless there is a determination that there is no Federal or State use for the property. The Administrator of the General Services Administration shall make this determination.

Section 4—Amends the Small Business program to ensure distribution of property through the State agencies. The property would still be designated for and allocated to small businesses, but it would be coordinated through the existing state agency for surplus property. This has been an underutilized program and this section should increase the amount of property going to small businesses.

Section 5—Eliminates the Department of Energy's Science education program. The program is designed to give DOE the authority to give its excess property directly to schools. However, this allows certain jurisdictions to benefit to the detriment of others. By eliminating this special program this property will be distributed through the state agencies and give each and every school system an opportunity to receive this equipment.

Section 6—Modifies the Stevenson-Wydler Technology program. Instead of equipment going directly from the Federal laboratories to educational institutions without any direction from the General Services Administration, this provision requires that the laboratory certify to GSA that the particular equipment is needed for scientific and educational research. This will bring this program into the overall surplus property program and alleviate concern that some of the scientific equipment has been sold when an institution receives it.

Section 7—Requires a report on disposal and donation of surplus personal property. While the other sections of this bill will begin the process of returning our property disposal system to its original focus of fair and equitable distribution nationwide, there are still other issues and special exemptions to review. The GSA is able to study this matter and report to Congress on the volume of property going out under other authorities and whether legislative changes should be considered to alleviate any concern of unfair treatment of various entities.

The bill will not allow GSA to recommend any change to the base closure authority. Congress has only recently begun this program which gives local jurisdictions access to the personal property on the military base that is being closed. This exemption is widely supported and can be justified due to the adverse economic impact on the local jurisdiction of the closing of the base.

ARKANSAS DEPARTMENT OF EDUCATION,
North Little Rock, AR, March 14, 1995.

Hon. DAVID PRYOR,
U.S. Senate,
Washington, DC.

DEAR SENATOR PRYOR: I want to thank you for the support of Federal Surplus Property Donation Program. This program has been a great help to the state for the many years it has been operating.

I am sure that our Donees that serve all segments of our state are pleased with your support. Many of our small school districts, counties, cities, and rural fire departments tell us they would not be able to provide needed services without help from this donation program.

I received, from our National Association of State Agencies for Surplus Property, a draft of your Bill to provide that Federal Surplus Property be made available to states before being made available to other entities. The Chairman of our Legislative Committee tells me our association is working with your staff on this and is thankful for the opportunity.

In fiscal year 1994, there were 17,184 line items valued at $136,752,392.00 transferred to the Humanitarian Assistance Program. The State of Arkansas receives approximately $7,500,000.00 per year, and this is property that the Humanitarian Assistance Program has rejected.

We really appreciate your work as our Senator!

Sincerely,

GERALD D. MARLIN,
Manager, Federal Surplus Property.

By Mr. DORGAN (for himself and Mrs. HUTCHISON):

S. 772. A bill to provide for an assessment of the violence broadcast on television, and for other purposes; to the Committee on Commerce, Science, and Transportation.

TELEVISION VIOLENCE REPORT CARD ACT

Mr. DORGAN. Mr. President, today my colleague Senator HUTCHISON and I are introducing legislation that will help empower parents and all consumers to take the responsibility to address the problem of television violence. Our legislation, the Television Violence Report Card Act of 1995 would authorize grants to private, not-for-profit entities to conduct quarterly assessments of violence on television.

This legislation is similar to a bill I introduced in the last Congress, but it has some significant differences. The primary difference is that this bill would not involve any direct governmental assessment of the content of

television. Under this legislation, the governmental role would be limited to identifying credible and qualified research entities which will be awarded a nominal amount of funding to ensure that regular assessments of the violent content of television programming is conducted and that the public has access to this information.

Ninety-eight percent of all American households have a least one television set. More Americans have televisions than have telephones or indoor plumbing. The average American watches over 4 hours of TV each day and the average household watches over 7 hours a day. Children between the ages of 2 and 11 watch television an average of 28 hours per week.

Television is, beyond a doubt, the most influential cultural and social teacher of American children. Consider the fact that the average American teenager spends less than 2 hours per week reading, only 5½ hours doing homework and 21 hours per week watching television.

The problem is that children and adults are getting a steady diet of violence through television. According to a 1992 University of Pennsylvania study, a record 32 violent acts per hour were recorded during children's shows and several other studies have found that television violence increased during the 1980's during prime time and children's television hours. The American Academy of Pediatrics estimates that violence on television tripled in the 1980's and the National Coalition on Television Violence found that 25 percent of prime-time television shows contain "very violent" material. The average child watches 8,000 murders and 100,000 acts of violence on television before finishing elementary school.

Television enables the television industry to bypass parents, slip past the front door of the home, and enter the family living room where they can speak directly to children. For better or worse, TV is one of the most powerful instruments of social and behavioral instruction in the life of a child.

Television, unfortunately, uses its potency and influence to portray violence as sexy and glamorous, not to mention Hollywood's obsession with the more violence, the better. To the networks, violence is a quick tool to better ratings. To our children, violence becomes the way of life that is taught over the airways and into the fabric of our culture.

The fact is, that television is more than just entertainment, it is a potent force that shapes everyday life in American culture and society. The question is: What kind of a force is it? Newton Minow, former FCC Chairman under the Kennedy administration, referred to television as a "vast wasteland * * * of blood and thunder, mayhem, violence, sadism, murder." He also said: "In 1961, I worried that my children would not benefit much from television, but in 1991 I worry that my children will actually be harmed by it." And according to a March 3, 1993, poll by Times Mirror, three-fourths of the public find TV too violent and even a higher percentage of TV station managers agree (Electronic Media poll, Aug. 2, 1993). Even children believe television is a bad influence. According to a "Children Now" survey released in February, most children say what they see on television encourages them to engage in aggressive behavior, to take part in sexual activity too soon, to lie, and to show disrespect for their parents.

Children that are continually exposed to television violence do not perceive their own aggressive behavior as deviant or unusual, they see it as the way life is and that's how one goes about solving problems. Aggressive behavior is learned.

THE PROBLEM OF TV VIOLENCE

Public concern about TV violence is not a new issue, Congress has been down this road before. Congressional hearings were held 40 years ago, at the beginning of the television age, on the impact that television and radio was having on children and youth. In the sixties and seventies, Congress held more hearings.

Each time, the pattern has been the same. The public expresses outrage and concern over the bloodshed that a handful of media magnates pour into the Nation's living rooms. The industry either denies the problem, or offers earnest promises of reform, but no results. The Nation's attention shifts to other problems, as it always does.

Television is a habit. One student of the industry called it a plug-in drug, especially where children are concerned. Violence on TV is an addiction too—children become addicted to watching. Television violence viewing leads to heightened aggressiveness, which in turn leads to more television violence viewing. As with any addiction, it takes constantly bigger doses to achieve the same effect.

According to "Prime Time: How TV Portrays American Culture," by Lichter et al., a review of 1 month of prime-time fictional series episodes found over 1,000 scenes involving violence. One out of five violent scenes involved gunplay, and nearly half included some kind of serious personal assault. The review also showed that weekly fictional series averaged between three and four scenes of violence per episode.

In addition, Lichter's study found that violent crime is far more pervasive on television than in real life. A comparison between real life crime statistics (FBI's "Uniform Crime Reports: Crime in the United States") and television's crime levels shows that:

Since 1955 television characters have been murdered at a rate 1,000 times higher than real world victims. In the 1950's, there were 7 murders for every 100 characters seen on TV—this was over 1,400 times higher than the actual murder rate for the United States during the same period.

Violent crimes not involving murder accounted for 1 crime in 8 on TV during the decade 1955 to 1964, which occurred at a rate of 40 for every 1,000 characters. At that same time, the real world rate for crimes involving murder was only 2 in every 1,000 inhabitants.

During the decade covering 1965 to 1975 crime rose both on TV and the real world, but TV crime rate remained more than five times that of the real world, at 140 crimes per 1,000 characters.

While the FBI-calculated rate for violent crime also doubled to 3 incidents per 1,000 inhabitants, the TV rate for violent crimes was over 30 times greater than reality at a rate of 114 incidents per 1,000 characters.

Although television crime and real life crime have moved closer together in the past 20 years, FBI statistics showed that serious crime was about half the rate in real life than on television. Violent crime rates were only one-eighth the rate seen on television.

TV crime not only presents a higher rate of violent crime than the real world, it portrays a different type of crime. On TV, violent crime is more often calculated and felony in nature, whereas in real life, most—40 percent—of the murders committed are committed out of passion or the result of an argument.

Guns are more pervasive on TV. In the real world, about one-fourth of all violent crimes, and a majority of murders, involve guns. Almost all of television's violent crimes involve some type of gun.

Television is not only more crime-ridden than real life, it also highlights the most violent serious crimes. A majority of crimes portrayed on TV involve violence and 23 percent are murders.

There is no disputing the link between television content and human behavior. Twenty-six people died from self-inflicted gunshot wounds to the head after watching the Russian roulette scene in the movie "The Deer Hunter" when it was shown on national TV. It has been alleged that the cartoon Beavis and Butt-head's depiction of setting objects on fire recently led a 5-year-old in Ohio to set his family's mobile on fire, causing the death of his 2-year-old sister.

The American Psychological Association has found that "since 1955, about 1,000 studies, reports, and commentaries concerning the impact of television violence have been published * * * the accumulated research clearly demonstrates a correlation between

viewing violence and aggressive behavior." Here are just a few of those research studies and reports. These studies, lead to one conclusion: violence on television is a threat to our Nation's children and our society at large:

First, report to the Surgeon General, "Television and Growing up: The Impact of Televised Violence," 1972. The Surgeon General concluded that there is indeed a causal effect of viewing violent television programs and subsequent aggressive behavior in children.

Second, a technical report to the Surgeon General, volume III: Lefkowitz, Eron, Walder, and Huesman, "Television Violence and Child Aggression: A Follow-up Study." (Television and Social Behavior, 1972.) "A violent television diet is related to violent behavior." This study shows a direct positive correlation between the amount of television viewed by third-grade boys and aggressiveness 10 years later. Early aggression in boys is a predictor of and a basis for later aggression.

Third, National Institute of Mental Health [NIMH], "Television and Behavior," 1982. After 10 more years of research, in 1982, the NIMH did a follow-up report to the 1972 Surgeon General's report and concluded that violence on television does lead to aggressive behavior by children and teenagers who watch the programs. It also concluded that television violence is as strongly correlated with aggressive behavior as any other behavioral variable that has been measured.

Fourth, "U.S. Attorney General's Task Force on Family Violence," 1984. This report says that "the evidence is overwhelming—TV violence contributes to the acting out of real violence. Just as witnessing violence in the home may contribute to normal adults and children learning and acting out behavior, violence on TV and in the movies may contribute to the same result."

Fifth, Huesmann, Eron, Lefkowitz and Walder, "The Stability of Aggression Over Time and Generations," 1984. (Developmental Psychology.) After studying the viewing habits and behavior of 875 children in a rural New York county at ages 8, 19, and 30, this study concludes that the more a subject watched television at 8, the more serious the crime he was convicted for at age 30.

Sixth, Singer, Singer and Rapaczynski, "Family Patterns and Television Viewing as Predictors of Children's Beliefs and Aggression," 1984. This study concluded that children who watch more than 4 hours of television violence per day during preschool years, exhibit later aggressive behavior. Children who view violent adult programs were suspicious or fearful of their neighborhood and world. And they tended to be restless when required to wait.

Seventh, American Psychological Association [APA], "Violence on Television: APA Board of Social and Ethical Responsibility for Psychology," 1985. In the early 1980's, the APA did a complete review of reports and literature on television violence. As a result, the APA adopted the position that television violence has a causal effect on aggressive behavior.

Eighth, David Phillips, "Natural Experiments on the Effects of Mass Media Violence on Fatal Aggression," 1986. This study provides evidence that some types of mass media violence tend to elicit fatal aggression—suicide, homicide, and accidents—among adults in the United States.

Ninth, L. Rowell Husemann and Laurie S. Miller, "Long-Term Effects of Repeated Exposure to Media Violence in Childhood," 1994. The violent scenes that a child observes on television can serve to teach a child to be aggressive through several learning processes, as the child not only observes aggressive patterns of behaviors but also witnesses their acceptance and reinforcement. This study finds that there is a severe negative outcome for children who display antisocial behavior, and that televised violence is regarded as one contributor to the learning environment of children who eventually go on to develop aggressive and antisocial behavior.

Tenth, George Comstock and Haejung Paik, "The Effects of Television Violence on Antisocial Behavior: A Meta-Analysis," 1994. This study suggests that the influence of violent television portrayals is not confined to childhood or early adolescence and concludes that the findings obtained in the last 15 years strengthen the evidence that television violence increases aggressive and antisocial behavior.

THE SOLUTION—PUBLIC INFORMATION AND FREE MARKET REGULATION

In my judgment, this legislation is as critically important as ever. We have to make the television industry accountable, and the way to do this is through public information. It is not the role of Government in this country to tell people what they can watch. Nor should we try to tell broadcasters and sponsors what they can put on the air. But it is the role of Government to help make the free marketplace work, by providing information to the public—information on which they can make their own free choices. That's what I'm proposing regarding violence on TV.

Under this approach, the Government wouldn't regulate; parents would. Government would do for them no more than it does for business of all kinds: gather information that would help parents express their own free choices.

Why shouldn't the Government start helping parents, the way it helps corporations? The Federal Government spends millions and probably billions of dollars a year, gathering data for use by business. The Census Bureau alone provides a treasure drove of demographic research for ad agencies and corporate marketing departments. Corporations use this Government data to target consumers. Now it's time to give parents data by which they can target advertisers who are abusing their children.

If Americans don't really care about this violence, then it would continue. If they do care about it, and send their market message accordingly, then it would change. That's the way a democracy and a market economy are supposed to work.

INDUSTRY ACTIONS

As I mentioned earlier, public concern over television violence is not new. Several hearings were held in the 103d Congress on this issue. In addition, the industry, in response to public concern, has adopted some measures to address this problem.

In 1990, the Congress passed legislation, the Television Violence Act of 1990, which provided the television industry a 3-year antitrust exemption to allow it to develop standards on television violence. In December 1992, the three major networks adopted "Standards for the Depiction of Violence in Television Programs" which included commitments by the industry to:

Only include depictions of violence when such depictions are relevant and necessary to the plot;

Reject gratuitous or excessive depictions of violence as "unacceptable"; and

Not use depictions of violence to shock or stimulate the audience.

The National Cable Television Association adopted an industry policy in January 1993 to address the problems of television violence. The program includes voluntary industry standards and encourages cable program networks to adopt their own standards and practices.

In July 1993, the networks adopted an additional plan to impose warning labels on programming that contained violence, "The Advance Parental Advisory Plan" which will use the following warning label preceding violent shows: "Due to some violent content, parental discretion advised." A similar advisory program was adopted by the Independent Television Association.

And late last year, both the broadcast networks and the cable industry agreed to finance independent studies that are currently monitoring and analyzing violence on television. These actions are good and I applaud the industry's efforts. In particular, I believe their monitoring studies will provide a positive contribution to the debate over television violence.

In addition to television industry actions, the Electronic Industries Association [EIA], representing television

manufacturers, has been working diligently over the past year and a half toward establishing a voluntary standard which will allow for the implementation of technology to block violent programming. EIA's efforts reflect the fact that television manufacturers recognize consumers' desires and are attempting to provide adequate choice in the marketplace.

EIA's leadership demonstrates that voluntary efforts can be effective. It is my preference that voluntary industry efforts would be the solution, as opposed to a Government mandate. It is my hope that all sectors of the television industry work together with the EIA in their effort toward empowering parents and providing consumers the tools to control what is broadcast into their homes.

CONCLUSION

Although industry actions are commendable, legislation is necessary that will augment the industry-led monitoring programs. The fundamental purpose of this legislation is to ensure that consumers, especially parents, have access to useable information about what violent shows are on television and who sponsors those shows. Despite all the research and the monitoring studies established by the broadcast and cable industries, there is still a void in assuring consumers that regular, usable information in the form of a report card will be available.

It seems to me that the approach of establishing television violence report cards, created by private entities, is a very modest and appropriate response for the Congress. I encourage my colleagues to support this legislation and 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. 772

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 "Television Violence Report Card Act of 1995".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Three out of every four people in the United States consider television programming too violent, according to a 1993 poll by Electronic Media.

(2) Three Surgeon Generals, the National Institute of Mental Health, the Centers for Disease Control, the American Medical Association, the American Academy of Pediatrics, and the American Psychological Association have concurred for nearly 20 years as to the deleterious effects of televised violence on children.

(3) In conjunction with other societal factors such as poverty, drug and alcohol abuse, and poor education, the depiction of violence in all forms of media contribute to violence in United States society.

(4) The entertainment industry is becoming increasingly sensitive to public sentiment against excessive violence in television programming. A recent survey of 867 entertainment executives by U.S. News and World Report and the University of California in Los Angeles reveals the following:

(A) 59 percent of such executives consider violence on television and in movies a problem.

(B) Nearly 9 out of 10 such executives say that violence in the media contributes to the level of violence in the United States.

(C) 63 percent of such executives believe that the entertainment media glorify violence.

(D) 83 percent of such executives believe that the debate on excessive violence in television programming has affected the programming decisions made by the broadcast television industry.

(5) The broadcast television and cable programming industries have undertaken efforts to decrease violence on television through joint standards on violence, implementation of an advance parental advisory plan, and the establishment of independent efforts to monitor the incidence of violence in television programming, analyze the portrayal of violence in network television programming and in other forms of video programming, and analyze the trends and changes in the treatment of violent themes by the media.

(6) The American Psychosocial Association finds that approximately 1,000 studies and reports on the effects of violence on television have been published since 1955. The accumulated research clearly demonstrates a correlation between the viewing of violence on television and aggressive behavior.

(7) To the fullest extent possible, parents and consumers should be empowered to choose which television programs they consider appropriate for their children and which programs they consider too violent.

SEC. 3. TELEVISION VIOLENCE REPORT CARDS.

(a) IN GENERAL.—The Secretary of Commerce shall, during fiscal years 1996 and 1997, make grants directly to one or more not-for-profit entities for purposes of permitting such entities to carry out in such fiscal years an assessment of the violence in television programming. The amount of the grants shall be sufficient to permit such entities to carry out the assessment.

(b) ASSESSMENT.—(1) In carrying out an assessment under this section, an entity shall—

(A) review current television programs (including programs on broadcast television, on independent television stations, and on cable television) in order to determine the nature and extent of the violence depicted in each program;

(B) prepare an assessment of the violence depicted in each program that describes and categorizes the nature and extent of the violence in the program; and

(C) take appropriate actions to make the assessment available to the public.

(2) An entity shall carry out a review under paragraph (1)(A) not less often than once every 90 days.

(3) In making an assessment public under paragraph (1)(C), an entity shall identify the sponsor or sponsors of each television program covered under the assessment.

(c) GRANT PROCEDURES.—The Secretary shall determine the entities to which the Secretary shall make grants under this section using competitive procedures. Applications for such grants shall contain such information as the Secretary may require to carry out the requirements of this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to make the grants required under this section.

By Mrs. KASSEBAUM (for herself, Mr. GREGG, Mr. GORTON, Mr. COATS, Mr. JEFFORDS, Mr. FRIST, Mr. HARKIN, Mr. CRAIG, Mr. LUGAR, Mr. INHOFE, Mr. GRASSLEY, Mr. MCCONNELL, Mr. KYL, Mr. SANTORUM, Mr. HEFLIN, Mr. BOND, Mr. PRYOR, Mr. KERREY, Mr. BENNETT, and Mr. HELMS):

S. 773. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes; to the Committee on Labor and Human Resources.

ANIMAL DRUG AVAILABILITY ACT

Mrs. KASSEBAUM. Mr. President, today, together with a bipartisan group of colleagues, I am introducing the Animal Drug Availability Act of 1995. This legislation will reform the Food and Drug Administration's animal drug approval and export processes and policies.

There is a serious lack of drugs for treating animals, in part because the drug review process at the Food and Drug Administration's Center for Veterinary Medicine is cumbersome and unpredictable. This discourages the development of new drugs. The FDA has approved only four new chemical entities (new drugs) for food-producing animals in the last 5 years. Further, an internal study by the Center for Veterinary Medicine found that the agency was taking an average of 58 months to approve drug applications. By law, the process should take no more than 6 months.

The extra-label drug bill that was signed into law last year is a short-term response to this problem. It assures that veterinarians can legally prescribe drugs approved for one use or species for other uses or species. But all involved in the extra-label bill last year agreed that the real answer to the problem was reforming the animal drug approval process.

Second, because our approval process is so slow, unpredictable, and cumbersome and our export policies very restrictive, many animal drug manufacturers are moving research and manufacturing facilities—and jobs—abroad to take advantage of more efficient and predictable review and approval processes and lucrative, growing world markets.

This legislation has the broad support of the animal producer groups, the Animal Health Institute, and the American Veterinary Medical Association.

I would welcome additional cosponsors of the Animal Drug Availability Act of 1995.

Mr. HARKIN. Mr. President, I am pleased to cosponsor this legislation, which is intended to streamline and expedite the Food and Drug Administration's approval process for animal

drugs without diminishing the human health protections contained in current law. This bill represents a commendable effort to address serious impediments to the effective treatment of animal health problems, and is thus particularly important to veterinary practitioners and livestock and poultry producers.

For some time there has been an insufficient number of suitable, fully approved and labelled drugs for the treatment of animals. In significant part, this lack of approved drugs is attributable to delays in the approval process used by FDA's Center for Veterinary Medicine. Last year legislation was enacted to sanction the extra-label use of FDA-approved drugs by or at the direction of veterinarians. Even at the time that legislation was passed, however, there was general agreement that the best solution to the lack of fully-approved and labelled animal drugs is to remedy the unnecessary delays and other problems in FDA's animal drug approval process.

The legislation introduced today is a strong and substantial step toward improving FDA's animal drug approval process by reducing the potential for delays, making the process more predictable and rational, and lessening burdensome aspects of the current procedures. Again, this bill is not designed or intended to lessen human health protections in any way. Its primary focus, from a substantive perspective, is on the proof of efficacy required to gain approval.

As we continue to work on this legislation, we will need to give additional consideration to its various possible ramifications in actual practice. I will be closely following the analysis of these issues in order to ensure that the bill is appropriately modified to address concerns that may arise. In particular, we must carefully consider whether the bill might have the unintended consequence of diminishing human health protections in some way that is not now evident or anticipated. I also want to obtain additional information on the operation of the export provisions of the bill, including assurance that FDA will continue to have sufficient authority to limit exports of animal drugs on the basis of unacceptable risk to human health, either in this country or in foreign countries.

In conclusion, this legislation addresses a pressing need in the field of animal health. A good deal of work and thought has gone into the bill thus far, and I look forward to working with Chairman KASSEBAUM and other senators in further shaping the measure and gaining its enactment.

By Mr. MACK:

S. 774. A bill to place restrictions on the promotion by the Department of Labor and other Federal agencies and instrumentalities of economically targeted investments in connection with employee benefit plans; to the Committee on Labor and Human Resources.

PENSION PROTECTION ACT

Mr. MACK. Mr. President, today I am introducing legislation which will help protect the pensions of our Nation's seniors. The Pension Protection Act will stop the administration's ongoing efforts to raid our Nation's pension funds.

In an effort to find capital for its social projects, the Clinton administration has effectively been chipping away at the strict fiduciary standards set up by the Employee Retirement Income Security Act [ERISA]. The Department of Labor has issued new interpretations of ERISA fiduciary standards which challenge the requirement that pension funds be invested for the sole purpose of increasing the economic benefit of the pension's beneficiaries. This relaxing of ERISA standards combined with a well-defined strategy to encourage pension plan managers to invest in social projects puts at risk the hard-earned pension benefits of current and future retirees. It is no surprise that this administration wants to finance its social projects and pet political programs with private pension funds. Currently, these funds hold over $3.5 trillion in assets. Many see this pot of money as a lucrative and untapped source of funding to finance their own political agenda.

Mr. President, the Clinton administration has always viewed pension funds as a convenient source of public funding. In fact, in his book "Putting People First," President Clinton proposed a $20 billion investment program paid for with pension funds. These economically targeted investments [ETI's] would use pension funds to pay for Government programs. This nice-sounding term is merely a disguise for the systematic raiding of our pension funds.

My legislation would put the brakes on a dangerous course of action which is being orchestrated by the Department of Labor. Specifically, this legislation would abolish the ETI Clearinghouse recently established by the Department of Labor. This Clearinghouse is designed to identify investments that the administration deems socially beneficial. The legislation would also nullify Secretary Reich's 1994 Interpretive Bulletin that encourages ETI's and would in effect ensure that pension managers do not select investments which have a purpose other than serving the "sole interest of the plan participant." In addition, this legislation would instruct the Labor Department to cease acting as a promoter of ETI's and instead act as the enforcer of ERISA's fiduciary standards. Finally, this bill would deny funding to any Government agency for the purpose of operating an ETI database or list.

Last year, the American people sent a loud and clear mandate for less spending, less taxes, and less government. But this administration has decided to ignore that mandate by trying to increase spending on Government programs. First they raised taxes to pay for their programs and now they seek to spend our retirees' hard-earned pension funds. This is wrong.

Mr. President, directing private pension funds to replace public funding of Government programs is yet another example in a long line of "spend now, pay later" policies that the Federal Government has adopted over the years. Encouraging pension funds to participate in risky investments deserves our strongest opposition. We should not be compromising fiduciary standards and the financial security of our Nation's retirees in order to meet partisan, political goals.

I urge my colleagues to support this important legislation.

By Mr. CHAFEE (for himself and Mr. KERRY):

S. 776. A bill to reauthorize the Atlantic Striped Bass Conservation Act and the Anadromous Fish Conservation Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

STRIPED BASS ACT

Mr. CHAFEE. Mr. President, the legislation that I introduce today reauthorizes a law that has been a great success: The Atlantic Striped Bass Conservation Act. This legislation will allow the U.S. Fish and Wildlife Service and the National Marine Fisheries Service to continue their important research and oversight role in support of state efforts to conserve the Atlantic striped bass fishery.

From Maine to North Carolina, the striped bass has been an important species for Atlantic coast fishermen for centuries. And, the presence of the striped bass fishery has provided significant economic and cultural benefits to the Atlantic Coastal States, and to the Nation.

Striped bass—often called rockfish in the Chesapeake Bay area—are anadromous fish. They spawn in freshwater streams and migrate to estuarine or marine waters. During their relatively long lives—up to 29 years—stripers are on the move. They migrate north during the summer and south during the winter. Consequently, striped bass pass through the jurisdictions of several States, and conservation efforts must be well coordinated.

In 1979, I offered an amendment to the Anadromous Fish Conservation Act that directed the Fish and Wildlife Service and the National Marine Fisheries Service to conduct an emergency study of striped bass. Why was this study necessary? Fishermen had sounded the alarm that striped bass landings had declined precipitously. The commercial striped bass harvests dropped from 15 million pounds in 1973 to 3.5

million pounds in 1983. The Federal study found that, although habitat degradation played a role, overfishing was the primary cause of the population decline.

In order to prevent overfishing, restrictions on the striped bass harvest were necessary in 14 jurisdictions. The Atlantic Striped Bass Conservation Act helped promote a coordinated approach to management by requiring that the States fully implement a striped bass fishery management plan developed by the Atlantic States Marine Fisheries Commission. If a State is found to be out of compliance with the Commission's management plan, a Federal moratorium on striped bass fishing is to be imposed jointly by the Secretary of the Interior and the Secretary of Commerce. It is a testament to the efficacy of the Atlantic Striped Bass Conservation Act and the cooperative efforts of countless Federal and State biologists and managers, and commercial and recreational fishermen, that the Federal sanction has only been applied once in the past 10 years.

What else has happened over the past decade? The Atlantic striped bass populations have made a dramatic recovery. All Atlantic striped bass populations are recovering or improving. In the Chesapeake Bay, the spawning ground for 90 percent of the Atlantic striped bass, the population has been declared recovered. The Delaware stock is recovering. The Albemarle Sound/Roanoke River stock is improving. According to the U.S. Fish and Wildlife Service, without the State-imposed moratoria and restrictions on harvest, fishing mortality rates on the Chesapeake Bay striped bass stock would have exceeded the level where the population could be maintained. In other words, without the State-Federal partnership promoted through the Atlantic Striped Bass Conservation Act, the striper might have been fished to oblivion.

The striped bass have proven once again that, given half a chance, nature will rebound and overcome tremendous setbacks. But, we must give it that half a chance. Reauthorization of the Atlantic Striped Bass Conservation Act will allow the U.S. Fish and Wildlife Service to continue its coastwise tagging program, populations monitoring, and other data collection efforts to provide information that informs the management decisions essential to maintaining healthy populations of striped bass. The oversight authority shared by the Interior and Commerce Departments regarding the management of the striped bass fishery will ensure that States move cautiously as they reopen the harvest. I believe that a continued Federal involvement is important at this crucial time—a time to celebrate, and to monitor closely, the recovery of the Atlantic striped bass.

Mr. President, I ask unanimous consent that the 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. 776

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 "Striped Bass Act of 1995".

SEC. 2. ATLANTIC STRIPED BASS CONSERVATION ACT.

Section 7(a) of the Atlantic Striped Bass Conservation Act (Public Law 98-613; 16 U.S.C. 1851 note) is amended by striking "1986" and all that follows through "1994" and inserting "1995 through 1998".

SEC. 3. ANADROMOUS FISH CONSERVATION ACT.

Section 7(d) of the Anadromous Fish Conservation Act (16 U.S.C. 757g(d)) is amended by striking "1991, 1992, 1993, and 1994" and inserting "1995 through 1998".

Mr. KERRY. Mr. President, today I am pleased to join my friend from Rhode Island, Senator CHAFEE, in introducing the Atlantic Striped Bass Act of 1995. This legislation reauthorizes the Atlantic Striped Bass Conservation Act and the Anadromous Fish Conservation Act. Atlantic striped bass is an important commercial and game fish that ranges from Maine to North Carolina. Its comeback from overfishing and habitat destruction in the late 1980's is one of the great success stories of fisheries management. One of the most critical contributors to that recovery was the enactment of the Atlantic Striped Bass Conservation Act in 1984.

The Striped Bass Act has provided the incentive for implementing coordinated and comprehensive management of a wide-ranging species that migrates throughout Atlantic coastal waters. The affected States came together, made the hard decisions, and enacted the restrictions on fishing that were necessary for the stocks to recover. Although great sacrifices were required during the rebuilding period, now sport anglers and commercial fishermen are seeing the benefits of effective management. In Massachusetts, the commercial quota has been increased substantially, and bag limits for the recreational fisherman have doubled. These harvest increases are even more heartening since the management program for striped bass is still very conservative—only 25 percent of the available adult population may be taken this year. This success proves that conservative fishery management can work and provides a blueprint for other fisheries that face difficult management problems. I complement the Senator from Rhode Island for his leadership on this legislation and I encourage my colleagues to join with us in supporting the extension of the Striped Bass Act and the Anadromous Fish Conservation Act.

By Mr. SIMON:

S. 777. A bill to amend the National Labor Relations Act to provide equal time to labor organizations to present information relating to labor organizations, and for other purposes; to the Committee on Labor and Human Resources.

S. 778. A bill to amend the National Labor Relations Act to permit the selection of an employee labor organization through the signing of a labor organization membership card by a majority of employees and subsequent election, and for other purposes; to the Committee on Labor and Human Resources.

S. 779 A bill to amend the National Labor Relations Act to require the arbitration of initial contract negotiation disputes, and for other purposes; to the Committee on Labor and Human Resources.

S. 780. A bill to amend the National Labor Relations Act to require Federal contracts debarment for persons who violate labor relations provisions, and for other purposes; to the Committee on Labor and Human Resources.

S. 781. A bill to amend the Occupational Safety and Health Act to require Federal Contracts debarment for persons who violate the act's provisions, and for other purposes; to the Committee on Labor and Human Resources.

S. 782. A bill to amend the National Labor Relations Act and the Labor Management Relations Act, 1947, to permit additional remedies in certain unfair labor practice cases, and for other purposes; to the Committee on Labor and Human Resources.

S. 783. A bill to amend the National Labor Relations Act to set a time limit for labor rulings on discharge complaints, and for other purposes; to the Committee on Labor and Human Resources.

S. 784. A bill to amend the National Labor Relations Act to impose a penalty for encouraging others to violate the provisions of the National Labor Relations Act, and for other purposes; to the Committee on Labor and Human Resources.

LABOR RELATIONS LEGISLATION

Mr. SIMON. Mr. President, today I am introducing legislation that will promote a more even playing field for workers and employers. Conditions have worsened for workers and their families in recent years. It is time to reexamine our labor laws and see if we can't make them fairer for the average working man and woman.

To improve working conditions and enhance workplace productivity, we must reject both the adversarial approach to worker-management relations and the oppressive, let's-hold-them-down attitude held by some in management and government. Both of these extreme approaches reduce productivity by destroying workplace comity. What we need to enhance our productivity is a strong spirit of cooperation in the workplace. And in order to bring this about, we need strong, vital labor unions.

While unions have remained strong in other industrialized nations over the past two decades, they have been steadily declining here in the United States. Union membership has now fallen to about 15 percent of the American workforce, and to 10.9 percent of private nonagricultural workers. In Canada, by contrast, about 37 percent of the workers belong to a union; in Germany, about 39 percent; in Great Britain, 41 percent; and in Japan, about 24 percent. Of all the industrialized democracies, only South Korea ranks below the United States in union membership.

Not coincidentally, as union membership has declined, so has the average manufacturing wage. As late as 1986, the average hourly manufacturing wage in the United States was higher than that of any other nation. Today, 10 nations have average manufacturing wages higher than ours.

This decline in American workers' wages relative to those of workers in other industrialized countries has been accompanied by increased income disparities within our country. A recent study of worldwide wealth and income trends by Prof. Edward Wolff of New York University concludes that the United States now has the widest wealth and income disparities of any advanced industrialized nation. The wealthiest 1 percent of Americans now own 40 percent of all the Nation's wealth. By contrast, in England, a nation which we tend to think of as much more class-based than our own, the top 1 percent own only 18 percent of the wealth—less than half the share of the wealthiest 1 percent of Americans.

The distribution of income in the United States is similarly skewed. While the top 20 percent of households—those making $55,000 per year or more—take home 55 percent of all after-tax income paid to individuals, the lowest-earning 20 percent of Americans receive only 5.7 percent of all after-tax individual income. Since 1979, the 20 percent of families in the lowest income brackets have seen their average real wages decline by 15 percent. Those in the second 20 percent have suffered a 7-percent decrease. In contrast, those in the top 20-percent income bracket have enjoyed an 18-percent increase.

To reverse these unfortunate trends, we need to take steps to facilitate the revival of organized American labor.

In addition to their importance in fighting for a fair wage for American workers, American labor unions have played a vital role in enhancing workplace safety and in supporting progressive social legislation such as child labor laws, minimum wage laws, and Social Security. And there is no question in my mind but that we would have a much better health care delivery system in the United States if we had as high a percentage of our workers organized as do Canada, Germany, and many other nations.

The causes of the decline of unions in America are numerous and complex. Our large and persistent trade deficits have certainly played a role in this decline, as have our Federal budget deficits. Part of the decline has also been caused by past failures on the part of a few unions to include women and minorities in their membership.

But the principal cause of this decline, in my view, has been a public policy that has permitted and even encouraged some employers to actively resist union organizing activities.

The legislation I am introducing today seeks to reverse this trend by facilitating workers' efforts to organize and bargain collectively for better wages and working conditions, to receive prompt adjudication of their grievances when problems arise, and to enjoy better working conditions.

I am well aware that we face firm opposition to these reforms. Steps taken in recent months by the majority party would drive down the wages of working families, threaten workplace health and safety, and further weaken labor unions. Among the changes that have been proposed in recent months are: repeal of the Davis-Bacon Act, which would lower the wages of workers in the construction industry; the weakening of workplace safety and health laws; and a watering down of the time-and-a-half provisions of the Fair Labor Standards Act. Even proposals to help those at the lowest rung of the income ladder by raising the minimum wage, after fifteen years of decline in its real purchasing power, have been greeted with scorn or indifference by many of those in power.

Still, I believe that once we take a serious look at the conditions of the hardest working and most vulnerable members of our society, the conclusion will be unavoidable that we must do more to ensure that their interests are represented fairly and equitably.

Following are brief descriptions of the eight bills I am introducing today; and I ask unanimous consent that a copy of each bill be printed in the RECORD following my statement.

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

S. 777

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 "Labor Organizations Equal Presentation Time Act of 1995".

SEC. 2. EMPLOYER AND LABOR ORGANIZATIONS PRESENTATIONS.

Section 8(c) of the National Labor Relations Act (29 U.S.C. 158) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraphs:

"(2) If an employer or employer representative addresses the employees on the employer's premises or during work hours on issues relating to representation by a labor organization, the employees shall be assured, without loss of time or pay, an equal opportunity to obtain, in an equivalent manner, information concerning such issues from such labor organization.

"(3) Subject to reasonable regulation by the Board, labor organizations shall have—

"(A) access to areas in which employees work;

"(B) the right to use the employer's bulletin boards, mailboxes, and other communication media; and

"(C) the right to use the employer's facilities for the purpose of meetings with respect to the exercise of the rights guaranteed by this Act.".

S. 778

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 "Labor Relations Representative Amendment Act of 1995".

SEC. 2. RECOGNITION OF SELECTED LABOR REPRESENTATIVE.

Section 9 of the National Labor Relations Act (29 U.S.C. 159) is amended by adding at the end the following new subsection:

"(f)(1) Not later than 30 days after the receipt of signed union recognition cards, which designate an entity as the employee's labor organization, from 60 percent of the employees of the employer, the Board shall direct an expedited election with respect to the selection of the entity as the exclusive collective bargaining representative of such employees.

"(2) The expedited election, as directed by the Board, may not be delayed for any reason or purpose.

"(3) The Board shall promulgate regulations that implement rules and procedures to address any challenges with respect to the designation or selection of an exclusive collective bargaining representative under this subsection.

"(4) The challenges described in paragraph (3) may be brought only after the expedited election described in paragraph (1).".

S. 779

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 "Labor Relations First Contract Negotiations Act of 1995".

SEC. 2. INITIAL CONTRACT DISPUTES.

Section 8 of the National Labor Relations Act (29 U.S.C. 158) is amended by adding at the end the following new subsection:

"(h)(1) If, not later than 60 days after the certification of a new representative of employees for the purpose of collective bargaining, the employer of the employees and the representative have not reached a collective bargaining agreement with respect to the terms and conditions of employment, the employer and the representative shall jointly select a mediator to mediate those issues on which the employer and the representative cannot agree.

"(2) If the employer and the representative are unable to agree upon a mediator, either party may request the Federal Mediation and Conciliation Service to select a mediator

and the Federal Mediation and Conciliation Service shall upon the request select a person to serve as mediator.

"(3) If, not later than 30 days after the date of the selection of a mediator under paragraph (1) or (2), the employer and the representative have not reached an agreement, the employer or the representative may transfer the matters remaining in controversy to the Federal Mediation and Conciliation Service for binding arbitration.".

S. 780

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 "Federal Contractor Labor Relations Enforcement Act of 1995".

SEC. 2. DEBARMENT.

The National Labor Relations Act (29 U.S.C. 151 et seq.) is amended by adding at the end the following new section:

"FEDERAL CONTRACTS DEBARMENT

"SEC. 20. (a) Any person or entity that, with a clear pattern and practice, violates the provisions of this Act shall be ineligible for all Federal contracts for a period of 3 years.

"(b) The Secretary of Labor shall promulgate regulations regarding debarment provisions and procedures. The regulations shall require that Federal contracting agencies shall refrain from entering into further contracts, or extensions or other modifications of existing contracts, with any person or entity described in subsection (A) during the 3-year period immediately following a determination by the Secretary of Labor that the person or entity is in violation (as described in subsection (a)) of this Act.

"(c) A debarment may be removed, or the period of debarment may be reduced, by the Secretary of Labor upon the submission of an application to the Secretary of Labor that is supported by documentary evidence and that sets forth appropriate reasons for the granting of the debarment removal or reduction, including reasons such as compliance with the final orders that are found to have been willfully violated, a bona fide change of ownership or management, or a fraud or misrepresentation of the charging party.".

S. 781

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 "Federal Contractor Safety and Health Enforcement Act of 1995".

SEC. 2. DEBARMENT.

The Occupational Safety and Health Act (29 U.S.C. 651 et seq.) is amended—

(1) by redesignating sections 33 and 34, as sections 34 and 35, respectively;

(2) by inserting after section 32 the following new section:

"FEDERAL CONTRACTS DEBARMENT

"SEC. 33. (a) Any person or entity that, with a clear pattern and practice, violates the provisions of this Act shall be ineligible for all Federal contracts for a period of 3 years.

"(b) The Secretary shall promulgate regulations regarding debarment provisions and procedures. The regulations shall require that Federal contracting agencies shall refrain from entering into further contracts, or extensions or modifications of existing contracts, with any person or entity described in subsection (a) during the 3-year period immediately following a determination by the Secretary that the person or entity is in violation (as described in subsection (a)) of this Act.

"(c) A debarment may be removed, or the period of debarment may be reduced, by the Secretary upon the submission of an application to the Secretary that is supported by documentary evidence and that sets forth appropriate reasons for the granting of the debarment removal or reduction, including reasons such as compliance with the final orders that are found to have been willfully violated, a bona fide change of ownership or management, or a fraud or misrepresentation of the charging party.".

S. 782

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 "Labor Relations Remedies Act of 1995".

SEC. 2. BOARD REMEDIES.

Section 10(c) of the National Labor Relations Act (29 U.S.C. 160(c)) is amended by inserting after the fourth sentence the following new sentence: "If the Board finds that an employee was discharged as a result of an unfair labor practice, the Board in such order shall (1) award back pay in an amount equal to three times the employee's wage rate at the time of the unfair labor practice and (2) notify such employee of such employee's right to sue for punitive damages and damages with respect to a wrongful discharge under section 303 of the Labor Management Relations Act, 1947 (29 U.S.C. 187), as amended by the Labor Relations Remedies Act of 1995.".

SEC. 3. COURT REMEDIES.

Section 303 of the Labor Management Relations Act, 1947 (29 U.S.C. 187), is amended by adding at the end the following new subsections:

"(c) It shall be unlawful, for purposes of this section, for any employer to discharge an employee for exercising rights protected under the National Labor Relations Act (29 U.S.C. 158).

"(d) An employee whose discharge is determined by the National Labor Relations Board under section 10(c) of the National Labor Relations Act (29 U.S.C. 160(c)) to be as a result of an unfair labor practice under section 8 of such Act may file a civil action in any district court of the United States, without respect to the amount in controversy, to recover punitive damages or if actionable, in any State court to recover damages based on a wrongful discharge.".

S. 783

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 "National Labor Relations Board Ruling Time Limit Act of 1995".

SEC. 2. BOARD RULING.

Section 10(b) of the National Labor Relations Act (29 U.S.C. 160(b)) is amended by inserting after the second sentence the following new sentence: "In the case of an unfair labor charge filed with the Board that involves the discharge of an employee, the Board shall rule on such charge within 30 days of the receipt of such charge by the Board.".

S. 784

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 "National Labor Relations Penalty Act of 1995".

SEC. 2. PENALTIES.

The National Labor Relations Act (29 U.S.C. 151 et seq.) is amended by adding at the end the following new section:

"PENALTY

"SEC. 20. (a) It shall be unlawful for any person including a consulting firm or legal firm to encourage an employer or labor organization to violate the provisions of this Act.

"(b) If a person described in subsection (a) violates the provisions of such subsection, the person shall be fined by the Secretary not more than $10,000.".

BILL SUMMARIES

The "Labor Organizations Equal Presentation Time Act of 1995" will counteract the unfair advantage employers enjoy in using company time and resources to discourage union organizing by giving labor organizations equal time to present their side of the story.

This Act provides that if an employer addresses employees on issues relating to representation by a labor organization, the employees shall then have an equal opportunity to obtain, without loss of time or pay, information concerning such issues from the labor organization. The Act also promotes fair access to company work areas, bulletin boards, mailboxes, and other facilities, to facilitate the free flow of information to employees.

The "Labor Relations Representative Amendment Act of 1995" is designed to streamline the union election and certification process by eliminating undue administrative delays at the Federal level.

At present, the union election and certification process can be very time-consuming. In many instances, employees have had to wait for years for this process to be completed. My bill provides that once the NLRB receives union recognition cards from 60 percent of the employees of a given firm, the Board shall have 30 days to determine whether the labor organization shall be recognized as the bargaining representative of employees.

In the United States, approximately one-third of unions never get a first collective bargaining agreement once they have been certificated. To address this problem, I am introducing the "Labor Relations First Contract Negotiations Act of 1995," a bill which will require the arbitration of initial contract negotiation disputes.

Under this Act, if an employer and a newly elected representative have not reached a collective bargaining agreement within 60 days of the representative's certification, the employer and the representative shall jointly select a mediator to help them reach an agreement. If they cannot agree on a mediator, one will be appointed for them by the Federal Medication and Conciliation Service. In the even that the parties do not reach an agreement in 30 days, the remaining issues may be transferred to the Federal Medication and Conciliation Service for binding arbitration.

The Federal government can do more to sanction firms that demonstrate a pattern and practice of National Labor Relations Act violations. By debarring such firms from Federal contracts, the "Federal Contractor

Labor Relations Enforcement Act of 1995" will encourage higher levels of compliance with the law.

Under the Act, firms that are determined by the Secretary of Labor to have shown a clear pattern the practice of NLRA violations will be debarred from receiving contracts, extensions of contracts, or modifications of existing contracts with agencies of the Federal government for a period of three years.

Similarly, the "Federal Contractor Safety and Health Enforcement Act of 1995" directs the Secretary of Labor to withhold Federal contracts in cases where firms show a clear pattern and practice of Occupational Safety and Health Act violations. This Act will help to ensure that employees who repeatedly disregard the safety and health of their workers will face consequences for their failure to abide by the law.

The "Labor Relations Remedies Act of 1995" protects workers by making it unlawful for an employer to discharge an employee for exercising rights protected under the National Labor Relations Act. The Act also directs the National Labor Relations Board to award additional damages in the event that it finds that an employee has of his right to sue for punitive damages and damages under any other state or Federal law.

The "National Labor Relations Board ruling Time Limit Act of 1995" will require that employees receive a prompt ruling on claims of wrongful discharge. The Act provides that the National Labor Relations Board shall rule on wrongful discharge complaints within thirty days of receiving them.

I am also introducing legislation today that will address the problem of law firms and consulting firms that stray over the line into counseling their clients to implement illegal policies or practices. Under the "National Labor Relations Penalty Act" persons or firms who encourage an employer or a labor organization to violate the National Labor Relations Act will be subject to a fine of up to $10,000.

By Mr. PACKWOOD:

S. 785. A bill to require the trustees of the Medicare trust funds to report recommendations on resolving projected financial imbalance in Medicare trust funds; to the Committee on Finance.

MEDICARE LEGISLATION

Mr. PACKWOOD. Mr. President, the 1995 annual reports of the trustees on the status of the two Medicare trust funds, released on April 3, 1995, raise serious concerns about future financial viability of the Medicare Program.

The trustees conclude that the Federal hospital insurance trust fund—called Medicare part A:

First, has taken in less in Medicare payroll taxes than it has paid out in Medicare benefits every year since 1992;

Second, starts having to liquidate assets next year, 1996; and

Third, will run out of money by the year 2002.

The status of the supplemental medical insurance trust fund—called Medicare part B—is not much better. The trustees "note with great concern the past and projected rapid growth in the cost of the program."

Four Cabinet members of this administration are trustees of the Medicare trust funds—the Secretary of the Treasury, the Secretary of Labor, the Secretary of Health and Human Services, and the Commissioner of the Social Security Administration. These Cabinet members all signed the 1995 trustee report, agreeing with the conclusions that the Medicare trust fund is in serious financial trouble.

But this administration refuses to become engaged in proposing any solutions. Repeatedly, the President and his Cabinet members have said they are waiting for the Republicans' budget resolution before they offer any suggestions to save Medicare.

In my memory, this is the first time an administration has so completely refused to be a part of the budget process. The administration claims to have done its part because it submitted its 1996 budget to the Congress. However, the President's 1996 budget leaves Medicare virtually untouched. Medicare proposals in that budget do not even do enough to delay Medicare insolvency for 1 year.

The financial problems of the Medicare Program are real. They exist regardless of whether or not there is a budget resolution, or the content of a budget resolution. We simply cannot avoid addressing this issue, and the sooner the better.

Today, I am introducing a bill requiring the trustees of the Medicare trust funds to report back to Congress by June 30, 1995, with their recommendations for the specific program legislation to deal with Medicare's financial condition that they call for in their 1995 annual reports on the Medicare trust funds. This is an urgent responsibility of this administration and they must come forward with initiatives so that we can preserve the Medicare Program, not only for future generations, but for our current senior population.

I ask unanimous consent that the bill be printed in the CONGRESSIONAL RECORD.

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

S. 785

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

SECTION 1. TRUSTEES' CONCLUSIONS REGARDING FINANCIAL STATUS OF MEDICARE TRUST FUNDS.

(A) HI TRUST FUND.—The 1995 annual report of the Board of Trustees of the Federal Hospital Insurance Trust Fund, submitted on April 3, 1995, contains the following conclusions respecting the financial status of such Trust Fund:

(1) Under the Trustees' intermediate assumptions, the present financing schedule for the hospital insurance program is sufficient to ensure the payment of benefits only over the next 7 years.

(2) Under present law, hospital insurance program costs are expected to far exceed revenues over the 75-year long-range period under any reasonable set of assumptions.

(3) As a result, the hospital insurance program is severely out of financial balance and the Trustees believe that the Congress must take timely action to establish long-term financial stability for the program.

(b) SMI TRUST FUND.—The 1995 annual report of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund, submitted on April 3, 1995, contains the following conclusions respecting the financial status of such Trust Fund:

(1) Although the supplementary medical insurance program is currently actuarially sound, the Trustees note with great concern the past and projected rapid growth in the cost of the program.

(2) In spite of the evidence of somewhat slower growth rates in the recent past, overall, the past growth rates have been rapid, and the future growth rates are projected to increase above those of the recent past.

(3) Growth rates have been so rapid that outlays of the program have increased 53 percent in aggregate and 40 percent per enrollee in the last 5 years.

(4) For the same time period, the program grew 19 percent faster than the economy despite recent efforts to control the costs of the program.

SEC. 2. RECOMMENDATIONS ON RESOLVING PROJECTED FINANCIAL IMBALANCE IN MEDICARE TRUST FUNDS.

(a) REPORT.—Not later than June 30, 1995, the Board of Trustees of the Federal Hospital Insurance Trust Fund and the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund shall submit to the Congress recommendations for specific program legislation designed solely—

(1) to control medicare hospital insurance program costs and to address the projected financial imbalance in the Federal Hospital Insurance Trust Fund in both the short-range and long-range; and

(2) to more effectively control medicare supplementary medical insurance costs.

(b) USE OF INTERMEDIATE ASSUMPTIONS.—The Boards of Trustees shall use the intermediate assumptions described in the 1995 annual reports of such Boards in making recommendations under subsection (a).

ADDITIONAL COSPONSORS

S. 16

At the request of Mr. ROCKEFELLER, his name was added as a cosponsor of S. 16, a bill to establish a commission to review the dispute settlement reports of the World Trade Organization, and for other purposes.

S. 256

At the request of Mr. DOLE, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 256, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 354

At the request of Mr. BREAUX, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 354, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage the preservation of low-income housing.

S. 469

At the request of Mr. GREGG, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 469, a bill to eliminate the

National Education Standards and Improvement Council and opportunity-to-learn standards.

S. 471

At the request of Mr. BIDEN, the names of the Senator from Hawaii [Mr. AKAKA] and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of S. 471, a bill to provide for the payment to States of plot allowances for certain veterans eligible for burial in a national cemetery who are buried in cemeteries of such States.

S. 495

At the request of Mrs. KASSEBAUM, the names of the Senator from Utah [Mr. BENNETT], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of S. 495, a bill to amend the Higher Education Act of 1965 to stabilize the student loan programs, improve congressional oversight, and for other purposes.

S. 508

At the request of Mr. MURKOWSKI, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 508, a bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities.

S. 615

At the request of Mr. AKAKA, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 615, a bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to furnish outpatient medical services for any disability of a former prisoner of war.

S. 641

At the request of Mr. KENNEDY, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 641, a bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes.

S. 674

At the request of Mr. EXON, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 674, a bill entitled the "Rail Investment Act of 1995".

S. 738

At the request of Mr. THOMAS, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 738, a bill to amend the Helium Act to prohibit the Bureau of Mines from refining helium and selling refined helium, to dispose of the United States helium reserve, and for other purposes.

S. 749

At the request of Mr. AKAKA, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 749, a bill to amend title 38, United States Code, to revise the authority relating to the Center for Women Veterans of the Department of Veterans Affairs, and for other purposes.

SENATE CONCURRENT RESOLUTION 9

At the request of Mr. MURKOWSKI, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of Senate Concurrent Resolution 9, a concurrent resolution expressing the sense of the Congress regarding a private visit by President Lee Teng-hui of the Republic of China on Taiwan to the United States.

SENATE RESOLUTION 83

At the request of Mr. FEINGOLD, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of Senate Resolution 83, a resolution expressing the sense of the Senate regarding tax cuts during the 104th Congress.

SENATE RESOLUTION 97

At the request of Mr. THOMAS, the names of the Senator from Delaware [Mr. ROTH] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Resolution 97, a resolution expressing the sense of the Senate with respect to peace and stability in the South China Sea.

SENATE RESOLUTION 103

At the request of Mr. DOMENICI, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of Senate Resolution 103, a resolution to proclaim the week of October 15 through October 21, 1995, as National Character Counts Week, and for other purposes.

AMENDMENT NO. 709

At the request of Mr. GORTON the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of amendment No. 709 proposed to H.R. 956, a bill to establish legal standards and procedures for product liability litigation, and for other purposes.

SENATE RESOLUTION 117—RELATING TO DEDUCTIONS FOR HOME MORTGAGES

Mr. ROTH (for himself, Mr. D'AMATO, and Mr. KEMPTHORNE) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 117

Whereas homeownership is an important factor in promoting economic security and stability for American families;

Whereas homeownership is a fundamental American ideal, which promotes social and economic benefits beyond the benefits that accrue to the occupant of the home;

Whereas homeownership promotes and stabilizes neighborhoods and communities;

Whereas it is proper that the policy of the Federal Government is and should continue to be to encourage homeownership;

Whereas the increase in the cost of housing over the last 10 years has been greater than the increase in family income;

Whereas for the first time in 50 years, the percentage of people in the United States owning their own homes has declined;

Whereas the percentage of people in the United States between the ages of 25 and 29 who own their own homes has declined from 43 percent in 1976 to 38 percent today;

Whereas the current Federal income tax deduction for interest paid on debt secured by first homes located in the United States has been a valuable cornerstone of this Nation's housing policy for most this century and may well be the most important component of housing-related tax policy in America today;

Whereas the current Federal income tax deduction for interest paid on debt secured by second homes located in the United States is of crucial importance to the economies of many communities; and

Whereas the Federal income tax deduction for interest paid on debt secured by a first or second home has been limited twice in the last 6 years, and was further eroded as a result of the Omnibus Budget Reconciliation Act of 1990: Now, therefore, be it

Resolved, That it is the sense of the Senate that the current Federal income tax deduction for interest paid on debt secured by a first or second home located in the United States should not be further restricted.

Mr. ROTH. Mr. President, of the challenges confronting America today—challenges that must be addressed by this Congress—the security of the American family is paramount. Much has been written and spoken about the welfare of family life, about the need to keep the family unit strong in our effort to secure a bright and productive American future.

One of the significant resources our families have is home ownership. Indeed, this resource is of such value that home ownership is considered the icon of the American dream. It lends to economic, physical, and emotional security. It keeps our neighborhoods strong and contributes to a necessary sense of community. It gives families not only a stake in the future, but a means to improve the future. Home equity and ownership often become the means by which we send our children to college, finance small businesses, or prepare for retirement.

It's clear that the benefits of home ownership go far beyond the family; they contribute to society as a whole. For example, the property tax base is often the foundation for public education. And as a Nation we have been richly rewarded by the Government policies that have encouraged people to realize the American dream.

What concerns me today, Mr. President, is that a full 60 percent of Americans can no longer afford a median-priced home. It concerns me that the increase in the cost of housing over the last 10 years has been greater than the increase in family income. And it concerns me that for the first time in 50 years, the percentage of people in the United States owning their own homes has declined.

When trends like these threaten the American Dream, and these trends are being felt, Mr. President, I was troubled by a Gallup-CBS polls taken recently that showed that 8 out of every 10 Americans believe it will be harder for the next generation to achieve the American Dream—8 out of every 10. When these trends threaten the American Dream of home ownership, we

must be clear in our policies here in Washington, that we will continue to work to promote an environment of security and opportunity.

Mr. D'AMATO. Mr. President, I am pleased to join my distinguished colleague from Delaware, Senator ROTH, in submitting a resolution to prevent further restriction of the Federal income tax deduction for home mortgage interest. To further limit or eliminate the deductibility of mortgage interest for homeowners—the majority of which are middle-income Americans—would be to restrict their ability to buy into the American dream.

It is no secret that homeownership is a fundamental American ideal. Cutting or wiping out this deduction, which has been available to Americans since 1913, will simply put the possibility of homeownership out of reach for many Americans. The mortgage interest deduction is one of a number of tax benefits that serves a good social purpose. It is not an unintended loophole but, rather, a provision created to foster investment by the private sector. The home mortgage interest deduction has served as one of the cornerstones of our national housing policy, making us one of the best housed countries in the world and creating safe and secure neighborhoods.

Further restrictions could also have a disastrous effect on the American housing industry, especially if interest rates continue to rise. People simply will not be able to buy homes, which would have a devastating impact on the economy, particularly the banking, lending and construction industries. Higher unemployment rates would result and local governments would suffer, as shrinking homeownership would, in turn, mean a dwindling tax base.

Mr. President, the National Association of Home Builders estimates that eliminating the home mortgage interest deduction would reduce the value of an average American home by about 20 percent. For all intents and purposes this would have the effect of a heavy tax increase. For the sake of the economy and middle-income Americans we cannot erode the American dream: homeownership.

SENATE RESOLUTION 118—CONCERNING UNITED STATES-JAPAN TRADE RELATIONS

Mr. BYRD (for himself, Mr. DOLE, Mr. DASCHLE, Mr. BAUCUS, Mr. REID, Mr. ASHCROFT, Mr. WARNER, Mr. LEVIN, Mr. HOLLINGS, Mr. PRESSLER, Mr. DORGAN, Mr. SARBANES, Mr. SPECTER, Mr. BROWN, and Mr. D'AMATO) submitted the following resolution; which was considered and agreed to:

S. RES. 118

Whereas, the United States and Japan have a long and important relationship which serves as an anchor of peace and stability in the Pacific region;

Whereas, tension exists in an otherwise normal and friendly relationship between the United States and Japan because of persistent and large trade deficits which are the result of practices and regulations which have substantially blocked legitimate access of American automotive products to the Japanese market;

Whereas, the current account trade deficit with Japan in 1994 reached an historic high level of $66 billion, of which $37 billion, or 56 percent, is attributed to imbalances in automotive sector, and of which $12.8 billion is attributable to auto parts flows;

Whereas, in July, 1993, the Administration reached a broad accord with the Government of Japan, which established automotive trade as one of 5 priority areas for negotiations, to seek market-opening arrangements based on objective criteria and which would result in objective progress;

Whereas, a healthy American automobile industry is of central importance to the American economy, and to the capability of the United States to fulfill its commitments to remain as an engaged, deployed, Pacific power;

Whereas, after 18 months of negotiations with the Japanese, beginning in September 1993, the U.S. Trade Representative concluded that no progress had been achieved, leaving the auto parts market in Japan "virtually closed";

Whereas, in October, 1994, the United States initiated an investigation under Section 301 of the Trade Act of 1974 into the Japanese auto parts market, which could result in the imposition of trade sanctions on a variety of Japanese imports into the United States unless measurable progress is made in penetrating the Japanese auto parts market;

Whereas, the latest round of U.S.-Japan negotiations on automotive trade, in Whistler, Canada, collapsed in failure on May 5, 1995, and the U.S. Trade Representative, Ambassador Kantor, stated the "government of Japan has refused to address our most fundamental concerns in all areas" of automotive trade, and that "discrimination against foreign manufacturers of autos and auto parts continues."

Whereas, President Clinton stated, on May 5, 1995, that the U.S. is "committed to taking strong action" regarding Japanese imports into the U.S. if no agreement is reached.

Now, therefore, be it

Resolved, That it is the Sense of the Senate that—

(1) The Senate regrets that negotiations between the United States and Japan for sharp reductions in the trade imbalances in automotive sales and parts, through elimination of restrictive Japanese market-closing practices and regulations, have collapsed;

(2) If negotiations under Section 301 of the Trade Act of 1974 fail to open the Japanese auto parts market, the United States Senate strongly supports the decision by the President to impose sanctions on Japanese products in accordance with Section 301.

SENATE RESOLUTION 119—AUTHORIZING REPRESENTATION BY LEGAL COUNSEL

Mr. GORTON (for Mr. DOLE, for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 119

Whereas, in the case of *United States* v. *George C. Matthews*, Case No. 95-CR-11, pending in the United States District Court for the Eastern District of Wisconsin, a subpoena for testimony has been issued to Darin Schroeder, an employee of the Senate on the staff of Senator Feingold;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2) (1994), the Senate may direct its counsel to represent committees, Members, officers and employees of the Senate with respect to subpoenas or orders issued to them in their official capacity: Now, therefore, be it

Resolved, That Darin Schroeder and any other employees in Senator Feingold's office from whom testimony may be necessary are authorized to testify and to produce records in the case of *United States* v. *George C. Matthews*, except concerning matters for which a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is directed to represent Darin Schroeder and any other employee in connection with the testimony authorized under section 1.

AMENDMENTS SUBMITTED

COMMONSENSE PRODUCT LIABILITY REFORM ACT

BYRD (AND OTHERS) AMENDMENT NO. 730

(Ordered to lie on the table.)

Mr. BYRD (for himself, Mr. DOLE, Mr. BAUCUS, Mr. REID, Mr. LEVIN, Mr. ASHCROFT, and Mr. WARNER) submitted an amendment intended to be proposed by them to amendment No. 690, proposed by Mr. COVERDELL to amendment No. 596, proposed by Mr. GORTON to the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes; as follows:

At the appropriate place, insert

Inasmuch as, the United States and Japan have a long and important relationship which serves as an anchor of peace and stability in the Pacific region;

Inasmuch as, tension exists in an otherwise normal and friendly relationship between the United States and Japan because of persistent and large trade deficits which are the result of practices and regulations which have substantially blocked legitimate access of American products to the Japanese market;

Inasmuch as, the current account trade deficit with Japan in 1994 reached an historic high level of $66 billion, of which $37 billion, or 56 percent, is attributed to imbalances in automotive sector, and of which $12.8 billion is attributable to auto parts flows;

Inasmuch as, in July 1993, the Administration reached a broad accord with the Government of Japan, which established automotive trade regulations as one of 5 priority

areas of negotiations, to seek market-opening arrangements based on objective criteria and which would result in objective progress;

Inasmuch as, a healthy American automobile industry is of central importance to the American economy, and to the capability of the United States to fulfill is commitments to remain as an engaged, deployed, Pacific power;

Inasmuch as, after 18 months of negotiations with the Japanese, beginning in September, 1993, the U.S. Trade Representatives concluded that no progress has been achieved, leaving the auto parts market in Japan "virtually closed;"

Inasmuch as, in October, 1994, the United States initiated an investigation under Section 301 of the Trade Act of 1974 into the Japanese auto parts market, which could result in the imposition of trade sanctions on a variety of Japanese imports into the United States unless measurable progress is made in penetrating the Japanese auto parts market;

Inasmuch as, the latest round of U.S.-Japan negotiations on automotive trade, in Whistler, Canada, collapsed in failure on May 5, 1995, and the U.S. Trade Representative, Ambassador Kantor stated the "government of Japan has refused to address our most fundamental concerns in all areas" of automotive trade, and that "discrimination against foreign manufacturers of autos and auto parts continues;"

Inasmuch as, President Clinton stated, on May 5, 1995, that the U.S. is "committed to taking strong action" regarding Japanese imports into the U.S. if no agreement is reached: Now, therefore, be it

Declared, That it is the Sense of the Senate that—

(1) The Senate regrets that negotiations between the United States and Japan for sharp reductions in the trade imbalances in automotive sales and parts, through elimination of restrictive Japanese market-closing practices and regulations, have collapsed;

(2) The Senate therefore strongly supports the decision by the President to impose trade sanctions on Japanese products in accordance with Section 301 of the Trade Act of 1974 unless an acceptable accord with Japan is reached in the interim that renders such action unnecessary.

HOLLINGS AMENDMENTS NOS. 731–745

(Ordered to lie on the table.)

Mr. HOLLINGS submitted 15 amendments intended to be proposed by him to amendment No. 690, proposed by Mr. COVERDELL to amendment No. 596, proposed by Mr. GORTON, to the bill, H.R. 956, supra; as follows:

AMENDMENT NO. 731

At the appropriate place, insert the following:

SEC. . TRULY UNIFORM STANDARDS FOR ALL STATES.

(a) PUNITIVE DAMAGES.—Notwithstanding any other provision of this Act or any limitation under State law, punitive damages may be awarded to a claimant in a product liability action subject to this title. The amount of punitive damages that may be awarded may not exceed 2 times the sum of—

(1) the amount awarded to the claimant for the economic loss on which the claim is based; and

(2) the amount awarded to the claimant for noneconomic loss.

(b) STATUTE OF REPOSE.—Notwithstanding any other provision of this Act, no product liability action subject to this title concerning a product that is a durable good alleged to have caused harm (other than toxic harm) may be filed more than 20 years after the time of delivery of the product. This subsection supersedes any State law that requires a product liability action to be filed during a period of time shorter than 20 years after the time of delivery.

AMENDMENT NO. 732

At the appropriate place, insert the following:

SEC. . NO PREEMPTION OF RECENT TORT REFORM LAWS.

Notwithstanding any other provision of this Act to the contrary, nothing in this Act preempts any provision of State law—

(1) if the legislature of that State considered a legislative proposal dealing with that provision in connection with reforming the tort laws of that State during the period beginning on January 1, 1980, and ending on the date of enactment of this Act, without regard to whether such proposal was adopted, modified and adopted, or rejected; or

(2) adopted after the date of enactment of this Act.

AMENDMENT NO. 733

At the appropriate place, insert the following:

SEC. . TRULY UNIFORM STANDARDS FOR ALL STATES.

(a) PUNITIVE DAMAGES.—Notwithstanding any other provision of this Act or any limitation under State law, punitive damages may be awarded to a claimant in a product liability action subject to this title. The amount of punitive damages that may be awarded may not exceed the greater of—

(1) an amount equal to 3 times the amount awarded to the claimant for the economic loss on which the claim is based, or

(2) $250,000.

(b) STATUTE OF REPOSE.—Notwithstanding any other provision of this Act, no product liability action subject to this title concerning a product that is a durable good alleged to have caused harm (other than toxic harm) may be filed more than 20 years after the time of delivery of the product. This subsection supersedes any State law that requires a product liability action to be filed during a period of time shorter than 20 years after the time of delivery.

AMENDMENT NO. 734

At the appropriate place, insert the following:

SEC. . APPLICATION OF ACT LIMITED TO DOMESTIC PRODUCTS.

Notwithstanding any other provision of this Act, this Act shall not apply to any product, component part, implant, or medical device that is not manufactured in the United States within the meaning of the Buy American Act (41 U.S.C. 10a) and the regulations issued thereunder, or to any raw material derived from sources outside the United States.

AMENDMENT NO. 735

At the appropriate place, insert the following:

SEC. . STATE IMPLEMENTATION REQUIRED.

Notwithstanding any provision of this Act to the contrary, nothing in this Act shall supersede any provision of State law or rule of civil procedure unless that State has enacted a law providing for the application of this Act in that State.

AMENDMENT NO. 736

At the appropriate place, insert the following:

SEC. . NO PREEMPTION OF RECENT TORT REFORM LAWS.

Notwithstanding any other provision of this Act to the contrary, nothing in this Act preempts any provision of State law adopted after the date of enactment of this Act.

AMENDMENT NO. 737

At the appropriate place, insert the following:

SEC. . NO PREEMPTION OF RECENT TORT REFORM LAWS.

Notwithstanding any other provision of this Act to the contrary, nothing in this Act preempts any provision of State law inconsistent with this Act if the legislature of that State considered a legislative proposal dealing with that provision in connection with reforming the tort laws of that State during the period beginning on January 1, 1980, and ending on the date of enactment of this Act, without regard to whether such proposal was adopted, modified and adopted, or rejected.

AMENDMENT NO. 738

At the appropriate place, insert the following:

SEC. . Notwithstanding section 101(7) of this Act, the term "harm" includes commercial loss or loss of damage to a product itself; and notwithstanding section 102(a) of this Act, the provisions of title I apply to any product liability action brought for loss or damage to a product itself or for commercial loss.

AMENDMENT NO. 739

At the appropriate place, insert the following:

SEC. . Notwithstanding section 102(e) of this Act, nothing in this Act shall require that any decision of a circuit court of appeals interpreting a provision of this Act be considered a controlling precedent with respect to any subsequent decision made concerning the interpretation of such provision by any Federal or State court.

AMENDMENT NO. 740

At the appropriate place, insert the following:

SEC. . Notwithstanding any other provision of this Act, nothing in this Act shall preclude the district courts of the United States from having jurisdiction under section 1331 or 1337 of title 28, United States Code, over any product liability action covered by this Act.

AMENDMENT NO. 741

At the appropriate place, insert the following:

SEC. . Notwithstanding any other provision of this Act, nothing in this Act requires the trier of fact in a product liability action, at the request of any party, to consider in a separate proceeding whether punitive damages are to be awarded for the harm that is the subject of the action and the amount of the award.

AMENDMENT NO. 742

At the appropriate place, insert the following:

SEC. . Notwithstanding any other provision of this Act, nothing in this Act limits the amount of punitive damages that may be awarded in a product liability action or any other civil action.

AMENDMENT NO. 743

At the appropriate place, insert the following:

SEC. . Notwithstanding any other provision of this Act, this Act shall not apply to the award of punitive damages in any product liability action or any other civil action.

AMENDMENT NO. 744

At the appropriate place, insert the following:

SEC. . Notwithstanding any other provision of this Act, the term "product liability action" means a civil action brought on any theory for harm caused by a product, against a manufacturer, seller, or any other person responsible for the distribution of the product in the stream of commerce, that involves a defect or design of the product.

AMENDMENT NO. 745

At the appropriate place, insert the following:

SEC. . Notwithstanding any other provision of this Act, nothing in this Act requires that, in a product liability action, the liability of each defendant for noneconomic loss shall be several only and shall not be joint.

BREAUX AMENDMENTS NOS. 746–747

(Ordered to lie on the table.)

Mr. BREAUX submitted two amendments intended to be proposed by him to amendment No. 690, proposed by Mr. COVERDELL to amendment No. 596, proposed by Mr. GORTON, to the bill, H.R. 956, supra; as follows:

AMENDMENT NO. 746

In lieu of the language proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Product Liability Fairness Act".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

TABLE OF CONTENTS

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Definitions.
Sec. 4. Applicability; preemption.
Sec. 5. Jurisdiction of Federal courts.
Sec. 6. Effective date.
TITLE I—EXPEDITED JUDGMENTS AND ALTERNATIVE DISPUTE RESOLUTION PROCEDURES
Sec. 102. Alternative dispute resolution procedures.
TITLE II—STANDARDS FOR CIVIL ACTIONS
Sec. 201. Civil actions.
Sec. 202. Uniform standards of product seller liability.
Sec. 203. Uniform standards for award of punitive damages.
Sec. 204. Uniform time limitations on liability.
Sec. 205. Workers' compensation subrogation standards.
Sec. 207. Defenses involving intoxicating alcohol or drugs.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(1) "claimant" means any person who brings a civil action pursuant to this Act, and any person on whose behalf such an action is brought; if such an action is brought through or on behalf of an estate, the term includes the claimant's decedent, or if it is brought through or on behalf of a minor or incompetent, the term includes the claimant's parent or guardian;

(2) "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established; the level of proof required to satisfy such standard is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt;

(4) "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside of that State; or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A);

(5) "commercial loss" means any loss incurred in the course of an ongoing business enterprise consisting of providing goods or services for compensation;

(6) "economic loss" means any pecuniary loss resulting from harm (including but not limited to medical expense loss, work loss, replacement services loss, loss due to death, burial costs, loss of business or employment opportunities and the fair market value of any property loss or property damage), to the extent recovery for such loss is allowed under applicable State law;

(7) "exercise of reasonable care" means conduct of a person of ordinary prudence and intelligence using the attention, precaution, and judgment that society expects of its members for the protection of their own interests and the interests of others;

(8) "harm" means any bodily injury to an individual sustained in an accident and any illness, disease, or death of that individual resulting from that injury; the term does not include commercial loss or loss or damage to a product itself;

(9) "manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs, formulates or constructs the product (or component part of the product) or has engaged another person to design, formulate or construct the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design, formulate or construct, an aspect of a product (or component part of a product) made by another; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the user of a product;

(10) "noneconomic loss" means subjective, nonmonetary loss resulting from harm, including but not limited to pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation; the term does not include economic loss;

(11) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(12) "preponderance of the evidence" is that measure or degree of proof which, by the weight, credit, and value of the aggregate evidence on either side, establishes that it is more probable than not that a fact occurred or did not occur;

(13) "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state—

(A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(B) which is produced for introduction into trade or commerce;

(C) which has intrinsic economic value; and

(D) which is intended for sale or lease to persons for commercial or personal use;

the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(14) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, or otherwise is involved in placing a product in the stream of commerce; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(15) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 4. APPLICABILITY; PREEMPTION.

(a) APPLICABILITY TO PRODUCT LIABILITY ACTIONS.—This Act applies to any civil action brought against a manufacturer or product seller, on any theory, for harm caused by a product. A civil action brought against a manufacturer or product seller for loss or damage to a product itself or for commercial loss is not subject to this Act and shall be governed by applicable commercial or contract law. A civil action for negligent entrustment is similarly not subject to this Act and shall be subject to applicable State law.

(b) SCOPE OF PREEMPTION.—(1) Except as provided in paragraph (2), this Act supersedes any State law regarding recovery for harm caused by a product only to the extent that this Act establishes a rule of law applicable to any such recovery. Any issue arising under this Act that is not governed by any such rule of law shall be governed by applicable State or Federal law.

(2) The provisions of title I shall not supersede or otherwise preempt any provision of applicable State or Federal law.

(c) EFFECT ON OTHER LAW.—Nothing in this Act shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) supersede any Federal law;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(5) preempt State choice-of-law rules including those with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of forum non conveniens; or

(7) supersede any statutory or common law, including an action to abate a nuisance, that authorizes a State or person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief resulting from contamination or pollution of the environment (as defined in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; 42 U.S.C. 9601(8)), or the threat of such contamination or pollution.

(d) CONSTRUCTION.—This Act shall be construed and applied after consideration of its legislative history to promote uniformity of law in the various jurisdictions.

(e) EFFECT OF COURT OF APPEALS DECISIONS.—Any decision of a United States court of appeals interpreting the provisions of this Act shall be considered a controlling precedent and followed by each Federal and State court within the geographical boundaries of the circuit in which such court of appeals sits, except to the extent that the decision is overruled or otherwise modified by the United States Supreme Court.

SEC. 6. EFFECTIVE DATE.

This Act shall take effect on the date of its enactment and shall apply to all civil actions pursuant to this Act commenced on or after such date, including any action in which the harm or the conduct which caused the harm occurred before the effective date of this Act, but shall not apply to claims existing prior to the effective date of this Act.

TITLE I—ALTERNATIVE DISPUTE RESOLUTION PROCEDURES

SEC. 102. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

(a) IN GENERAL.—A claimant or defendant in a civil action subject to this Act may, within the time permitted for making an offer of judgment under section 101, serve upon an adverse party an offer to proceed pursuant to any voluntary, nonbinding alternative dispute resolution procedure established or recognized under the law of the State in which the civil action is brought or under the rules of the court in which such action is maintained. An offeree shall, within ten days of such service, file a written notice of acceptance or rejection of the offer; except that the court may, upon motion by the offeree make prior to the expiration of such ten-day period, extend the period for response for up to sixty days, during which discovery may be permitted.

(b) DEFENDANT'S PENALTY FOR UNREASONABLE REFUSAL.—The court shall assess reasonable attorney's fees (calculated in the manner described in section 101(f)) and costs against the offeree, if—

(1) a defendant as offeree refuses to proceed pursuant to such alternative dispute resolution procedure;

(2) final judgment is entered against the defendant for harm caused by a product; and

(3) the defendant's refusal to proceed pursuant to such alternative dispute resolution procedure was unreasonable or not in good faith.

(c) GOOD FAITH REFUSAL.—In determining whether an offeree's refusal to proceed pursuant to such alternative dispute resolution procedure was unreasonable or not in good faith, the court shall consider such factors as the court deems appropriate.

TITLE II—STANDARDS FOR CIVIL ACTIONS

SEC. 202. UNIFORM STANDARDS OF PRODUCT SELLER LIABILITY.

(a) STANDARDS OF LIABILITY.—In any civil action for harm caused by a product, a product seller other than a manufacturer is liable to a claimant, only if the claimant establishes by a preponderance of the evidence that—

(1)(A) the individual product unit which allegedly caused the harm complained of was sold by the defendant; (B) the product seller failed to exercise reasonable care with respect to the product; and (C) such failure to exercise reasonable care was a proximate cause of the claimant's harm; or

(2)(A) the product seller made an express warranty, independent of any express warranty made by a manufacturer as to the same product; (B) the product failed to conform to the product seller's warranty; and (C) the failure of the product to conform to the product seller's warranty caused the claimant's harm; or

(3)(i) the product seller engaged in conduct representing a conscious or flagrant indifference to safety or in conduct representing intentional wrongdoing; and

(ii) such conduct was approximate cause of the harm that is the subject of the complaint.

(b) CONDUCT OF PRODUCT SELLER.—(1) In determining whether a product seller is subject to liability under subsection (a)(1), the trier of fact may consider the effect of the conduct of the product seller with respect to the construction, inspection, or condition of the product, and any failure of the product seller to pass on adequate warnings or instructions from the product's manufacturer about the dangers and proper use of the product.

(2) A product seller shall not be liable in a civil action subject to this Act based upon an alleged failure to provide warnings or instructions unless the claimant establishes that, when the product left the possession and control of the product seller, the product seller failed—

(A) to provide to the person to whom the product seller relinquished possession and control of the product any pamphlets, booklets, labels, inserts, or other written warnings or instructions received while the product was in the product seller's possession and control; or

(B) to make reasonable efforts to provide users with the warnings and instructions with it received after the product left its possession and control.

(3) A product seller shall not be liable in a civil action subject to this Act except for breach of express warranty where there was no reasonable opportunity to inspect the product in a manner which would or should, in the exercise of reasonable care, have revealed the aspect of the product which allegedly caused the claimant's harm.

(c) TREATMENT AS MANUFACTURER.—A product seller shall be deemed to be the manufacturer of a product and shall be liable for harm to the claimant caused by a product as if it were the manufacturer of the product if—

(1) the manufacturer is not subject to service of process under the laws of any State in which the action might have been brought; or

(2) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

(d) RENTED OR LEASED PRODUCTS.—

(1) Notwithstanding any other provision of law, any person engaged in the business of renting or leasing a product (other than a person excluded from the definition of product seller under section 314(a)(b)(c) shall be subject to liability in a product liability action under subsection (a), but shall not be liable to a claimant for the tortious act of another solely by reason of ownership of such product.

(2) For purposes of paragraph (1), and for determining the applicability of this title to any person subject to paragraph (1), the term "product liability action" means a civil action brought on any theory for harm caused by a product or product use.

SEC. 203. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

(a) IN GENERAL.—Punitive damages may be awarded in any civil action subject to this Act to any claimant who establishes by clear and convincing evidence that the harm suffered by the claimant was the result of conduct manifesting a manufacturer's or product seller's conscious or flagrant indifference to the safety of those persons who might be harmed by the product. A failure to exercise reasonable care in choosing among alternative product designs, formulations, instructions, or warnings is not of itself such conduct. Punitive damages may not be awarded in the absence of an award of compensatory damages.

(b) JUDICIAL DETERMINATION.

SEC. 204. UNIFORM TIME LIMITATIONS ON LIABILITY.

(a) STATUTE OF LIMITATIONS.—Any civil action subject to this Act shall be barred unless the complaint is filed within two years of the time the claimant discovered or, in the exercise of reasonable care, should have discovered the harm and its cause, except that any such action of a person under legal disability may be filed within two years after the disability ceases. If the commencement of such an action is stayed or enjoined, the running of the statute of limitations under this section shall be suspended for the period of the stay or injunction.

(b) STATUTE OF REPOSE FOR CAPITAL GOODS.—(1) Any civil action subject to this Act shall be barred if a product which is a capital good is alleged to have caused harm which is not a toxic harm unless the complaint is served and filed within twenty-five years after the time of delivery of the product. This subsection shall apply only if the court determines that the claimant has received or would be eligible to receive compensation under any State or Federal workers' compensation law for harm caused by the product.

(2) A motor vehicle, vessel, aircraft, or train, used primarily to transport passengers for hire, shall not be subject to this subsection.

(3) As used in this subsection, the term—

(A) "capital good" means any product, or any component of any such product, which is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986, and which was—

(i) used in a trade or business;

(ii) held for the production of income; or

(iii) sold or donated to a governmental or private entity for the production of goods, for training, for demonstration, or for other similar purposes; and

(B) "time of delivery" means the time when a product is delivered to its first purchaser or lessee who was not involved in the business of manufacturing or selling such product or using it as a component part of another product to be sold.

(c) EXTENSION OF PERIOD FOR BRINGING CERTAIN ACTIONS.—If any provision of this section would shorten the period during which a civil action could be brought under otherwise applicable law, the claimant may, notwithstanding such provision of this section, bring the civil action pursuant to this

Act within one year after the effective date of this Act.

(d) EFFECT ON RIGHT TO CONTRIBUTION OR INDEMNITY.—Nothing in this section shall affect the right of any person who is subject to liability for harm under this Act to seek and obtain contribution or indemnity from any other person who is responsible for such harm.

(e) Paragraph (b)(1) does not bar a product liability action against a defendant who made a warranty in writing as to the safety of the specific product involved which was longer than 25 years, but it will apply at the expiration of that warranty.

SEC. 205. WORKERS' COMPENSATION SUBROGATION STANDARDS.

(a) IN GENERAL.—(1) An employer or workers' compensation insurer of an employer shall have a right of subrogation against a manufacturer or product seller to recover the sum of the amount paid as workers' compensation benefits for harm caused to an employee by a product if the harm is one for which a civil action has been brought pursuant to this Act. To assert a right of subrogation an employer or workers' compensation insurer of an employer shall provide written notice that it is asserting a right of subrogation to the court in which the claimant has filed a complaint. The employer or workers' compensation insurer of the employer shall not be required to be a necessary and proper party to the proceeding instituted by the employee.

(2) In any proceeding against or settlement with the manufacturer or product seller, the employer or the workers' compensation insurer of the employer shall have an opportunity to assert a right of subrogation upon any payment and to assert a right of subrogation upon any payment made by the manufacturer or product seller by reason of such harm, whether paid in settlement, in satisfaction of judgment, as consideration for covenant not to sue, or otherwise. The employee shall not make any settlement with or accept any payment from the manufacturer or product seller without notifying the employer in writing prior to settlement. However, the preceding sentence shall not apply if the employer or workers' compensation insurer of the employer is made whole for all benefits paid in workers' compensation benefits or has not asserted a right of subrogation pursuant to this section.

(3) If the manufacturer or product seller attempts to persuade the trier of fact that the claimant's harm was caused by the fault of the claimant's employer or coemployees, then the issue whether the claimant's harm was caused by the claimant's employer or coemployees shall be submitted to the trier of fact. If the manufacturer or product seller so attempts to persuade the trier of fact, it shall provide written notice to the employer. The employer shall have the right to appear, to be represented, to introduce evidence, to cross-examine adverse witnesses, and to argue to the trier of fact as to this issue as fully as though the employer were a party although not named or joined as a party to the proceeding. Such issue shall be the last issue submitted to the trier of fact. If the trier of fact finds by clear and convincing evidence that the claimant's harm was caused by the fault of the claimant's employer or coemployees, then the court shall proportionally reduce the damages awarded by the trier of fact against the manufacturer or product seller (and correspondingly the subrogation lien of the employer) by deducting from such damages a sum equal to the percentage at fault found attributable to the employer or coemployee multiplied by the sum of the amount paid as workers' compensation benefits. The manufacturer or product seller shall have no further right by way of contribution or otherwise against the employer for such sums. However, the employer shall not lose its right of subrogation because of an intentional tort committed against the claimant by the claimant's coemployees or for acts committed by coemployees outside the scope of normal work practices.

(4) If the verdict shall be that the claimant's harm was not caused by the fault of the claimant's employer or coemployees, then the manufacturer or product seller shall reimburse the employer or workers' compensation insurer of the employer for reasonable attorney's fees and court costs incurred in the resolution of the subrogation claim, as determined by the court.

(b) EFFECT ON CERTAIN CIVIL ACTIONS.—(1) In any civil action subject to this Act in which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers' compensation law, no third party tortfeasor may maintain any action for implied indemnity or contribution against the employer, any coemployee, or the exclusive representative of the person who was injured.

(2) Nothing in this Act shall be construed to affect any provision of a State or Federal workers' compensation law which prohibits a person who is or would have been entitled to receive compensation under any such law, or any other person whose claim is or would have been derivative from such a claim, from recovering for harm caused by a product in any action other than a workers' compensation claim against a present or former employer or workers' compensation insurer of the employer, any coemployee, or the exclusive representative of the person who was injured.

(3) Nothing in this Act shall be construed to affect any State or Federal workers' compensation law which permits recovery based on a claim of an intentional tort by the employer or coemployee, where the claimant's harm was caused by such an intentional tort.

SEC. 206. SEVERAL LIABILITY FOR NONECONOMIC LOSS.

(a) IN GENERAL.—Except as provided in subsection (b), in any civil action subject to this Act, the liability of each defendant for noneconomic loss shall be joint and several.

(b) DE MINIMIS EXCEPTION.—Notwithstanding subsection (a), in any civil action subject to this Act, the liability for noneconomic loss of each defendant found to be less than 15% at fault shall be several only and shall not be joint. Each such defendant shall be liable only for the amount of noneconomic loss allocated to such defendant in direct proportion to such defendant's percentage of responsibility as determined under subsection (c). A separate judgment shall be rendered against such defendant for that amount.

(c) PROPORTION OF RESPONSIBILITY.—For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

(b) OTHER CIVIL ACTIONS.—In any civil action subject to this Act in which not all defendants are manufacturers or product sellers and the trier of fact determines that no liability exists against those defendants who are not manufacturers or product sellers, the court shall enter a judgment notwithstanding the verdict in favor of any defendant which is a manufacturer or product seller if it is proved that the claimant was intoxicated or was under the influence of intoxicating alcohol or any drug and that as a proximate cause of such intoxication or the influence of the alcohol or drug the claimant was more than 50 percent responsible for the accident or event which resulted in such claimant's harm.

(c) INTOXICATION DETERMINATION TO BE MADE UNDER STATE LAW.—For purposes of this section, the determination of whether a person was intoxicated or was under the influence of intoxicating alcohol or any drug shall be made pursuant to applicable State law.

(d) DEFINITION.—As used in this section, the term "drug" means any non-over-the-counter drug which has not been prescribed by a physician for use by the claimant.

In lieu of the language proposed to be inserted, insert the following:

AMENDMENT NO. 747

SECTION 1. SHORT TITLE.

This Act may be cited as the "Product Liability Fairness Act".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

TABLE OF CONTENTS

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Definitions.
Sec. 4. Applicability; preemption.
Sec. 5. Jurisdiction of Federal courts.
Sec. 6. Effective date.
TITLE I—EXPEDITED JUDGMENTS AND ALTERNATIVE DISPUTE RESOLUTION PROCEDURES
Sec. 102. Alternative dispute resolution procedures.
TITLE II—STANDARDS FOR CIVIL ACTIONS
Sec. 201. Civil actions.
Sec. 202. Uniform standards of product seller liability.
Sec. 203. Uniform standards for award of punitive damages.
Sec. 204. Uniform time limitations on liability.
Sec. 205. Workers' compensation subrogation standards.
Sec. 207. Defenses involving intoxicating alcohol or drugs.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(1) "claimant" means any person who brings a civil action pursuant to this Act, and any person on whose behalf such an action is brought; if such an action is brought through or on behalf of an estate, the term includes the claimant's decedent, or if it is brought through or on behalf of a minor or incompetent, the term includes the claimant's parent or guardian;

(2) "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established; the level of proof required to satisfy such standard is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt;

(4) "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside of that State; or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A);

(5) "commercial loss" means any loss incurred in the course of an ongoing business enterprise consisting of providing goods or services for compensation;

(6) "economic loss" means any pecuniary loss resulting from harm (including but not limited to medical expense loss, work loss, replacement services loss, loss due to death, burial costs, loss of business or employment opportunities and the fair market value of any property loss or property damage), to the extent recovery for such loss is allowed under applicable State law;

(7) "exercise of reasonable care" means conduct of a person of ordinary prudence and intelligence using the attention, precaution, and judgment that society expects of its members for the protection of their own interests and the interests of others;

(8) "harm" means any bodily injury to an individual sustained in an accident and any illness, disease, or death of that individual resulting from that injury; the term does not include commercial loss or loss or damage to a product itself;

(9) "manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs, formulates or constructs the product (or component part of the product) or has engaged another person to design, formulate or construct the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design, formulate or construct an aspect of a product (or component part of a product) made by another; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the user of a product;

(10) "noneconomic loss" means subjective, nonmonetary loss resulting from harm, including but not limited to pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation; the term does not include economic loss;

(11) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(12) "preponderance of the evidence" is that measure or degree of proof which, by the weight, credit, and value of the aggregate evidence on either side, establishes that it is more probable than not that a fact occurred or did not occur;

(13) "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state—

(A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(B) which is produced for introduction into trade or commerce;

(C) which has intrinsic economic value; and

(D) which is intended for sale or lease to persons for commercial or personal use;

the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(14) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, or otherwise is involved in placing a product in the stream of commerce; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(15) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 4. APPLICABILITY; PREEMPTION.

(a) APPLICABILITY TO PRODUCT LIABILITY ACTIONS.—This Act applies to any civil action brought against a manufacturer or product seller, on any theory, for harm caused by a product. A civil action brought against a manufacturer or product seller for loss or damage to a product itself or for commercial loss is not subject to this Act and shall be governed by applicable commercial or contract law. A civil action for negligent entrustment is similarly not subject to this Act and shall be subject to applicable State law.

(b) SCOPE OF PREEMPTION.—(1) Except as provided in paragraph (2), this Act supersedes any State law regarding recovery for harm caused by a product only to the extent that this Act establishes a rule of law applicable to any such recovery. Any issue arising under this Act that is not governed by any such rule of law shall be governed by applicable State or Federal law.

(2) The provisions of title I shall not supersede or otherwise preempt any provision of applicable State or Federal law.

(c) EFFECT ON OTHER LAW.—Nothing in this Act shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) supersede any Federal law;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(5) preempt State choice-of-law rules including those with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of forum non conveniens; or

(7) supersede any statutory or common law, including an action to abate a nuisance, that authorizes a State or person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief resulting from contamination or pollution of the environment (as defined in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; 42 U.S.C. 9601(8)), or the threat of such contamination or pollution.

(d) CONSTRUCTION.—This Act shall be construed and applied after consideration of its legislative history to promote uniformity of law in the various jurisdictions.

(e) EFFECT OF COURT OF APPEALS DECISIONS.—Any decision of a United States court of appeals interpreting the provisions of this Act shall be considered a controlling precedent and followed by each Federal and State court within the geographical boundaries of the circuit in which such court of appeals sits, except to the extent that the decision is overruled or otherwise modified by the United States Supreme Court.

SEC. 5. JURISDICTION OF FEDERAL COURTS.

The district courts of the United States shall not have jurisdiction over any civil action pursuant to this Act, based on section 1331 or 1337 of title 28, United States Code.

SEC. 6. EFFECTIVE DATE.

This Act shall take effect on the date of its enactment and shall apply to all civil actions pursuant to this Act commenced on or after such date, including any action in which the harm or the conduct which caused the harm occurred before the effective date of this Act, but shall not apply to claims existing prior to the effective date of this Act.

TITLE I—ALTERNATIVE DISPUTE RESOLUTION PROCEDURES

SEC. 102. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

(a) IN GENERAL.—A claimant or defendant in a civil action subject to this Act may, within the time permitted for making an offer of judgment under section 101, serve upon an adverse party an offer to proceed pursuant to any voluntary, nonbinding alternative dispute resolution procedure established or recognized under the law of the State in which the civil action is brought or under the rules of the court in which such action is maintained. An offeree shall, within ten days of such service, file a written notice of acceptance or rejection of the offer; except that the court may, upon motion by the offeree make prior to the expiration of such ten-day period, extend the period for response for up to sixty days, during which discovery may be permitted.

(b) DEFENDANT'S PENALTY FOR UNREASONABLE REFUSAL.—The court shall assess reasonable attorney's fees (calculated in the manner described in section 101(f)) and costs against the offeree, if—

(1) a defendant as offeree refuses to proceed pursuant to such alternative dispute resolution procedure;

(2) final judgment is entered against the defendant for harm caused by a product; and

(3) the defendant's refusal to proceed pursuant to such alternative dispute resolution procedure was unreasonable or not in good faith.

(c) GOOD FAITH REFUSAL.—In determining whether an offeree's refusal to proceed pursuant to such alternative dispute resolution procedure was unreasonable or not in good faith, the court shall consider such factors as the court deems appropriate.

TITLE II—STANDARDS FOR CIVIL ACTIONS

SEC. 201. CIVIL ACTIONS.

A person seeking to recover for harm caused by a product may bring a civil action against the product's manufacturer or product seller pursuant to applicable State or Federal law, except to the extent such law is inconsistent with any provision of this Act.

SEC. 202. UNIFORM STANDARDS OF PRODUCT SELLER LIABILITY.

(a) STANDARDS OF LIABILITY.—In any civil action for harm caused by a product, a product seller other than a manufacturer is liable to a claimant, only if the claimant establishes by a preponderance of the evidence that—

(1)(A) the individual product unit which allegedly caused the harm complained of was sold by the defendant; (B) the product seller failed to exercise reasonable care with respect to the product; and (C) such failure to exercise reasonable care was a proximate cause of the claimant's harm; or

(2)(A) the product seller made an express warranty, independent of any express warranty made by a manufacturer as to the same product; (B) the product failed to conform to the product seller's warranty; and (C) the failure of the product to conform to the product seller's warranty caused the claimant's harm; or

(3)(i) the product seller engaged in conduct representing a conscious or flagrant indifference to safety or in conduct representing intentional wrongdoing; and

(ii) such conduct was approximate cause of the harm that is the subject of the complaint.

(b) CONDUCT OF PRODUCT SELLER.—(1) In determining whether a product seller is subject to liability under subsection (a)(1), the trier of fact may consider the effect of the conduct of the product seller with respect to the construction, inspection, or condition of the product, and any failure of the product seller to pass on adequate warnings or instructions from the product's manufacturer about the dangers and proper use of the product.

(2) A product seller shall not be liable in a civil action subject to this Act based upon an alleged failure to provide warnings or instructions unless the claimant establishes that, when the product left the possession and control of the product seller, the product seller failed—

(A) to provide to the person to whom the product seller relinquished possession and control of the product any pamphlets, booklets, labels, inserts, or other written warnings or instructions received while the product was in the product seller's possession and control; or

(B) to make reasonable efforts to provide users with the warnings and instructions with it received after the product left its possession and control.

(3) A product seller shall not be liable in a civil action subject to this Act except for breach of express warranty where there was no reasonable opportunity to inspect the product in a manner which would or should, in the exercise of reasonable care, have revealed the aspect of the product which allegedly caused the claimant's harm.

(c) TREATMENT AS MANUFACTURER.—A product seller shall be deemed to be the manufacturer of a product and shall be liable for harm to the claimant caused by a product as if it were the manufacturer of the product if—

(1) the manufacturer is not subject to service of process under the laws of any State in which the action might have been brought; or

(2) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

(d) RENTED OR LEASED PRODUCTS.—

(1) Notwithstanding any other provision of law, any person engaged in the business of renting or leasing a product (other than a person excluded from the definition of product seller under section 314(a)(b)(c) shall be subject to liability in a product liability action under subsection (a), but shall not be liable to a claimant for the tortious act of another solely by reason of ownership of such product.

(2) For purposes of paragraph (1), and for determining the applicability of this title to any person subject to paragraph (1), the term "product liability action" means a civil action brought on any theory for harm caused by a product or product use.

SEC. 203. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

(a) IN GENERAL.—Punitive damages may be awarded in any civil action subject to this Act to any claimant who establishes by clear and convincing evidence that the harm suffered by the claimant was the result of conduct manifesting a manufacturer's or product seller's conscious or flagrant indifference to the safety of those persons who might be harmed by the product. A failure to exercise reasonable care in choosing among alternative product designs, formulations, instructions, or warnings is not of itself such conduct. Punitive damages may not be awarded in the absence of an award of compensatory damages.

(b) JUDICIAL DETERMINATION—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, in an action that is subject to this Act in which punitive damages are sought, the trier of fact shall determine, concurrent with all other issues presented, whether such damages shall be allowed. If such damages are allowed, a separate proceeding shall be conducted by the court to determine the amount of such damages to be awarded.

(2) FACTORS.—Notwithstanding any other provision of this Act, in determining the amount of punitive damages awarded in action that is subject to this Act, the court shall consider the following factors:

(A) The likelihood that serious harm would arise from the misconduct of the defendant in question.

(B) The degree of the awareness of the defendant in question of that likelihood.

(C) The profitability of the misconduct to the defendant in question.

(D) The duration of the misconduct and any concealment of the conduct by the defendant in question.

(E) The attitude and conduct of the defendant in question upon the discovery of the misconduct and whether the misconduct has terminated.

(F) The financial condition of the defendant in question.

(G) The total effect of other punishment imposed or likely to be imposed upon the defendant in question as a result of the misconduct including any awards of punitive or exemplary damages to persons similarly situated to the claimant and the severity of criminal penalties to which the defendant in question has been or is likely to be subjected.

(H) Any other factor that the court determines to be appropriate.

SEC. 204. UNIFORM TIME LIMITATIONS ON LIABILITY.

(a) STATUTE OF LIMITATIONS.—Any civil action subject to this Act shall be barred unless the complaint is filed within two years of the time the claimant discovered or, in the exercise of reasonable care, should have discovered the harm and its cause, except that any such action of a person under legal disability may be filed within two years after the disability ceases. If the commencement of such an action is stayed or enjoined, the running of the statute of limitations under this section shall be suspended for the period of the stay or injunction.

(b) STATUTE OF REPOSE FOR CAPITAL GOODS.—(1) Any civil action subject to this Act shall be barred if a product which is a capital good is alleged to have caused harm which is not a toxic harm unless the complaint is served and filed within twenty-five years after the time of delivery of the product. This subsection shall apply only if the court determines that the claimant has received or would be eligible to receive compensation under any State or Federal workers' compensation law for harm caused by the product.

(2) A motor vehicle, vessel, aircraft, or train, used primarily to transport passengers for hire, shall not be subject to this subsection.

(3) As used in this subsection, the term—

(A) "capital good" means any product, or any component of any such product, which is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986, and which was—

(i) used in a trade or business;

(ii) held for the production of income; or

(iii) sold or donated to a governmental or private entity for the production of goods, for training, for demonstration, or for other similar purposes; and

(B) "time of delivery" means the time when a product is delivered to its first purchaser or lessee who was not involved in the business of manufacturing or selling such product or using it as a component part of another product to be sold.

(c) EXTENSION OF PERIOD FOR BRINGING CERTAIN ACTIONS.—If any provision of this section would shorten the period during which a civil action could be brought under otherwise applicable law, the claimant may, notwithstanding such provision of this section, bring the civil action pursuant to this Act within one year after the effective date of this Act.

(d) EFFECT ON RIGHT TO CONTRIBUTION OR INDEMNITY.—Nothing in this section shall affect the right of any person who is subject to liability for harm under this Act to seek and obtain contribution or indemnity from any other person who is responsible for such harm.

(e) Paragraph (b)(1) does not bar a product liability action against a defendant who made a warranty in writing as to the safety of the specific product involved which was longer than 25 years, but it will apply at the expiration of that warranty.

SEC. 205. WORKERS' COMPENSATION SUBROGATION STANDARDS.

(a) IN GENERAL.—(1) An employer or workers' compensation insurer of an employer shall have a right of subrogation against a manufacturer or product seller to recover the sum of the amount paid as workers' compensation benefits for harm caused to an employee by a product if the harm is one for which a civil action has been brought pursuant to this Act. To assert a right of subrogation an employer or workers' compensation insurer of an employer shall provide written notice that it is asserting a right of subrogation to the court in which the claimant has filed a complaint. The employer or workers' compensation insurer of the employer shall not be required to be a necessary and proper party to the proceeding instituted by the employee.

(2) In any proceeding against or settlement with the manufacturer or product seller, the employer or the workers' compensation insurer of the employer shall have an opportunity to assert a right of subrogation upon any payment and to assert a right of subrogation upon any payment made by the manufacturer or product seller by reason of such harm, whether paid in settlement, in satisfaction of judgment, as consideration for covenant not to sue, or otherwise. The employee shall not make any settlement

with or accept any payment from the manufacturer or product seller without notifying the employer in writing prior to settlement. However, the preceding sentence shall not apply if the employer or workers' compensation insurer of the employer is made whole for all benefits paid in workers' compensation benefits or has not asserted a right of subrogation pursuant to this section.

(3) If the manufacturer or product seller attempts to persuade the trier of fact that the claimant's harm was caused by the fault of the claimant's employer or coemployees, then the issue whether the claimant's harm was caused by the claimant's employer or coemployees shall be submitted to the trier of fact. If the manufacturer or product seller so attempts to persuade the trier of fact, it shall provide written notice to the employer. The employer shall have the right to appear, to be represented, to introduce evidence, to cross-examine adverse witnesses, and to argue to the trier of fact as to this issue as fully as though the employer were a party although not named or joined as a party to the proceeding. Such issue shall be the last issue submitted to the trier of fact. If the trier of fact finds by clear and convincing evidence that the claimant's harm was caused by the fault of the claimant's employer or coemployees, then the court shall proportionally reduce the damages awarded by the trier of fact against the manufacturer or product seller (and correspondingly the subrogation lien of the employer) by deducting from such damages a sum equal to the percentage at fault found attributable to the employer or coemployee multiplied by the sum of the amount paid as workers' compensation benefits. The manufacturer or product seller shall have no further right by way of contribution or otherwise against the employer for such sums. However, the employer shall not lose its right of subrogation because of an intentional tort committee against the claimant by the claimant's coemployees or for acts committed by coemployees outside the scope of normal work practices.

(4) If the verdict shall be that the claimant's harm was not caused by the fault of the claimant's employer or coemployees, then the manufacturer or product seller shall reimburse the employer or workers' compensation insurer of the employer for reasonable attorney's fees and court costs incurred in the resolution of the subrogation claim, as determined by the court.

(b) EFFECT ON CERTAIN CIVIL ACTIONS.—(1) In any civil action subject to this Act in which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers' compensation law, no third party tortfeasor may maintain any action for implied indemnity or contribution against the employer, any coemployee, or the exclusive representative of the person who was injured.

(2) Nothing in this Act shall be construed to affect any provision of a State or Federal workers' compensation law which prohibits a person who is or would have been entitled to receive compensation under any such law, or any other person whose claim is or would have been derivative from such a claim, from recovering for harm caused by a product in any action other than a workers' compensation claim against a present or former employer or workers' compensation insurer of the employer, any coemployee, or the exclusive representative of the person who was injured.

(3) Nothing in this Act shall be construed to affect any State or Federal workers' compensation law which permits recovery based on a claim of an intentional tort by the employer or coemployee, where the claimant's harm was caused by such an intentional tort.

SEC. 206. SEVERAL LIABILITY FOR NONECONOMIC LOSS.

(a) IN GENERAL.—Except as provided in subsection (b), in any civil action subject to this Act, the liability of each defendant for noneconomic loss shall be joint and several.

(b) DE MINIMIS EXCEPTION.—Notwithstanding subsection (a), in any civil action subject to this Act, the liability for noneconomic loss of each defendant found to be less than 15% at fault shall be several only and shall not be joint. Each defendant shall be liable only for the amount of noneconomic loss allocated to such defendant in direct proportion to such defendant's percentage of responsibility as determined under subsection (c). A separate judgment shall be rendered against such defendant for that amount.

(c) PROPORTION OF RESPONSIBILITY.—For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

(b) OTHER CIVIL ACTIONS.—In any civil action subject to this Act in which not all defendants are manufacturers or product sellers and the trier of fact determines that no liability exists against those defendants who are not manufacturers or product sellers, the court shall enter a judgment notwithstanding the verdict in favor of any defendant which is a manufacturer or product seller if it is proved that the claimant was intoxicated or was under the influence of intoxicating alcohol or any drug and that as a proximate cause of such intoxication or the influence of the alcohol or drug the claimant was more than 50 percent responsible for the accident or event which resulted in such claimant's harm.

(c) INTOXICATION DETERMINATION TO BE MADE UNDER STATE LAW.—For purposes of this section, the determination of whether a person was intoxicated or was under the influence of intoxicating alcohol or any drug shall be made pursuant to applicable State law.

(d) DEFINITION.—As used in this section, the term "drug" means any non-over-the-counter drug which has not been prescribed by a physician for use by the claimant.

McCONNELL AMENDMENT NO. 748

(Ordered to lie on the table.)

Mr. BREAUX submitted an amendment intended to be proposed by him to amendment No. 690, proposed by Mr. COVERDELL to amendment No. 596, proposed by Mr. GORTON, to the bill, H.R. 956, supra; as follows:

In amendment No. 655, add the following new subsection (c):

(c) This Section shall not apply to foreign manufacturers located in a country:

(i) with which the United States has an Agreement of Friendship, Commerce and Navigation, or the equivalent, which provides for nationals of that country to receive national treatment with respect to access to the courts of justice within the territory of the United States;

(ii) with that is a signatory to the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters;

(iii) with that is a signatory to the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters; or

(iv) with which the United States has a Consular Agreement, or the equivalent, permitting consular service of process within that country;

at the time a relevant product liability action is initiated.

HARKIN AMENDMENT NO. 749

Mr. HARKIN proposed an amendment to amendment No. 690 proposed by Mr. COVERDELL to amendment No. 596 proposed by Mr. GORTON to the bill H.R. 956, supra; as follows:

In section 107(b) of the amendment as amended by amendment No. 709, insert the following:

(6)(i) Notwithstanding paragraph (1), the amount of punitive damages that may be awarded in any product liability action that is subject to this title against an owner of an unincorporated business, or any partnership, corporation, unit of local government, or organization that has 25 or more full-time employees shall be the greater of—

(I) an amount determined under paragraph (1); or

(II) 2 times the average value of the annual compensation of the chief executive officer (or the equivalent employee) of such entity during the 3 full fiscal years of the entity immediately preceding the date on which the award of punitive damages is made.

(ii) For the purposes of this subparagraph, the term 'compensation' includes the value of any salary, benefit, bonus, grant, stock option, insurance policy, club membership, or any other matter having pecuniary value.".

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. STEVENS. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SD–106, Dirksen Senate Office Building, on Thursday, May 11, 1995, at 9:30 a.m., to receive testimony on the Smithsonian Institution: Management Guidelines for the Future.

For further information concerning this hearing, please contact Christine Ciccone of the committee staff on 224–5647.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to review Nuclear Regulatory Commission licensing activities with regard to the Department of Energy's civilian nuclear waste disposal program and other matters within the jurisdiction of the Nuclear Regulatory Commission.

The hearing will take place Tuesday, May 16, 1995, at 9:30 a.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Witnesses may testify by invitation only. For further information, please call Karen Hunsicker at (202) 224–4971.

SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. CAMPBELL. Mr. President, I would like to announce for the public

that an oversight hearing has been scheduled before the Subcommittee on Parks, Historic Preservation and Recreation.

The hearing will take place Tuesday, May 23, 1995, at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this oversight hearing is to review the Department of the Interior's programs, policies, and budget implications on the reintroduction of wolves in and around Yellowstone National Park.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Parks, Historic Preservation and Recreation, Committee on Energy and Natural Resources, U.S. Senate, 304 Dirksen Senate Office Building, Washington, DC 20510-6150.

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

SUBCOMMITTEE ON FORESTS AND PUBLIC LANDS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Forests and Public Lands to receive testimony on the property line disputes within the Nez Perce Indian Reservation in Idaho.

The hearing will take place on May 25, 1995, at 9:30 a.m. in room SD 366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to testify or who which to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Andrew Lundquist at (202) 224-6170.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. ROTH. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet Tuesday, May 9, 1995, beginning at 9:30 a.m. in room SD-215, to conduct a hearing on Medicare solvency.

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

SUBCOMMITTEE ON DISABILITY POLICY

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on Disability Policy, Committee on Labor and Human Resources, be authorized to meet during the session of the Senate on Tuesday, May 9, at 9 a.m., to conduct a hearing on "Part B of the Individuals with Disabilities Education Act."

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

SUBCOMMITTEE ON PERSONNEL

Mr. ROTH. Mr. President, I ask unanimous consent that the subcommittee on personnel and the Subcommittee on Readiness of the Committee on Armed Services be authorized to meet at 9 a.m. on Tuesday, May 9, 1995, in open session, to receive testimony regarding military family housing issues in review of S. 727, the national defense authorization bill for fiscal year 1996, and the Future Years Defense Program.

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

SUBCOMMITTEE ON SEAPOWER

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on Seapower of the Committee on Armed Services be authorized to meet at 9:30 a.m. on Tuesday, May 9, 1995, in open session, to receive testimony on the Department of the Navy's implementation of its strategy for littoral warfare in review of S. 727, the Defense Authorization Act for fiscal year 1996 and the Future Years Defense Program.

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

SUBCOMMITTEE ON SUPERFUND, WASTE CONTROL, AND RISK ASSESSMENT

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on Superfund, Waste Control, and Risk Assessment be granted permission to conduct an oversight hearing Tuesday, May 9, at 9 a.m., regarding the Comprehensive Environmental Response, Compensation, and Liability Act.

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

ADDITIONAL STATEMENTS

REGARDING IRAN

• Mr. D'AMATO. Mr. President, I rise today to discuss the ongoing situation in Iran.

Clearly, the situation in Iran today is one of desperation. The Iranian people, suffering the depredations of 16 years of rule by a corrupt, terrorist, regime, deserve better. They deserve to have a government that respects the rich and dignified history of the Iranian people. Unfortunately, what they have gotten is a government that violates their human rights and has brought a formerly rich and varied economy down upon the shoulders of the people, suffocating them.

While we know that the regime in Teheran practices terrorism with great frequency throughout the world, most people forget that they also inflict terror against their own people. If they will torture and execute their own people, what respect will they have for those of other nations?

Mr. President, today we must understand one simple fact: the terrorist regime in Iran does not represent the Iranian people. It represents murder, terror, and destruction, nothing more and nothing less. The Iranian people deserve better, and they deserve freedom from the corrupt rule of the terrorist regime that calls itself the Government of Iran.•

GOVERNOR EDWARDS ON THE CONTRACT WITH AMERICA

• Mr. BREAUX. Mr. President, I ask unanimous consent that a speech by Louisiana Gov. Edwin Edwards be printed in the CONGRESSIONAL RECORD. Governor Edwards recently made remarks concerning the House-passed Contract With America and its effect on Louisiana. I found Governor Edward's remarks very informative, and I wanted to share them with my colleagues.

The speech follows:

SPEECH BY GOVERNOR EDWARDS

I have said repeatedly that I do not believe the actions of American voters last fall were an endorsement of the so-called Republican "Contract with America" so much as a general dissatisfaction with the status quo and a desire for new faces.

National surveys indicate that few voters knew anything about the contents of the so-called contract when they went to the polls, and still fewer based their votes on support for its provisions.

As the Republican Congressional leaders continue to act upon what they claim is a mandate for their so-called contract, however, it has been necessary for me as a responsible Governor of a small state (1.7 percent of U.S. population) with a large percentage of poor people to take a closer look at just what the provisions mean to the people of Louisiana.

I don't like what I see. I am convinced that Louisianians, at least, would not have voted for the contract. I am alarmed because it appears that the end result effectively will be a contract "on" the children of Louisiana and, ultimately, on the well-being of the entire state.

Neither Louisiana nor our nation can afford to balance the federal budget on the backs of its most vulnerable and its most precious resources—its children. But what makes these particular efforts even more onerous is that the cuts will not be applied to reduce the federal deficit and, thus, reduce the price these same children will be paying on behalf of the nation in the future. Rather, the cuts will be used to compensate for tax breaks to wealthy individuals and corporations.

This "contract on Louisiana children" means that while families with incomes of $200,000 a year get tax breaks that will put cash in their pockets, many of our poor children will have food taken out of their mouths. Literally, 59,000 of Louisiana's poor children will lose school lunches; 28,500 poor children will lose meals and snacks in childcare and Head Start programs, and about 410,000 children will lose 10 percent of their food stamp benefits.

Under the welfare block grant proposal of House Speaker Newt Gingrich, Louisiana will lose about $1.68 billion over the next five years that otherwise would be used for our children—especially those who are poor, hungry, disabled, abused or neglected, or sick.

Even setting aside the devastating human effect, the state would suffer economically. The $1.68 billion potentially lost to the state's economy represents almost twice as much as Louisiana's annual, net income-tax

revenues. The ripple effect throughout our business community—whether it be "Mom and Pop" service stations, shoe shops or grocery chains would be a disaster that would have a ruinous "trickle down" effect on our parishes and towns.

Louisiana already is struggling to meet its obligations to serve the health-care needs of our poor people under new federal Medicaid requirements that have reduced federal aid to the state and threaten to wipe out new economic gains the state is making. We cannot afford this contract on our state's economy.

And that would only be the start. Louisiana would get a smaller share of federal dollars that it does today, despite having a larger proportion of poor people than most other states and an average per-capita income that is only 80 percent of the U.S. average. History shows that block grants tend to shrink over years as the spotlight fades away from them. Further, if the national economy fell into a decline, there would be no strengthening of the assistance safety net.

And there is more. The contract threatens the 433,958 children under age 21 who received Medicaid-covered services in 1993 in Louisiana at a cost of about $1,928 per child.

In 1991, 31,420 births were financed by Medicaid, and payments for maternity and newborn care were 4.5 percent of total Medicaid expenditures in the state. Meanwhile the infant mortality rate decreased by 22 percent between 1984 and 1992—from 12.1 to 9.4 per 1,000 live births—obviously a result of better access to health care, among other factors.

What will happen to the birth rate, to the pregnant mothers, the infants, and to our children if that access is reduced because of budget cuts? That is a campaign "contract" victory I for one would not care to claim.

I am the very embodiment of the difference a good education can make in the future of a poor child. However, if Republicans succeed with their stated intentions: 101,621 Louisiana college students—who already pay more than the Southern states' average in tuition—will pay more for student loans; 670 of Louisiana's young people will not participate in national service jobs that allow them to earn college tuition; 62 of our state's 66 school districts will lose money now available to help them make their schools safe and drug-free; 2,400 Louisiana students with special needs will lose extra help they need to learn and to succeed, and 27,000 teenagers in Louisiana will lose summer jobs.

Our young people cannot afford this "contract on their future."

And there is more: 7,460 Louisiana children are at risk of losing access to safe, affordable child care—a move which not only threatens the well-being of the children but also the psychological well-being of the parents while they are at work; another 1,700 abused and neglected children will lose foster care; 28,500 blind and disabled children lose SSI cash assistance immediately, and 114,000 low-income children lose cash assistance.

The contract falls also on 41,531 senior citizens and families with children in our state who will lose assistance they depend upon to provide heat during the winter, and 17,747 Louisiana families who otherwise could count on an FHA loan, their only access to an affordable home loan, to help them buy their first houses.

These are only some of the disastrous effects of the contract on Louisiana that threaten the young, the weak and the poor—in short, the very people who need our help the most. I do not believe that was the intent of the American voters nor is the wish of Louisiana voters. And I do not believe it is in the best interests of either the American people or their elected representatives.

I am reminded of the words of Jesus who described in the Gospel of St. Matthew (Chapter 25, verses 44-45) how on Judgement Day those on the left hand of God would ask: 'Lord, when saw we Thee an hungred, or athirst, or a stranger, or naked, or sick, or in prison, and did not minister unto Thee? Then shall He answer them, saying, Verily I say unto you, Inasmuch as ye did it not to one of the least of these, ye did it not to Me.'

May I respectfully suggest as we open our ears to listen to the popular political rhetoric of tax cuts and budget balancing that we pause for a moment and open our eyes to the consequences on those who can least afford to bear the burdens which will be heaped upon them in the attempt to achieve these goals.●

TRIBUTE TO CATONS CHAPEL-RICHARDSON COVE VOLUNTEER FIRE DEPARTMENT

● Mr. FRIST. Mr. President, I rise today to commend the Catons Chapel-Richardson Cove Volunteer Fire Department in Sevierville, TN, for their dedication and service to their community. In east Tennessee's Sevier County, the county-operated fire department is often unable to reach the remote areas of Catons Chapel and Richardson Cove in time to save a burning house or building—the distance is just too great. As a result, residents in those areas of the county obtained a State charter in 1992 to create a volunteer fire department that could better serve those communities.

The fire department began with a handful of volunteers, who met in the basement of a local store to plant the development and cost of a fully operational fire department. With about $18,000 from the county to get started, the volunteers held small fundraisers and obtained a bank loan to raise the additional money they needed to construct a firehouse and purchase fire trucks and other equipment. A local resident donated land, and in November 1993, the community broke ground for the firehouse.

Mr. President, not only did the Catons Chapel-Richardson Cove volunteers do much of the construction on the fire station themselves, they have built this entire department from the ground up. These volunteer firefighters are the true definition of public servants—they recognized a need in their community and have worked hard to satisfy it.

Now, all of that work is beginning to pay off. The fire department has 22 volunteer firefighters, most whom have been trained by the Sevier Firefighters School. The department also has three fire trucks, including one that can pump more than 1,000 gallons of water per minute, protective clothing, air packs, and experience—volunteers from the Catons Chapel-Richardson Cove department have responded to and assisted on many calls in the area.

Mr. President, the most important thing about these firefighters is that they are all volunteers. Every time the department receives a call to respond, these citizens leave their families and risk their lives to help save a neighbor's life and home or to prevent a local business from losing everything that it has. Mr. President, this country is full of dedicated public servants like the volunteers in Sevier County, but all too often, their work goes unnoticed. Today, I would like to recognize the firefighters in the Catons Chapel-Richardson Cove Volunteer Fire Department and the nine members of the department's volunteer advisory board and thank them for their efforts and dedicated service to their community.●

THE 75TH ANNIVERSARY OF OUR LADY OF REDEMPTION CHURCH

● Mr. LEVIN. Mr. President, I would like to recognize an impressive milestone which will soon be achieved by a church in Warren, MI. On May 13, 1995, Our Lady of Redemption Church will celebrate its 75th anniversary. The church serves over 4,000 parishioners in the Detroit area. In fact, it is the largest Melkite-Catholic Eastern Rite Parish in the United States.

The Detroit community benefits from a number of community service activities performed by members of this historic church. Our Lady of Redemption regularly holds food drives and their contributions reach far and wide to Detroit area food banks. Parishioners provide volunteer help to area hospitals, they support the Hunger Action Coalition, and they participate in the Metro Detroit Youth Day. The parish annually donates its facilities for use by the city of Warren's Parks and Recreation Department. Not only is Our Lady of Redemption the spiritual center for its members, but the church regularly organizes activities with parishes of other denominations to interchange fellowship in the spirit of ecumenism.

Please join me in saying congratulations to an integral member of the Detroit community—Our Lady of Redemption Church. I thank the clergy and members of this church for their dedicated service and wish them many more years of fellowship.●

SUBMISSION OF MOTION ADOPTED IN THE COMMITTEE ON THE BUDGET

● Mr. DOMENICI. Mr. President, pursuant to paragraph 2 of rule XXVI of the Standing Rules of the Senate, I submit for printing in the CONGRESSIONAL RECORD a motion adopted in the Committee on the Budget on May 6, 1995, governing consideration of amendments during deliberations on the fiscal year 1996 budget resolution.

The motion follows:

PAY-AS-YOU-GO MOTION MAKING OUT OF ORDER AMENDMENTS THAT ARE NOT DEFICIT NEUTRAL

Motion that, during deliberations on the fiscal year 1996 budget resolution, it not be in order for the committee to consider any perfecting amendment to the Chairman's Mark that is not deficit neutral in each year as measured against that Mark or any complete substitute amendment that fails to achieve and sustain balance by fiscal year 2002 under a Unified budget; provided that the President Clinton's fiscal year 1996 budget shall be in order as a complete substitute.●

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276h–276k, as amended, appoints the Senator from California [Mrs. FEINSTEIN] as a member of the Senate delegation to the Mexico-United States Interparliamentary Group during the first session of the 104th Congress, to be held in Tucson, AZ, May 12–14, 1995.

The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276d–276g, as amended, appoints the Senator from Hawaii [Mr. AKAKA] as a member of the Senate delegation to the Canada-United States Interparliamentary Group during the first session of the 104th Congress, to be held in Huntsville, ON, Canada, May 18–22, 1995.

ADDITIONAL COSPONSORS—S. 768

Mr. GORTON. Mr. President, I ask unanimous consent that the Senator from Louisiana [Mr. BREAUX], and the Senator from Oregon [Mr. PACKWOOD], be added as original cosponsors to S. 768, the Endangered Species Act Reform Amendments of 1995, which I introduced earlier today.

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

SEQUENTIAL REFERRALS—S. 776 AND H.R. 1139

Mr. GORTON. Mr. President, I ask unanimous consent that if and when the Senate's Commerce Committee reports S. 776, a bill to authorize the Atlantic Striped Bass Conservation Act, introduced by Senators CHAFEE and KERRY, it be sequentially referred to the Senate Committee on Environment and Public Works for a period not to exceed 20 session days of the Senate; and that if the bill has not been reported by that time, it be automatically discharged and placed on the Senate Calendar; provided further, that if and when the Senate Commerce Committee reports H.R. 1139, it be sequentially referred to the Senate Committee on Environment and Public Works for a period not to exceed 20 session days of the Senate; and that if the bill is not reported by that time, it be automatically discharged and placed on the calendar.

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

AUTHORIZING TESTIMONY BY SENATE EMPLOYEE AND REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 119, submitted earlier today by Senators DOLE and DASCHLE, authorizing representation by Senate legal counsel.

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

The legislative clerk read as follows:

A resolution (S. Res. 119) to authorize testimony by Senate employee and representation by Senate legal counsel.

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

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

So the resolution (S. Res. 119) was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

Whereas, in the case of *United States* v. *George C. Matthews*, Case No. 95–CR–11, pending in the United States District Court for the Eastern District of Wisconsin, a subpoena for testimony has been issued to Darin Schroeder, an employee of the Senate on the staff of Senator Feingold;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2) (1994), the Senate may direct its counsel to represent committees, Members, officers and employees of the Senate with respect to subpoenas or orders issued to them in their official capacity: Now, therefore, be it

Resolved, That Darin Schroeder and any other employees in Senator Feingold's office from whom testimony may be necessary are authorized to testify and to produce records in the case of *United States* v. *George C. Matthews*, except concerning matters for which a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is directed to represent Darin Schroeder and any other employee in connection with the testimony authorized under section 1.

Mr. DOLE. Mr. President, the United States has issued a subpoena for Darin Schroeder, an employee on the staff of Senator FEINGOLD, to testify at the trial of a defendant who was indicted last January for threatening to bring a bomb to a post office building in Milwaukee to kill or injure individuals and to damage or destroy the building. The defendant is alleged to have made the threat in a telephone conversation with Mr. Schroeder, who handles postal service constituent casework for Senator FEINGOLD.

This resolution would authorize Mr. Schroeder, as well as any other employees on Senator FEINGOLD's staff from whom testimony may be required, to testify and to produce records at trial, and to be represented by the Senate Legal Counsel.

ORDERS FOR WEDNESDAY, MAY 10, 1995

Mr. GORTON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m., Wednesday, May 10, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day and the Senate then immediately resume consideration of H.R. 956, the product liability bill.

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

PROGRAM

Mr. GORTON. Mr. President, for the information of all Senators, the Senate will resume consideration of the product liability bill at 9:30 a.m. At 9:45 a.m., there will be at least two stacked rollcall votes on, or in relation to, amendments to the substitute amendment.

ORDER FOR LENGTH OF TIME OF VOTES

Mr. GORTON. Mr. President, I ask unanimous consent that the first vote of the 9:45 a.m. voting sequence be 15 minutes in length, with the remaining votes in the sequence limited to 10 minutes each.

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

ORDER OF PROCEDURE

Mr. GORTON. Mr. President, a final passage vote is expected on the product liability bill at approximately 11:30 a.m. Also, at 12 noon, the Senate will begin consideration of calendar No. 74, the solid waste disposal bill. Therefore, votes can be expected to occur throughout the day on Wednesday.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. GORTON. Mr. President, if there is no further business to come before

the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 8:13 p.m., recessed until Wednesday, May 10, 1995, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 9, 1995:

DEPARTMENT OF DEFENSE

JOHN P. WHITE, OF MASSACHUSETTS, TO BE DEPUTY SECRETARY OF DEFENSE, VICE JOHN M. DEUTCH.

CONFIRMATION

Executive nomination confirmed by the Senate May 9, 1995:

CENTRAL INTELLIGENCE

JOHN M. DEUTCH, OF MASSACHUSETTS, TO BE DIRECTOR OF CENTRAL INTELLIGENCE.

HOUSE OF REPRESENTATIVES—*Tuesday, May 9, 1995*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore [Mr. DICKEY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 8, 1995.

I hereby designate the Honorable JAY DICKEY to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leader limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Florida [Mr. GOSS] for 5 minutes.

CLEARING OUT GUANTANAMO

Mr. GOSS. Mr. Speaker, I have said it before and I will say it again: The problem in Cuba is Fidel Castro and until Castro is gone the United States cannot and should not normalize relations with the closest of our Caribbean neighbors. Indeed, we should tighten the embargo, not relax it. Last week, many of my colleagues were surprised to learn that I consider the administration's new Cuban immigration policy a positive step in the right direction.

As a Representative from Florida who does not support normalizing relations with Castro's Cuba, I believe that we must take steps to regularize Cuban immigration, to bring order to what has been a chaotic situation for far too long. Last year, the President and his foreign policy team created a problem—this year we are trying to deal with the mess left over from some sloppy efforts at a Caribbean policy.

Now there are no good choices, only necessary choices. Why? Because sitting in Guantanamo are more than 21,000 Cuban refugees and several hundred Haitians. Even after the current paroling process is completed, the White House expects there will still be more than 15,000 refugees, mostly young men, left in primitive, stressful, living conditions. Add to that an infinite boredom, a hopeless future, and a long hot summer and you have ignition for launching a disaster.

My last trip to Guantanamo was in March with Senator BOB GRAHAM. We came back deeply concerned about the situation, about the cost of running the camp, and about the clear security risk for our troops in Guantanamo if something was not done soon. The administration's new approach should at least diffuse this potentially explosive situation. Those 15,000 young men, who have fled from Castro's Cuba now have a realistic hope they will not waste away in a Guantanamo containment camp. Under the agreement, the administration plans to use 15,000 of the existing 60,000 Cuban visa slots for the next 3 years for an orderly exodus of the refugees from Guantanamo—a camp that American taxpayers are paying $1 million a day to run. In addition, the agreement seeks to head off future inundations of refugees by providing a safer, fully organized Cuban Immigration Program for those yet to come from Castro's Cuba. The continuing visa allowances will enable significant numbers of Cubans to take refuge in our country through orderly channels and without risking their lives on the high seas. Obviously, good screening processes will be necessary by the Coast Guard to ensure no political refugees picked up on the high seas will be repatriated in hot pursuit or life-threatening situations. This will require constant and effective human rights monitoring.

Handled properly, the administration's new approach could disarm one of Castro's most effective gambits—the deliberate victimization of his people by releasing them as waves of refugees to pressure the United States on foreign policy matters. If this agreement works, it should have the net effect of drastically reducing the danger of another Mariel overwhelming Florida's shores and resources. It should also have the added bonus of allowing the Federal Government—rather than the State of Florida—to cope with the impacts of Cuban migration. That means that all Americans, not just Floridians, will provide locations and will share the financial cost of resettling refugees in an orderly, organized way.

Of course, there remain plenty of issues to be dealt with. Impacted States will have to work with the Federal Government to ensure that costs are reimbursed. And the Clinton administration has to perform the difficult task of providing monitoring for those repatriated to Castro's Cuba—the new Clinton policy will all fall apart quickly and completely if we find we are in any way aiding Castro's regime to commit human rights violations on political opponents or on those just simply seeking more freedom.

Finally, it demands emphasis that we have an obligation to the Cuban people as well as ourselves not to let up the pressure on the brutal, oppressive, regime of Fidel Castro, even while we work on ways to put more safety and order in the way we accommodate present and future refugees. That means a stepped-up embargo and working for a commitment from our allies to cut off Castro's economic lifeblood.

The ultimate solution to the refugee problem and the key to a free and democratic life for Cubans is not to bring them all to America. The solution is to bring Cuba out of the cold war by ending the regime of Fidel Castro. And that, Mr. Speaker, is the bottom line. Fidel Castro is still what is wrong. We cannot escape that fact, but we can help change it.

CONGRESS MUST SAVE STUDENT LOANS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentlewoman from Connecticut [Ms. DELAURO] is recognized during morning business for 5 minutes.

Ms. DELAURO. Mr. Speaker, today, House Republicans will release their long-awaited and overdue budget proposal. While much of the public attention has focused on the Republican plan to cut Medicare, there is another aspect of the plan that is equally troublesome. The GOP budget plan cuts $12.4 billion over the next 5 years from the Stafford Student Loan Program. These cuts translate into the largest increase in college tuition costs in history.

In Connecticut, the Republican cuts in student aid would mean that 39,000 students would pay $127 million more for college over 5 years. By eliminating interest-deferred Stafford loans, Republicans will add $4,547 to the cost of an education for the average college student in Connecticut. Now, $4,500 may not be much money to NEWT GINGRICH or DICK ARMEY, but I assure you that $4,500 is plenty to working families in my district. It is plenty of

money to Gail Baxter of West Haven, CT.

Just recently, I met Gail at a student loan forum I sponsored. Gail told me that she was worried about what cuts in student loan programs would mean for her family. And, it is no wonder she is worried. You see, Gail is a single mother who, in the fall of 1995, will have four children in college. That means four college tuitions. And, under the Republican plan, it means four increases of $4,500. All totaled the Republican plan to cut student loans, could cost this working family nearly $20,000.

But, any single mother who can get four children to college, is not someone who throws up her hands when faced with an obstacle. And, Gail Baxter wasn't about to take these student loan cuts sitting down. So, she got to work and started a petition drive. I told her if she collected the signatures that I would deliver them to the chairman of the House Budget Committee. In just a few weeks time, Gail collected the signatures of 630 parents, like herself.

The petition simply reads: We the undersigned oppose any attempts to cut Federal student assistance that assist hard-working American families.

Like the parents who signed Gail Baxter's petition, students in my district are also concerned about cuts in student aid. They do not think it is right that government cut student loans in order to pay for another tax cut for the wealthy. And, they are right.

Students from Quinnipiac College in Hamden, CT, organized a letter writing campaign to bring their message to Congress. The wrote hundreds of letters to various leaders in Congress. Here is one sample from Laurel Drumm of Quinnipiac College. She writes:

> Recent reports suggest you are considering the biggest cuts in the history of student aid. While we applaud congressional efforts for responsible deficit reduction, cuts in student aid just don't make sense. Student aid actually saves taxpayers money by stimulating economic growth, expanding the tax base and increasing productivity. That's why every major opinion poll shows strong support for student aid programs.
>
> The cuts under consideration would increase the student loan indebtedness by up to 50 percent and reduce grants and work-study funding. The bottom line is these cuts will make a college education unobtainable for many of us.
>
> The opportunity to go to college is a privilege that should be everyone's right. Please don't cut our future short. Don't cut student aid.

Mr. Speaker, student loans are the ladder to the American dream. Many of us in this body relied on student loans to pay for our educations. Let us not pull up the ladder of opportunity behind us. The Gail Baxters and the Laurel Drumms of the world are counting on us to do what is right and save student loans.

JOB SKILLS DEVELOPMENT ACT OF 1995

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Michigan [Mr. KNOLLENBERG] is recognized during morning business for 5 minutes.

Mr. KNOLLENBERG. Mr. Speaker, today I am introducing the Job Skills Development Act of 1995. This bill amends the Fair Labor Standards Act of 1938 to ease the restrictions on volunteers.

The FLSA requires covered employers to compensate individuals defined as "employees" according to mandatory minimum wage and overtime requirements. While there are exceptions to the employer-employee relationship for volunteers, the restrictions on permissable volunteer activities are excessively rigid.

As a result, individuals seeking to gain valuable work experience and exposure in a competitive profession by volunteering their services to an employer are often prohibited from doing so, even if the individual has no expectation of receiving compensation and adamantly denies that they are an employee.

When determining whether or not an individual is a volunteer and exempt from the minimum wage and overtime requirements of the FLSA, the Department of Labor and the Federal courts take into consideration the type of services provided by an individual, who benefits from the rendering of the services, and how long it takes to provide the services.

Because business-related services are not considered to be typical volunteer activities, individuals are often prohibited from volunteering their services to businesses in exchange for work experience.

The Department of Labor has carved out exceptions for student learners and trainees. However, if an employer gains an immediate advantage from the services provided by a volunteer, the Department of Labor will consider the volunteer to be an employee and require that the individual be paid the minimum wage.

The restrictions on volunteer activities are intended to safeguard against employer coercion. Protecting workers from unscrupulous employers is an important goal and must be preserved in our labor laws. However, the current immediate advantage test is too restrictive and should be altered.

The Job Skills Development Act eases the restrictions on volunteer activities without jeapordizing the important safeguards against employer coercion and worker displacement. These changes will help recent college graduates and individuals who have been out of the work force develop professional skills and gain experience.

Today, individuals face many obstacles in landing good jobs. Unfortunately, the FLSA imposes unnecessary burdens on ambitious individuals. Allowing businesses to provide opportunities for volunteers will benefit both employers and individuals attempting to break into a crowded job field.

Capitol Hill provides an excellent example of the benefits of allowing individuals to volunteer their services to employers. Young individuals participating in unpaid congressional internships gain a better understanding of the legislative process, develop office skills and make contacts that are invaluable in securing employment.

In my Washington office, six of my eight employees were unpaid interns before landing jobs on Capitol Hill. Two of my staffers volunteered in my office for several months before they were hired on as full-time paid employees. Both of these individuals have been promoted twice during the last year.

Because these two staffers were recent college graduates and produced work that benefited my office during their internships, they would have been prohibited from volunteering their services if I would have been forced to comply with the Fair Labor Standards Act.

On the opening day of the 104th Congress, we passed legislation that brings us under the Nation's labor laws. The Congressional Accountability Act exempts interns from the employer-employee relationship covered by the Fair Labor Standards Act.

Mr. Speaker, Congress should give individuals attempting to gain competitive private sector jobs the same opportunities that individuals wishing to work on Capitol Hill have enjoyed for years. I urge my colleagues to support the Job Skills Development Act of 1995.

PRESERVE MEDICARE AND PROVIDE COVERAGE TO UNINSURED AMERICANS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from California [Mr. STARK] is recognized during morning business for 4 minutes.

Mr. STARK. Mr. Speaker, Republicans talking about saving Medicare remind me of the man who murdered his parents and begged for mercy as an orphan.

They are making a blatant attempt to distract the public from a tax bill that takes $87 billion out of the Medicare Part A Trust Fund over the next 10 years and gives it to the rich. And Republicans are crying crocodile tears about the trust fund being in danger?

"Hello, Earth to Republicans: Your hypocrisy is showing."

I urge Republicans to reread their views on last year's health reform bill. In that bill, Democrats saved the Medicare Trust Fund by getting all health spending under control. The billions we

saved in Medicare helped the uninsured, expanded Medicare benefits and provided a prescription drug benefit for everyone. Democrats used Medicare savings to improve the entire health care system.

Where were the Republicans? They voted against any and all Medicare savings. In their dissent 10 months ago, they said "reimbursement levels * * * have reached potentially disastrous levels" and "additional massive cuts in reimbursement to providers * * * will reduce the quality of care for the Nation's elderly."

Now the militant radical right wants to cut three or four times more than we did. How can they now say it will not hurt quality?

NEWT can't reform the system with more managed care and vouchers. I rather resent Republicans suggesting that my mother and the Nation's seniors are either senile or so stupid that they will not see through his doubletalk.

My mother knows that managed care costs more and means less choice of doctors and hospitals. My mother knows that Republican vouchers to buy private insurance will never be worth enough to pay for her health care. NEWT's plan to push America's seniors into plans with less choice—all the while saying he gives them more choice—is a dog that just will not hunt.

Republicans intend to disrupt people's health plans, force them into managed care, and they know it will save little or nothing. Last week, CBO said that Medicare spends more for HOMO enrollees than had they remained in the fee-for-service sector—about 5.7 percent more. Until you Republicans know more about how to pay for seniors in managed care, you are just whistling in the dark, and playing fast and loose with a sacred trust.

We Democrats have always worked with responsible Republicans on ways to improve Medicare and reform the entire health care system. But $300 billion in Medicare cuts for the sake of tax cuts for the rich will destroy not only Medicare, but the entire U.S. health care system.

We must not only preserve Medicare, but we must provide coverage to 47 million Americans who are today without coverage. You Republicans proved your political dominance over the House in the past 4 months. Now, why not show us you stand for something besides insurance company profits and tax cuts for the very rich. You are in complete control of this Congress and must be judged by your ability to legislate in the best interests of all Americans—not just white, rich, suburban radicals.

So let us get together and fix the "break" the way it ought to be fixed, with universal coverage and reform for all Americans.

THE PENSION PROTECTION ACT OF 1995

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from New Jersey [Mr. SAXTON] is recognized during morning business for 5 minutes.

Mr. SAXTON. Mr. Speaker, I am introducing a bill today which is known as the Pension Protection Act of 1995. I must say that usually I am pleased to introduce a bill. Today I say that I regret that it is necessary to introduce this bill. But it is, because when American workers get their check at the end of the pay period and they look at the check stub, they look to see, how much has been deducted for their contribution to their pension plan. And those pension plans have become very, very important, because those are essentially savings that the American worker is putting aside for his or her retirement.

The Clinton administration has been up to some mischief, I believe, that is destructive to that process. So the Pension Plan Act of 1995, which is cosponsored by our leadership on the Republican side, and I certainly invite our Democrat friends to join with us as well, is an attempt to protect the American worker from the mischief of the Clinton administration.

It is interesting to note that something over $3.5 trillion are in private pension funds today. This is the magnitude of the risk that has been brought about by the Clinton administration. Why? Because the administration has targeted private pension funds as a new way to finance their liberal social agenda.

Faced with an angry revolt of voters last November against too much Federal spending, President Clinton and his Department of Labor are trying to use private pensions to do what they used to do through old fashioned taxing-and-spending. These social investments include: Public housing, infrastructure, and pork-barrel projects.

The administration has dubbed these social projects "Economically Targeted Investments" or ETI's, but I prefer to call them PTI's or "Politically Targeted Investments."

Let me emphasize that targeting private pension fund investments is a radical and dangerous idea. ETI's violate the clear mandate of the Federal law that Congress passed to protect private pensions—the Employee Retirement Income Security Act or ERISA—which requires that a pension fund manger must give complete and undivided loyalty to the pension beneficiaries.

Let me quote directly from ERISA: A pension fund manager must "discharge his duties with respect to a plan solely in the interest of the participants and beneficiaries and for the exclusive purpose of (I) providing benefits to participants and their beneficiaries; and (II) defraying reasonable expenses of administering the plan."

Besides ETI's obvious conflict with ERISA, the best economic research indicates that pension funds that target social investments produce below market returns.

The Clinton administration's ultimate objective is to establish an ETI quota for every private pension fund.

What Secretary Reich would make permissible today, will become compulsory tomorrow.

Today, I am introducing a bill that will protect the 36 million private pension participants from President Clinton's pension fund grab. My bill, the Pension Protection Act of 1995, will not alter the fiduciary duties laid out in ERISA. Instead, my bill will simply reiterate that the act means what it says, no more, no less.

ERISA could not be clearer. Trustees may not invest in ETI's because by definition ETI's seek to benefit someone other that solely the participants and beneficiaries of the pension plan; and ETI's pursue an objective other than exclusively the interest of the plan's participants and beneficiaries.

The security of our pension funds is no small issue. Every American who plans on retiring someday should be very concerned about that the Clinton administration is up to. I believe that if we act quickly, we can ensure that everyone working today can rest easier if my bill to protect their pensions is passed.

TAKING THE COWBOY HAT OFF THE MILITIA PROBLEM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, I rise at this time to take the cowboy hat off the militia problem that the Speaker tried to put on it this weekend on national television.

For any of you who were watching the Speaker this weekend on national television, he said, "We have to understand there is in rural America, particularly in the West, a genuine fear of the Federal Government." He added that this genuine fear seemed to be driving otherwise average Westerners into the Rocky Mountains to create some kind of a Rocky Mountain guerrilla group or some such thing.

Well, I rise to say that is not true, that that is an extremist position in the West, and that we in the West are not encouraging that type of thing. I also find all of this very interesting, because I would be terribly surprised if the Speaker or any other Member of this body rose to talk about the genuine fear of the Crips and the Bloods or the genuine fear of the Members of the Aryan Nation, or the genuine fear of the Ku Klux Klan, or on and on and on.

We would tell them all to grow up and get a life.

Now, what about these militias and what about the paranoid style of politics that has been practiced by some of these overgrown, overaged, GI Joes that appear to be rather on a lost patrol? Well, first of all, unfortunately, it is not a regional phenomenon. They are not all hunkered into the Rocky Mountains. The militia pup tents have raised their heads all over the country. They are in Georgia, they are in New York, they are in Michigan, they are in Montana, and, yes, unfortunately, they are in my State too. So let us not try and just put a cowboy hat on it. Let us deal with the fact that they are everywhere. Let us not romanticize this. Let us realize that this is not a genuine fear, this is ridiculous, and this is paranoid politics at its absolute worse.

The second part that comes into all of this is an attempt to try and draw some kind of a urban-rural, and therefore Western-Eastern, polarization on this. What I want to point out is the Rocky Mountain States are 71 percent urban. That may come as a surprise to people that Arizona is more urban that Ohio, and Nevada as urban as Pennsylvania. That even a hot topic of banning assault weapons that people often want to say is impossible to do in the West, when you poll, you find people in the Rocky Mountain States poll the same as any other State. So those kind of regional differences do not pan out.

Finally, the paranoid fear of government is an extremist position, and every one of us ought to say that. People who have a fear of government should go to the ballot box and not their bullets. Ballots, not bullets, is the way to approach this government. I am very troubled when I hear people saying that we should accept this, pat people on the head, and not take it on.

I am especially surprised the Speaker has not done more to abuse the notion of this paranoia. I really hope that all of us in this body look at what we might be contributing to this kind of paranoia and ask if we are. As Pogo once said to us, we ought to look in the mirror and meet the enemy and find out if it is us.

I hope all of this regionalistic romanticism and everything else stops, and we start saying there is no reason to be paranoid about a democratic form of government.

Mr. WILLIAMS. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Montana.

Mr. WILLIAMS. As the gentlewoman knows, I represent Montana, all of it, the little bit of urban we have out there and the lot of rural we have. Like the gentlewoman, I, too, was watching television and heard Speaker GINGRICH make his latest in a series of wedge statements, in which he seemed to try to divide the West out as a place that was somewhat paranoid about the Federal Government. I do not know what part of the West our good Speaker was talking about, but he was not talking about Montana.

Montanans are frightened by the militia, not the Federal Government. Montanans are frightened by outlaws, not by those who would enforce the law at local, county, State and Federal levels. My Montanans, as with your constituents in Colorado and our colleagues and constituents throughout the West, recognize full well that the West, for the most part, has been a wonderful partner in having settled and developed the West. The Federal Government plumbed the West. We are, after all, a hydraulic society that insists on making the deserts flourish. It is the Federal Government that set out the Interstate Highway Systems and has done so much to help the economy of the West, and we appreciate the involvement of the Federal Government. We do not fear it.

Mrs. SCHROEDER. Nor do we in Colorado.

SUDDENLY A CRISIS IN MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon [Mr. DEFAZIO] is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, suddenly the Republican leadership has discovered a crisis in the funding of Medicare, and they want to fix it. Well, they are not sure they want to fix it. They want the President to make a proposal to cut Medicare spending over the next decade. They want the Democrats in Congress to make a proposal to cut Medicare spending over the next decade. Maybe they want a bipartisan commission to make proposals to cut Medicare spending over the next decade.

The bottom line is they want someone to come out and get ahead of them and propose cuts in Medicare spending over the next decade, under the guise of saving Medicare from bankruptcy, a new crisis that no one could have anticipated a year ago during the health care debate. A year ago during the health care debate, we heard from Republican leaders on both sides of the Hill that there is no crisis in health care in America, none at all. We need no congressional action regarding health care. That was only 12 months ago.

More recently, we had the much vaunted Contract on America, which laid out the 10 most important issues confronting the United States of America, the 10 must-do pieces of legislation to bring our country into the next century. And you know what? Medicare was not on the list. I guess there was not a crisis in Medicare, or at least they did not know about it, when they were writing the contract.

Then we brought the contract to the floor again. Still, no mention of Medicare. We brought a dire emergency supplemental spending bill to the floor of the House; $2.3 billion additional for the Pentagon, because you cannot ask the Pentagon to do anything without giving them more money. We add a few billions of dollars for the crisis in California, for the earthquakes and the floods and various and assorted sundry other things that Congress always throws in when we do a dire emergency supplemental spending bill, but not a penny for Medicare. I guess 2 months ago there was not a crisis in Medicare.

What has happened since is the Republican leadership in this House pushed through a bill cutting revenues, cutting taxes, by $340 billion over the next 5 years. And guess what? Now they think we need to cut Medicare somewhere in the vicinity of $300 billion. But there is no linkage. There is no linkage between the massive tax cuts which they shoved through this Chamber for the largest, most profitable corporations, for foreign and multinational corporations, for people earning $200,000 a year, under the guise of some scant relief for middle income families and people with children. No, there was no crisis in Medicare then. But now there is.

Suddenly there is a crisis in Medicare that just happens to come close to the amount of money that is proposed in the massive tax cuts. The crisis has come now because they have sat down and tried to write their budget, and they found out you cannot hold the Pentagon harmless and in fact increase their spending, you cannot hold all of that massive part of the Federal budget harmless. You cannot deal with the existing debt and the interest payments, and you cannot cut taxes and balance the budget. It just simply is not there.

So suddenly we have a crisis in Medicare that cries out for immediate action, for immediate cuts totaling 80 percent of the money they need to fund their tax cuts. No, the crisis is not so much in Medicare, and it is not a new crisis. In fact, Medicare, according to the trustees, is in better condition today than it was a year ago. They have put off its potential insolvency for 12 months into the next century.

No, the crisis is in the corporate board rooms. The crisis is in the country club cocktail lounges. The crisis is that the Republicans in their contract promised the most powerful and the most wealthy and the most well off Americans a nice, big, fat, juicy tax cut, and they promised everybody else in America they would balance the budget. And now they want to balance the budget on the backs of the seniors by cutting Medicare to fund their tax cuts.

Congress is going to say no to this outrage, this new abomination worse

than the worst aspects of the first 100 days of this Congress.

RECESS

The SPEAKER pro tempore. There being no further requests for morning business, pursuant to clause 12, rule I, the House will stand in recess until 2 p.m.

Accordingly (at 1 o'clock and 5 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. EWING] at 2 p.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are reminded during these days of the momentous occasion of the ending of conflict in Europe 50 years ago. As our thoughts go out in thanksgiving for the blessings of peace, we remember specially those members of our Armed Forces whose dedication and sacrifice brought new hope to so many people who had known destitution and suffering and death. We laud all those who labored for freedom and recall with praise their commitment and their allegiance to liberty. O gracious God, whose power created the Heavens and the Earth and whose grace is all about, may Your blessing be upon those who gave of themselves that others might live. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. JONES. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. JONES. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, further proceedings on this vote will be postponed and the vote will be taken later today.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio [Mr. CHABOT] come forward and lead the House in the Pledge of Allegiance.

Mr. CHABOT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 53. Concurrent resolution expressing the sense of the Congress regarding a private visit by President Lee Teng-hui of the Republic of China on Taiwan to the United States.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 103. An act entitled the "Lost Creek Land Exchange Act of 1995".

The message also announced that pursuant to sections 1928a–1928d of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints Mr. MURKOWSKI, Mr. BROWN, Mr. GREGG, Mrs. HUTCHISON, Mr. JOHNSTON, Mr. PRYOR, and Mr. AKAKA as members of the Senate delegation to the North Atlantic Assembly Spring Meeting during the First Session of the One Hundred Fourth Congress, to be held in Budapest, Hungary, May 25–29, 1995.

The message also announced that pursuant to sections 276h–276k of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints Mr. BINGAMAN as a member of the Senate delegation to the Mexico-United States Interparliamentary Group during the First Session of the One Hundred Fourth Congress, to be held in Tucson, AZ, May 12–14, 1995.

The message also announced that pursuant to sections 276d–276g of title 22, United States Code, as amended, the Chair on behalf of the Vice President, appoints Mr. GRASSLEY and Mrs. HUTCHISON to the Senate delegation to the Canada-United States Interparliamentary Group during the First Session of the One Hundred Fourth Congress, to be held in Huntsville, ON, Canada, May 18–22, 1995.

The message also announced that pursuant to sections 276d–276g of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints Mrs. MURRAY as vice chairman of the Senate delegation to the Canada-United States Interparliamentary Group during the One Hundred Fourth Congress.

AWOL

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, as President Clinton goes to Moscow, he once again has dodged his responsibility.

This time, he has failed to exhibit any leadership when it comes to saving Medicare.

According to the Medicare Board of Trustees, a group which includes three members of the President's Cabinet, Medicare will go bankrupt by the year 2002.

Republicans are developing a plan which will protect, improve and preserve the Medicare system. We will do this by eliminating fraud and abuse, while slowing the explosive growth in costs.

Instead of joining with us in our reform efforts or offering solutions of his own, the President has gone AWOL. Yes, he is absent without leadership.

Mr. Speaker, the American people want real leadership from their President.

They want us to take steps to save Medicare, not allow its costs to continue to skyrocket to the point of bankruptcy.

I urge the President to live up to his responsibilities and work with Congress to save Medicare.

REFORMING MEDICARE

(Mr. KENNEDY of Rhode Island asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY of Rhode Island. Mr. Speaker, anyone reading the paper or watching the news last week knows that Medicare is on the front line in the battles that lie ahead. Seniors are watching and what they see is troubling. Yes, we do need to reform Medicare—but there is a right way and a wrong way. Last year we had the chance to strengthen Medicare the right way—in the context of health care reform. Now we have to make up for a lost opportunity. And now seniors will bear the burden and pay the price for gridlock. Let us agree that the first rule of reform will be the same as it is in medicine: First, do no harm.

Let us agree to put partisan interests aside and put seniors first.

Let us agree that while good health care requires choice, managed care, when it is just managed profit, is wrong.

That prevention, home care, prescription medicine is quality health care for high quality lives.

Finally, let us pledge that we will not destroy Medicare in our effort to reform Medicare.

REPUBLICANS TACKLE FINANCIAL PROBLEMS, SEEK A BALANCED BUDGET

(Mr. CHABOT asked and was given permission to address the House for 1 minute.)

Mr. CHABOT. Mr. Speaker, over the last 4 months the liberal Democrats in Congress have been feeding the public a steady diet of class warfare rhetoric. Somehow they think that the budget problems we face will magically disappear if the phrase tax cut for the rich is repeated over and over.

This strategy exposes the fact that liberal Democrats have a lack of conviction in solving the Nation's problems. They offer no leadership and they seek to divide America along class lines.

Since the start of the 104th Congress, Republicans have offered a vision of America that can solve its problems and we proved that we can keep our promises.

Republicans here in the House are convinced that we must balance the budget. But balancing the budget is not just about money it is about our children's future. For too long now, the Federal Government has operated in the red. The resulting debt is a threat to America's future generations that must be dealt with.

So while Democrats offer class division and dance around the tough issues, Republicans offer a return to a balanced budget.

REPUBLICANS CONSIDERING CUTTING MEDICARE

(Mr. HILLIARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILLIARD. Mr. Speaker, today the Republicans in Congress are considering proposals which will cut Medicare funding by billions of dollars, causing large reductions in Medicare services which will have a devastating effect on our senior citizens. We cannot allow this to occur. Our seniors are already on fixed incomes, with many of them having a tough time making ends meet from month to month. How can the Republicans in the light of day even contemplate slashing our senior citizens at a time like this, when they deserve more and more health care?

Mr. President and Mr. Speaker, one of the speakers mentioned a minute ago that the President did not participate, that he is AWOL in the Medicare debate. I would like to say that the President is not AWOL, there is no need today to deal with the Medicare crisis. The Medicare crisis is only the political crisis that the Republicans have started this date.

USING COMMON SENSE TO FIX THE BUDGET

(Mr. JONES asked and was given permission to address the House for 1 minute.)

Mr. JONES. Mr. Speaker, if an average American were to pile up huge debts and engage in reckless financial behavior, that person would eventually be held accountable, either by the law or by his creditors.

But here in Washington, somehow, the reverse is true. The Federal Government has become immune to accountability. They have racked-up trillions in debt and yet continue their irresponsible spending. Unfortunately there is a price for all this irresponsibility. That price will be shouldered by average Americans who are not responsible for the failed policies of the past.

If we do nothing to remedy the out-of-control spending here in Washington, our children will suffer a very dim future. It does not take a rocket scientist to figure out that spending more than you earn is not the wisest thing—especially in the long run. And, it does not take a wizard to fix the budget. All it takes is commonsense, determination, honesty, and a realization that we simply cannot continue with the old Washington way of doing things.

REPUBLICAN DOUBLESPEAK ON MEDICARE CUTS

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, I rise today to warn my colleagues to beware of Republican doublespeak on Medicare cuts.

The greatest doublespeak is that Republicans will reform Medicare to give seniors more choices by giving them vouchers to buy private insurance.

What they do not say is that the vouchers will not be worth enough to enable them to buy an insurance policy that gives them the choices they have today.

They do not say that the value of the vouchers will force seniors into the lowest cost and most restrictive HMO's.

They do not say that the value of the voucher is going to be ratcheted down every year to become worth less and less until seniors are saddled with virtually all the costs of their health care.

They do not say that the vouchers will toss seniors to swim alone in the perilous and confusing currents of the private insurance market—the same market that has reduced their children's choices.

Vouchers are not more choice. They spell the end of Medicare coverage that seniors—and their families—rely on.

FIXING MEDICARE

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, it takes guts to do what is right instead of just doing what is popular. President Clinton's own Medicare Board of Trustees, which includes Cabinet Secretaries Donna Shalala, Robert Rubin, and Robert Reich, believe that under current law, Medicare will be bankrupt by the year 2002, or possibly even earlier. These are the President's people telling us. Doing nothing is disaster; doing nothing is a formula for bankruptcy. But what solutions have the Clinton Democrats proposed to correct this problem? None. I hear rhetoric today, but I do not hear solutions.

Mr. Speaker, the Clinton Democrats are showing a willingness to let the system collapse by maintaining the status quo. On the other hand, the Republican majority will rise to the challenge of trying to show some guts and offer some real solutions to preserve, to protect and to improve Medicare. The Republican majority is committed to honor our contract with older Americans. I know I am one, and I represent a lot of others.

Mr. Speaker, it is real simple. The program is going broke, and we are going to fix it because we care about senior citizens. We want them to have good quality, affordable health care options, and we know doing nothing is disaster, so we are going to do something.

HOW NOT TO CUT THE BUDGET

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute.)

Mr. BROWN of Ohio. Mr. Speaker, first there was school lunches. Republicans voted to cut school lunches to pay for tax cuts for American's wealthiest citizens. Then Republicans proposed cuts in student loans to pay for tax cuts for the wealthiest special interests. Now Republicans want to cut Medicare services. They want to increase premiums, and copayments and deductibles.

Mr. Speaker, I am a deficit hawk. I want to balance the budget. But we cannot balance the budget, we should not balance the budget, by cutting taxes for the rich, by building star wars, and increasing military spending, and by cuts in Medicare, in school lunches, and in student loans.

INTRODUCTION OF HOUSE RESOLUTION OPPOSING REPEAL OF GUN CONTROL LAWS

(Mr. SKAGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKAGGS. Mr. Speaker, the Oklahoma City bombing has left Americans looking for ways to prevent other terrorist assaults on innocent victims. One thing Congress can do is refuse to let the gun lobby blow away the landmark gun control laws passed during the 103d Congress.

Today I am introducing a resolution expressing the sense of Congress that the Brady bill, the assault weapons ban, and the juvenile handgun ban should not be repealed. These laws are balanced efforts to control crime that are proving effective in keeping guns out of the wrong hands, while respecting the rights of law-abiding Americans to own firearms. To let these laws be tossed aside as a political favor to a special interest would be a national tragedy.

At the beginning of this Congress, the gun lobby announced its plan to get these laws taken off the books. They have paused in their effort in the wake of the Oklahoma tragedy. But rest assured, it is only a tactical pause, and it will not last long.

Oklahoma City is chilling evidence that a few individuals with extremist views can use weapons of enormous power to kill and maim. Tragically, the toll inflicted each day with handguns and military-style assault weapons is almost as great.

Our commitment to fighting domestic terrorism should start with keeping the Brady bill, the assault weapons ban, and the juvenile handgun ban in effect. I urge my colleagues to support this resolution.

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HAPPY TALK ON MEDICARE

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, don't be fooled by all the Republican happy talk on Medicare.

They're not cutting Medicare in order to fix the system.

The Republicans are cutting Medicare for one reason and one reason only: to pay for their tax cuts for the wealthy.

You see, the Republicans made an amazing discovery.

To pay for their tax cuts, they cannot just cut student loans and child nutrition programs and cops on the beat.

Even though they are cutting each and every one of those things it still leaves them about $300 billion short.

So, now they're targeting Medicare.

And what is this going to mean to the average senior citizen?

It is going to mean higher copayments, higher premiums, less choice of doctors and it is going to cut into Social Security COLA's.

And this isn't just going to affect senior citizens.

Where is the average working family going to come up with the extra money to care for their parents and grandparents?

Mr. Speaker, Medicare is not a cash cow for tax cuts.

It is a sacred trust between the Government and the people.

It is time we keep that promise.

REPUBLICANS AND MEDICARE

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, the Republicans are having a hard time explaining to 35 million Americans who rely on Medicare that their benefits will be cut to pay for a $350 billion tax break for the wealthy.

Now, Republican leaders are attacking the President because he refuses to join them in slashing Medicare to pay for their unjust tax break. Republicans also fail to mention that the President has in fact extended the life of the Medicare fund in legislation that Republicans voted against last year.

The truth is that Republican cuts to Medicare would make the average Medicare recipient cough up $900 more each year out of their own pockets.

In my State of New Mexico alone, 200,000 Americans will be forced to reduce their food budget or their heating costs to pay for this unfair tax cut.

Mr. Speaker, the President is right. We should favor Medicare reform that protects benefits for Americans, but cuts in Medicare should not pay for a tax break for the wealthy. The American people will not be fooled.

MEDICARE AND VETERANS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, as we all celebrate V-E Day and the wonderful generation that saved Europe from Nazi Germany and Fascist Italy, what are we doing to them? Well, the Republicans are trying to take their Medicare and slash it away. What a way to salute them. This is the generation that saved the world. This is the generation that paid for the Marshall plan to rebuild the world, and now we are telling them they have also got to pay for the deficit so that the fat cats can have more tax cuts.

That is not fair. That is not the America they fought for. I hope that all this Medicare scare goes away.

MORE ON MEDICARE

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, Medicare should not become a political football because millions of our seniors in America depend so heavily on it for their health care.

In today's edition of the Houston Chronicle that I picked up before I left home this morning, it talks about the Republicans laying plans to slash billions from the budget. The Republican majority should come up with a plan to reform the Medicare system but not cut $250 billion, $300 billion, $400 billion out of it.

I spoke and met with many seniors yesterday in my district, and they want the fraud and abuse out of Medicare. But they do not want less health care than they have today.

The Medicare system was made solvent for 3 more years in 1993 without one Republican vote. Now the Republican majority is planning to cut it in the name of reform. The savings should be used to increase the benefits for seniors and increase the reimbursement rates and not just to pay for tax cuts. I cannot support billions in Medicare cuts when they would not help the system become more solvent in 7 years.

Medicare should be reformed but not to save $380 billion and help pay for tax cuts for the rich U.S. citizens.

SLASHING MEDICARE

(Mr. WARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WARD. Mr. Speaker, I rise today in opposition to the Republican proposal to slash Medicare spending over the next 5 years. I am reminded of the riddle, the riddle is, what is the difference between the Contract With America and a contract with the devil? The riddle is, what is the difference between the Contract With America and the contract with the devil?

The devil's contract still provides for our seniors and our children.

The fact that such cuts will devastate our hospitals across the country forcing many rural hospitals who rely on Medicare benefits to close sums up the problem.

This is not the way to provide the money that is needed to make the tax cuts that have been promised in this contract.

REPUBLICANS WANT TO REFORM MEDICARE

(Mr. BOEHNER asked and was given permission to address the House for 1 minute.)

Mr. BOEHNER. Mr. Speaker, here we go, once again, down the path of spreading fear, fear that we are going to slash this and slash that.

The American people know instinctively that a government cannot continue to spend money that it does not

have. Only one time in the last 50 years has Congress actually balanced the budget.

We, as Republicans, believe that balancing the budget is our contract with our children, because we cannot continue to spend money that we do not have, giving our children and theirs the bill.

When it comes to Medicare, we are going to protect, preserve, and improve Medicare. We are going to spend hundreds of billions of dollars more over the next 7 years as we balance the budget. Medicare spending is going to increase from $4,700 per enrollee to $6,400 at the end of 7 years.

So when you hear people talking about cutting Medicare, they are wrong. We are going to increase spending for Medicare and protect this program that is so vital to our seniors.

THE HEALTH CARE DEBATE

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, nobody was home on the other side of the aisle last year when the President pressed health care reform as the only way to contain runaway costs. Suddenly Republicans have discovered the cost side of his equation, but it will not balance without health care reform.

Tax cuts for the rich just passed by the House make this a mass problem with no possible solution. In the Senate some Republicans are trying to dodge the bullet by disowning the tax cuts, while other Republicans over there would rather die than give them up.

This is no way to celebrate May, which is Older Americans Month. Their equation is already out of balance with 20 percent of their income going for out-of-pocket health care expenses.

The only way to relieve them and cut costs at the same time is to mop up all the inefficiency in health care with across-the-board reform.

Medicare is not out of control. The health care system is. Tax cuts for the rich make a bad situation worse.

MORE ON REPUBLICANS AND MEDICARE

(Mr. WISE asked and was given permission to address the House for 1 minute.)

Mr. WISE. Mr. Speaker, I could not let the last Republican speaker pass unchallenged who says we are really going to increase Medicare. Well, I guess it is sort of like Medicare, you are going to get the same level of services, but we are going to cut you back a significant percent.

If it is going to then be increased, why is it so many senior citizens understand that they are going to lose on the average $900 a year? The real concern I have is, why is this being done?

Is it being done to help Medicare? It is not being done to help Medicare. It is being done to pay for the tax cut. That is right, the tax cut for the wealthiest individuals in this country where 51 percent of the benefits of that tax cut go to those earning over $100,000. The only problem is, if you are going to balance the budget, you have to make up for the over $300 billion of lost revenue that is going to come because of that tax cut.

Where does it come from? Out of the hide of Medicare, out of the hide of senior citizens and out of the hide of health care.

DON'T MAKE SENIORS PAY FOR TAX CUTS FOR THE RICH

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, I rise today to say to my colleagues on the other side of the aisle: Do not cut Medicare to pay for tax cuts for the rich.

Under some Republican plans, seniors—37 million seniors—will pay an additional $900 each year for health care. These cuts will be used to pay for tax cuts for the rich. For people who earn more than $230,000.

That is not right. That is not fair.

Medicare is the lifeline for many of our seniors.

It is time to be frank and honest with the American people. Tell them what you are doing and why. Lay all your cards on the table, face up.

Do not take health care from our senior citizens to pay for tax cuts for the rich. That is not Medicare reform. And our senior citizens will not be fooled.

CUTTING MEDICARE NO WAY TO HONOR WORLD WAR II VETERANS

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, as we celebrate the 50th anniversary of the end of World War II, we honor the brave American soldiers who put their lives on the line to secure our freedom.

But, we owe World War II veterans more than parades down Main Street, medal ceremonies, and memorials. We owe them the security of a decent and dignified retirement. Medicare is central to that promise. By cutting Medicare for seniors, Republicans break that promise.

Under the Republican budget proposal, 37 million seniors will lose $900 a year, while 1.1 million wealthy Americans get a $20,000 windfall. A side-by-side comparison reveals the painful tradeoff: $305 billion in Medicare cuts will pay for a $345 billion tax cut for the wealthy.

This budget debate is all about priorities. All of us agree that we need to cut spending, but the question is where do you start. The wrong place to start is by cutting health care for seniors. If we truly want to honor the men and women who secured our future 50 years ago, let us secure their futures today, let's protect Medicare.

BANKRUPTCY IN AMERICA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, while everybody is celebrating V–E Day, victory in Europe, I would like to talk about B–A Day, Bankruptcy in America Day. Think about it. For 50 years America has given trillions, trillions of dollars to Europe and Japan. And in return Japan keeps ripping us off with illegal trade. And as we speak, Russia is now concluding a deal to build nuclear reactors in Iran.

Beam me up. With friends like this, my colleagues, why does America have to worry about any enemies? I say let us stop this cash giveaway to Europe and Japan, start investing that money in America. Then we would not have to tinker with Medicare.

Wake up, Congress. Our policies are so misdirected, if you threw at the ground they would probably miss.

TRADE WITH JAPAN

(Mr. LEVIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN. Mr. Speaker, in this box is a part. It is a universal joint. I bought it on Main Street America yesterday, Main Street, Royal Oak, MI. It costs $11.47. In Japan, this part would cost over $100.

What does it mean, this differential? It means fewer jobs here in the United States because our products are locked out in Japan. It means fewer jobs and smaller profits for our industry which could be invested.

It also means the Japanese consumers are overcharged, and it also means that Japanese companies use profits from their sheltered markets to gain market share here to invest in the rest of Asia and elsewhere with an unfair advantage.

It is long overdue that Japan open up their automotive sector to parts and to cars. Talk has not worked. Action is necessary. We support the administration's efforts.

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REPUBLICANS WILL SAVE, PROTECT, PRESERVE, AND IMPROVE THE MEDICARE SYSTEM

(Mr. TATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TATE. Mr. Speaker, it is an exciting day in America, because the Republicans on the House side are making real change, just as we promised, with the Contract With America.

Now we are going to take on the balancing of our national budget. Let me tell the Members, Mr. Speaker, a child born today, if we do nothing, will be saddled with $187,150 in their lifetime just in taxes, just to pay the service on our national debt. That is unacceptable. The Republicans are willing to take that on. We are also willing to save our Medicare system.

If we do nothing, if we just sit back on our hands, like some are saying we should do, it is going to go bankrupt. Republicans are committed to save it, to protect it, to preserve it, to improve it. We are not going to bury our heads in the sand, Mr. Speaker. We are going to take on the issues that are important to working people, saving our future and saving our children's future.

REPUBLICANS TRY TO REFORM A HUGE MAGICAL ILLUSION IN ATTEMPTING TO CUT MEDICARE

(Mr. DOGGETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOGGETT. Mr. Speaker, when it comes to attempts to cut Medicare for our Nation's seniors, our Republican colleagues are trying to perform one huge magical illusion. I like magic tricks just about as much as the next person, but I prefer to see them in the circus, not here on the floor of Congress.

Let us take a look at what is up the sleeves of the Gingrichites. They want to cut Medicare to 37 million seniors by about $900 each year. This painful cut is for the very men and women who we have been celebrating on this 50th anniversary of our victory in Europe, people that we here applauded, who fought for this country abroad, or who worked for it here at home.

Yet, at this very time we find in the Committee on the Budget scheduled for tomorrow here in the House the Gingrichites' proposal to cut the Medicare benefits that are so critical to these senior citizens.

I would say that David Copperfield should beware, because with the kind of magic being performed here and the kind of illusion here, this is an act that is ready for the Las Vegas strip.

PERMISSION FOR CERTAIN COMMITTEES TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. SAXTON. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee on the Whole House under the 5-minute rule:

The Committee on Agriculture; the Committee on Banking and Financial Services; the Committee on Economic and Educational Opportunities; the Committee on Government Reform and Oversight; the Committee on House Oversight; the Committee on International Relations; the Committee on the Judiciary; the Committee on Resources; and the Select Committee on Intelligence.

Mr. Speaker, it is my understanding that the minority has been consulted, and that there is no objection to these requests.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. WISE. Mr. Speaker, reserving the right to object, the gentleman is correct. The Democrat side has been consulted, and we have no objections.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. EWING). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 8, 1995.

Hon. NEWT GINGRICH,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Wednesday, May 3, 1995 at 7:05 p.m. and said to contain a message from the President whereby he transmits proposed legislation entitled "Antiterrorism Amendments Act of 1995."

With great respect, I am

Sincerely yours,

ROBIN H. CARLE,
Clerk.

THE ANTITERRORISM AMENDMENTS ACT OF 1995—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–71)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on the Judiciary, the Committee on Banking and Financial Services, and the Committee on Commerce, and ordered to be printed:

To the Congress of the United States:

Today I am transmitting for your immediate consideration and enactment the "Antiterrorism Amendments Act of 1995." This comprehensive Act, together with the "Omnibus Counterterrorism Act of 1995," which I transmitted to the Congress on February 9, 1995, are critically important components of my Administration's effort to combat domestic and international terrorism.

The tragic bombing of the Murrah Federal Building in Oklahoma City on April 19th stands as a challenge to all Americans to preserve a safe society. In the wake of this cowardly attack on innocent men, women, and children, following other terrorist incidents at home and abroad over the past several years, we must ensure that law enforcement authorities have the legal tools and resources they need to fight terrorism. The Antiterrorism Amendments Act of 1995 will help us to prevent terrorism through vigorous and effective investigation and prosecution. Major provisions of this Act would:

—Permit law enforcement agencies to gain access to financial and credit reports in antiterrorism cases, as is currently permitted with bank records. This would allow such agencies to track the source and use of funds by suspected terrorists.

—Apply the same legal standard in national security cases that is currently used in other criminal cases for obtaining permission to track telephone traffic with "pen registers" and "trap and trace" devices.

—Enable law enforcement agencies to utilize the national security letter process to obtain records critical to terrorism investigations from hotels, motels, common carriers, storage facilities, and vehicle rental facilities.

—Expand the authority of law enforcement agencies to conduct electronic surveillance, within constitutional safeguards. Examples of this increased authority include additions to the list of felonies that can be used as the basis for a surveillance order, and enhancement of law enforcement's ability to keep pace with telecommunications technology by obtaining multiple point wiretaps where it is impractical to specify the number of the phone to be tapped (such as the use of a series of cellular phones).

—Require the Department of the Treasury's Bureau of Alcohol, Tobacco, and Firearms to study the inclusion of taggants (microscopic particles) in standard explosive device raw materials to permit tracing the source of those materials after an explosion; whether common chemicals used to manufacture explosives can be rendered inert; and whether controls can be imposed on certain basic chemicals used to manufacture other explosives.

—Require the inclusion of taggants in standard explosive device raw materials after the publication of implementing regulations by the Secretary of the Treasury.

—Enable law enforcement agencies to call on the special expertise of the Department of Defense in addressing offenses involving chemical and biological weapons.

—Make mandatory at least a 10-year penalty for transferring firearms or explosives with knowledge that they will be used to commit a crime of violence and criminalize the possession of stolen explosives.

—Impose enhanced penalties for terrorist attacks against current and former Federal employees, and their families, when the crime is committed because of the employee's official duties.

—Provide a source of funds for the digital telephony bill, which I signed into law last year, ensuring court-authorized law enforcement access to electronic surveillance of digitized communications.

These proposals are described in more detail in the enclosed section-by-section analysis.

The Administration is prepared to work immediately with the Congress to enact antiterrorism legislation. My legislation will provide an effective and comprehensive response to the threat of terrorism, while also protecting our precious civil liberties. I urge the prompt and favorable consideration of the Administration's legislative proposals by the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 3, 1995.*

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on the motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall vote, if postponed, will be taken at the end of legislative business today.

STRIPED BASS CONSERVATION ACT AMENDMENTS OF 1995

Mr. SAXTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1139) to amend the Atlantic Striped Bass Conservation Act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1139

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 "Striped Bass Conservation Act Amendments of 1995".

SEC. 2. REAUTHORIZATION.

Section 7(a) of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended by striking "For each of fiscal years 1986," and all that follows through "1994," and inserting "For each of fiscal years 1995 and 1996,".

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.

(a) COMMISSION MONITORING OF IMPLEMENTATION OF INTERSTATE PLAN.—Section 4(a)(1) of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended in the material preceding subparagraph (A) by striking "of fiscal year 1987, and of each fiscal year thereafter," and inserting "of each fiscal year,".

(b) REPEAL OF INOPERATIVE PROVISIONS.—Sections 8 and 10 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) are repealed.

SEC. 4. PUBLIC PARTICIPATION IN PREPARATION OF PLANS AND AMENDMENTS TO PLANS FOR ATLANTIC STRIPED BASS.

(a) IN GENERAL.—The Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note), as amended by section 3(b) of this Act, is further amended by adding after section 7 the following new section:

"SEC. 8. PUBLIC PARTICIPATION IN PREPARATION OF PLANS AND AMENDMENTS TO PLANS FOR ATLANTIC STRIPED BASS.

"The Commission shall establish standards and procedures to ensure that the Commission provides an adequate opportunity for public participation in the preparation of any plan for the management of Atlantic Striped Bass and any amendment to such a plan (including any amendment to the Interstate Fisheries Management Plan for Striped Bass, dated October 1, 1981), including public hearings and procedures for the submission of written comments to the Commission.".

(b) DEADLINE.—Within 6 months after the date of the enactment of this Act, the Atlantic States Marine Fisheries Commission shall issue standards and procedures under section 8 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note), as amended by subsection (a), of this section.

SEC. 5. TRANSFER OF EXISTING PROVISION TO ATLANTIC STRIPED BASS CONSERVATION ACT.

So much of section 6 of the Act entitled "An Act to authorize appropriations to carry out the Atlantic Striped Bass Conservation Act for fiscal years 1989 through 1991, and for other purposes" (approved November 3, 1988; Public Law 100-589; 102 Stat. 2986) as precedes subsection (g) of that section—

(1) is transferred from that Act to the Atlantic Striped Bass Conservation Act (16 U.S.C. 185 note);

(2) shall appear immediately after section 8 of the Atlantic Striped Bass Conservation Act, as amended by section 4 of this Act; and

(3) is redesignated as section 9 of the Atlantic Striped Bass Conservation Act.

SEC. 6. AMENDMENT AND EXTENSION OF AUTHORIZATION FOR ANADROMOUS FISH CONSERVATION ACT.

(a) SCOPE OF STUDIES.—Section 7(a) of the Anadromous Fish Conservation Act (16 U.S.C. 757g(a)) is amended by striking "and" after the semicolon 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) the effects of water quality and other habitat changes on the recruitment, spawning potential, mortality rates, and population abundance of the Delaware River striped bass population.".

(b) EXTENSION OF AUTHORIZATION.—Section 7(d) of the Anadromous Fish Conservation Act (16 U.S.C. 757g(d)) is amended by striking "each of the fiscal years 1991, 1992, 1993, and 1994" and inserting "each of the fiscal years 1995, 1996, 1997, and 1998".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. SAXTON] will be recognized for 20 minutes, and the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we are considering H.R. 1139, the Striped Bass Conservation Act Amendments of 1995.

Mr. Speaker, before I proceed to explain the bill, I would like to make note that this bill is a product of a high degree of bipartisan work and a high degree of bipartisan support.

While H.R. 1139 carries my name as the primary sponsor this year, in past years very similar legislation carried the names of others, including, as prime sponsor, the gentleman from Massachusetts [Mr. STUDDS]. And, as a member of the minority, I was pleased to have had a great deal of input from the then chairman of the Committee on Fish and Wildlife, so to the extent that I can extend to past Congresses and to the gentleman from Massachusetts [Mr. STUDDS], congratulations for bringing us to this point, it is my pleasure to explain the bill.

Mr. Speaker, as the result of a significant population decline that began in the 1970's, the Atlantic States Marine Fisheries Commission developed an interstate fishery management plan for striped bass. Congress also responded to the decline of striped bass populations by authorizing the Emergency Striped Bass Study in 1979.

In 1984, Congress enacted the Atlantic Striped Bass Conservation Act. The act was originally introduced by my good friend, GERRY STUDDS, the ranking minority member of the Fisheries, Wildlife and Oceans Subcommittee. This act requires a Federal moratorium on striped bass fishing in States that do not implement management measures consistent with the Commission's striped bass plan. Implementation of this plan has led to a resurgence

in Atlantic Coast striped bass which are now considered fully recovered.

Mr. Speaker, I think this is one of the times when we can collectively say that this House did something right which culminated in the fully desired result.

H.R. 1139 extends the authorization for the Striped Bass Conservation Act through fiscal year 1996, and extends the striped bass study through fiscal year 1998.

I urge my colleagues to support the continuation of this vital and highly successful conservation effort by voting "aye" on this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from New Jersey [Mr. SAXTON] for his graciousness. This is, indeed, an utterly nonpartisan success. It is bipartisan. In fact, I never expected it to be completely bipartisan in my life. It has always had majority and minority support, and I never expected it to be on both sides, but here we are.

Mr. Speaker, let me just say a word and supplement what the gentleman says. This is really a success story, a decade after the passage of the original act, an inspiration to fishermen and to managers that conservation can, in fact, work.

Ten years ago striped bass stocks along the Atlantic coast had declined to dangerously low levels as a result both of overfishing and pollution. Fishermen and managers alike were concerned that this fishery would soon become endangered. In an unprecedented move, Congress passed the Striped Bass Conservation Act, designed to support State efforts to reverse this trend. The management program established under the act was at the time of its inception in 1984 unique.

It relies upon the States to develop regulations for their waters that are consistent with the Atlantic States Marine Fisheries Commission's management plan for striped bass. If a State fails in its efforts, a Federal moratorium is imposed.

This partnership was so successful that in January of this year, the commission declared the striper to be fully recovered. The implementation of the Federal-State partnership embodied in the act has restored the striper to its former glory as one of the most important sport and commercial fisheries on the East Coast. Fishermen in my State from Martha's Vineyard to Mattapoisett are celebrating the return of the striper, but are mindful of the need to continue the conservation and management programs that have brought this fishery back from the crash of the preceding decade. This bill will ensure this is the case, and I enthusiastically urge Members to support it today.

Mr. Speaker, I yield 2 minutes to another gentleman from New Jersey, Mr. PALLONE.

Mr. PALLONE. Mr. Speaker, I just wanted to thank the two gentlemen, my colleague, the gentleman from New Jersey [Mr. SAXTON], and my colleague, the gentleman from Massachusetts [Mr. STUDDS], for putting together this legislation. In particular, both of them have been supportive of language which was placed in the bill that would ensure public participation on all striped bass management plans.

Many people who are involved with striped bass management know that there is a large and vociferous group of recreational fishermen out there who become very concerned about any changes that are made in the management plan. One of the things that they continually tell us is that they want to be involved at every stage in whatever management plan changes are put forward.

This bill and the language that is in the bill guarantee that public participation will do what is necessary to make sure that they have their opportunity to be heard.

I certainly want to thank the gentleman from New Jersey [Mr. SAXTON] and the gentleman from Massachusetts [Mr. STUDDS] for their cooperation in putting that language in the bill.

Mr. YOUNG of Alaska. Mr. Speaker, I am pleased to rise in support of the Striped Bass Conservation Act amendments and I compliment the author of the bill, JIM SAXTON, for his leadership in moving this important measure.

The Atlantic coast stock of striped bass are found in waters from North Carolina to Maine. They are highly migratory but move primarily along the coast within the 3-mile zone, which is subject to State fishery management.

While striped bass populations have fluctuated dramatically in the past, the population suffered a drastic decline in the 1970s. In fact, striped bass harvests dropped from 15 million pounds in 1973 to 3.5 million pounds in 1983.

In response to this serious problem, Congress approved an emergency striped bass study and the Atlantic Striped Bass conservation Act of 1984. This law requires all affected coastal States to implement management measures to conserve and protect the remaining stocks of Atlantic striped bass.

While the resurgence of striped bass is a major fishery management success, H.R. 1139 will ensure that this remarkable recovery is not compromised in the days ahead.

As reported from my committee, this legislation will reauthorize both the Striped Bass Conservation Act and section 7 of the Anadromous Fish Conservation Act, which funds ongoing striped bass population studies. In addition, the bill focuses attention on stripers in the Delaware River and encourages greater public participation in the writing of management plans.

Mr. Speaker, I urge an "aye" vote on H.R. 1139 and again compliment JIM SAXTON and GERRY STUDDS for their outstanding leadership in this major conservation effort. I would hope more of our fishery management efforts prove to be this successful in the future.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SAXTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. SAXTON], that the House suspend the rules and pass the bill, H.R. 1139, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAXTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the bill just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 1361, COAST GUARD AUTHORIZATION ACT FOR FISCAL YEAR 1996

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 139 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 139

Resolved, That at any time after the adoption of this resolution the speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1361) to authorize appropriations for fiscal year 1996 for the Coast Guard, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with section 302(f), section 308(a), or section 401(b) of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Transportation and Infrastructure now printed in the bill. The committee amendment in the nature of a substitute shall be considered by title rather than by section. The first two sections and each title of the committee amendment in the nature of a substitute shall be considered as read. Points of order against the committee amendment in the nature of a substitute

for failure to comply with clause 5(a) of rule XXI or section 302(f) or section 401(b) of the Congressional Budget Act of 1974 are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Florida [Mr. GOSS] is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, I yield the customary 30 minutes to the distinguished gentleman from Texas [Mr. FROST], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, I am very pleased to present this wide open rule for the fiscal year 1996 authorization of our smallest—but hugely important—national armed services, the Coast Guard. I am delighted that our Rules Committee, by unanimous voice vote, agreed to bring this important bill to the House floor under an open rule, allowing all Members the chance to offer amendments under the standing rules of this House. I wish to commend Chairman SHUSTER, Chairman COBLE, and ranking members MINETA and TRAFICANT of the Transportation and Infrastructure Committee for their efforts in bringing us H.R. 1361.

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Mr. Speaker, as Members know, this year marks the first time the Coast Guard authorization has been moved through the Transportation Committee and, by all accounts, the transition has gone smoothly. This rule provides for 1 hour of general debate, to be equally divided between the chairman and ranking member of the Transportation and Infrastructure Committee. It makes in order the committee's amendment in the nature of a substitute as the original bill for the purpose of amendment and provides that the substitute shall be considered as read by title. Members should be aware that this rule does provide four specific waivers, including three technical budget act waivers related to section 205 of the bill, and a waiver of the rule that prohibits appropriations within legislative bills, related to section 201 of the bill. This waiver should not cause Members any heartache, since it is necessary to allow the shifting of funds from pre-existing accounts in order to pay for damages to homes of Coast Guard personnel caused by hurricane Andrew. I think that is eminently fair and makes great good common sense and I do not think it is particularly precedent-setting, Let us hope not.

The budget act waivers are necessary because of a provision in the bill that allows Coast Guard officers who were twice passed over for promotion, and have 18 years of service, to continue in active duty until they have served 20 years and are eligible for retirement.

Technically this provides new entitlement authority, although subcommittee Chairman COBLE assured the Rules Committee that this is not in any way a budget buster. In fact, the total cost of this provision has been estimated to at less than $500,000 a year.

Mr. Speaker, I commend Rules Chairman SOLOMON and the committee of jurisdiction for ensuring that Members have a detailed explanation of the waivers needed for this bill. I think it is most important that all committees take seriously the standing rules of the House and come to the Rules Committee well prepared to discuss any specific rules violations in their bills—whether technical or substantive. This to me is great progress in the 104th Congress. I think it makes pretty clear what the issues are and what is being protected and what is not and what the justifications may be.

Finally, this rule provides the minority with its traditional right to a motion to recommit with or without instructions.

Mr. Speaker, the U.S. Coast Guard may be small in size but it is mighty in missions. It is something of a jack of all trades—its responsibilities cover a broad expanse of activity, from drug interdiction and border control to search and rescue. At any given time the Coast Guard might be called upon to support military deployments—as in the Persian Gulf—or respond to disasters—as in the midwestern floods of 1993. Especially in coastal areas—but also across this land—Americans depend on the reliability and efficiency of the Coast Guard. Because of its reputation for excellence and its unfailing willingness to tackle new missions, the Coast Guard has repeatedly been asked to shoulder more duties. In response to the Haiti crisis in the past 2 years, the Coast Guard was asked to become a floating picket line to deter desperate Haitians from taking to the seas in unsafe boats. Coast Guard personnel became directly involved in rescue operations and the very difficult process of repatriation in that Haitian affair as we know. While the exodus from Haiti has ebbed momentarily, just last week, the administration announced a change in its policy toward Cuban refugees that once again places the Coast Guard on the front lines of enforcement upon the high seas, to turn back Cuban rafters and enforce a more orderly process of immigration. That is no small order for them to undertake that. But despite its ever expanding list of missions, the Coast Guard has not been given corresponding resources to ensure that its traditional responsibilities do not suffer. In the last Congress, this House adopted language reaffirming our commitment to providing additional resources to the Coast Guard if new missions are added to its plate. That is just common sense. If we ask them to do more, we are going to give them the money to pay for it.

Today, I am pleased that the committee has agreed to include that language in its amendment, so we will have that again this year. On a more parochial note, Mr. Speaker, under this open rule all of our colleagues will have the opportunity to assist our local communities and private citizens who are involved in seeking to navigate the confusing bureaucracy of the Jones Act. In my district, we have one city and four private citizens who find themselves wound up in redtape as they seek to use vessels for legitimate municipal or commercial purposes. H.R. 1361 already includes a provision that covers one of the southwest Florida victims of the Jones Act redtape in my case, and I am pleased that the committee amendment will include waivers to address the other three cases I know about, and perhaps the bulk of my colleagues' concerns as well will be included in that amendment. If not, if there is still more to be done in this area, this open rule allows Members the chance to bring their amendments forward. I hope all Members will support this open rule, and this legislation.

Mr. Speaker, I include the following for the RECORD:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of May 5, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open [2]	46	44	23	74
Modified Closed [3]	49	47	8	26
Closed [4]	9	9	0	0

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS—Continued

[As of May 5, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Totals:	104	100	31	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of May 5, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/10/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/2/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/1/95)
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95)
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 105 (3/6/95)	MO			
H. Res. 108 (3/6/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95)
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95)
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps.	A: 242–190 (3/15/95)
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95)
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/16/95)
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95)
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95)
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95)
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95)
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95)
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. GOSS. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend my Republican colleagues for the rule they are recommending today. So far this year, the rules they have recommended have been 70 percent closed. This is in spite of their promises to open the process in the House.

However, since the rule before us today is an open rule, I must commend the Republican majority.

As my colleague described, this rule provides for the consideration of a relatively noncontroversial Coast Guard authorization.

It authorizes $3.7 billion for the Coast Guard—exactly the amount requested by the administration and only slightly more than last year's authorization.

The 37,000 members of the Coast Guard provide this Nation with invaluable maritime service for everything from search and rescue to drug interdiction and this $3.7 billion will support their good work.

I would like to commend Chairman SHUSTER and ranking member MINETA for putting together a truly bipartisan bill which should pass the House with little opposition.

I urge my colleagues to support this rare open rule.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, it gives me great pleasure to yield 4 minutes to my colleague, the distinguished gentlewoman from Florida [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. Mr. Speaker, I rise today to denounce the Clinton administration's decision to use this great American institution, the U.S. Coast Guard, to serve the purposes of a tyrant.

We in south Florida are very knowledgeable about the Coast Guard because of the wonderful work they perform during periods of natural disasters such as during Hurricane Andrew where they played a crucial role in the rescue operations.

Those of us who are residents of south Florida also know the Coast Guard as a humanitarian institution because, for years, the Coast Guard has rescued freedom-seeking Cubans from the waters of the Florida Straits while on their journey to freedom.

This humanitarian aspect of the Coast Guard, for which all of America should be proud, was surprisingly reversed last week when the Clinton administration announced the United Stated will now repatriate freedom-seeking Cubans back to the island prison they risked their lives to escape.

The President has now made the Coast Guard an extension of the Cuban authorities, in order to keep the Cuban people under the Castro repression.

Just this afternoon, the first victims of the President's latest flipflop were turned over to the bloody henchmen of Castro.

Mr. Speaker, this change of policy is an embarrassment to the longstanding record of the United States as the beacon of hope and freedom for the oppressed of the world.

With one swift and misguided decision, the Clinton administration has successfully allied itself with the bloodiest tyrant the Americas has ever known, and has crushed the aspirations of freedom for millions of Cubans.

The administration has once again proven that it does not comprehend how to deal with Cuba.

Instead of attacking the root of the problem, Fidel Castro, the President continues to treat Cuba as an immigration problem, not as legitimate foreign policy matter.

Most disturbing is that the President is using the Coast Guard to help maintain Cubans under the oppressive hand of Castro.

This accord, Mr. Speaker, was reached in secret negotiations led by Assistant Secretary of State, Peter Tarnoff.

Not even the head of the Cuban Affairs desk of the U.S. Department of State knew about these dealings, nor the Assistant Secretary for Interamerican Affairs at State.

Moreover, Congress was never consulted on the matter and the administration has been stalling on details about the talks.

Many questions still remain unanswered such as what concessions were given to Castro, and whether it is just a simple coincidence that, just few days before the new policy announcement, the administration publicly declared its opposition to the Helms-Burton bill.

The administration must come forth with answers to these and other questions which are critical to untangling the purpose of this new policy.

Mr. Speaker, the Coast Guard has been an exemplary institution of this country for decades.

We should not allow the administration to use it as a tool to aid a totalitarian tyrant.

I urge my colleagues to raise their voices against this distortion of the Coast Guard's mission.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I rise in support of this rule, and I rise in support of this bill and in support of the new chairman of this subcommittee, the gentleman from North Carolina [Mr. COBLE]. I do not believe there is anybody better prepared in the Congress to head the mission of this Congress in deliberating these matters, save for maybe the gentleman from Massachusetts [Mr. STUDDS], his vast knowledge of working with the committee over the years.

However, I have one concern with the bill. I am going to vote for this bill regardless if the amendment I propose passes or not, but the Coast Guard, Congress, has been known for safety. There is a provision in this bill that allows for the closing of 23 small boat stations.

The bill gives an opportunity for the Coast Guard to work out all kinds of safety parameters here, to ensure that there will be adequate safety, et cetera, et cetera, but the truth of the matter is, "Scarlett, quite frankly, I don't buy it."

We have had testimony offered to us that the last time some of these small boat stations were closed, there was an accompanying loss of life. The Coast Guard has one mission. That is safety.

What the Traficant amendment is dealing with financially, Congress, is $3 million; $3 million could be taken out of transportation, taken out of some expense account. Under the Traficant amendment, it says they could transfer everything out of these small boat stations but they must leave one pair of eyes of a Coast Guard full-time official, one pair of hands, one pair of eyes.

Let me caution Congress: With all of these beautiful ideas of these weekend warriors, be careful, Congress. There are an awful lot of other good amendments, after the Traficant amendment is considered, that will put some extenuating circumstances and criteria that speak to safety.

The truth of the matter is there is only one amendment today that will stop these closings. Every one of those other amendments will get a quick-over, fancy report and they will close those small boat stations.

The Traficant amendment says those small boat stations will not be closed. They could transfer everything they want out of there, but they must leave one full-time personnel to coordinate those local efforts.

Congress, that is good sense. We are here to set policy. We have given the executive branch so much authority in so many areas, we are now not even getting votes on major issues, including bailouts of Mexico.

I am recommending to the Congress that the policy of the Congress be the Coast Guard is an excellent, excellent American service. Its No. 1 mission is safety. We will retain it and keep its mission as safety. When you get a chance, consider that in any regard.

I will support this bill under any circumstances. It is a good bill. I commend the chairman, the gentleman from North Carolina [Mr. COBLE] for his outstanding effort.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I also wanted to commend the Committee on Rules, as well as the chairman of the Subcommittee on Coast Guard and Maritime Transportation, for supporting an open rule on this Coast Guard authorization bill.

I did want to say, though, that I totally, 100 percent agree with the gentleman from Ohio [Mr. TRAFICANT], the ranking member, that his amendment, the Traficant amendment, if you will, is the only amendment that will assure that the 23 small boat unit stations are not closed.

I remember because when I was first elected to Congress back in 1988, they had recently, the Coast Guard had recently proposed closing a number of stations, Coast Guard stations around the country, including the one that I represent at the Shark River Inlet. The effects of those closures at the time were widespread.

I think many Members know that over the years, the Coast Guard committee and this Congress have added more and more responsibilities to the Coast Guard, whether it be to enforce against drug trafficking, to enforce our environmental laws, to enforce our fishing laws. More and more work every year goes to the Coast Guard, and at the same time we have been providing some additional funds for the Coast Guard.

□ 1500

But to suggest, as this small boat unit closure plan does, that all of a sudden now there are this minute 23 stations around the country that are no longer needed at a time when the amount of incidents, search and rescue incidents as well as all of the other jurisdiction the Coast Guard now has, and that traffic increases every year, to suggest this is the time to make these kinds of closures I think makes no sense.

In addition, although I understand there are amendments out there and the rule provides for an open rule where all of these amendments can be heard, all of the other amendments, as the gentleman from Ohio [Mr. TRAFICANT] said, will basically allow the Coast Guard to close these 23 stations and others and look for some sort of alternative, either the State or locality or auxiliary, to step in and perform those functions also, let me assure my colleagues in the State of New Jersey it is not possible through our State of New Jersey through our marine police or Coast Guard auxiliary or local fire departments or whatever to step in and take over the responsibilities that the Coast Guard has at these various stations. That is why it is very important we pass the Traficant amendment today.

I appreciate the fact we have an open rule, and I also appreciate the fact that the chairman, Mr. COBLE, has tried very hard to do what he can to cooperate with those of us who are concerned about these closures. But I sincerely believe the only way we can make sure that the closures do not occur is by passing the Traficant amendment.

Mr. FROST. Mr. Speaker, I have no other Members in the Chamber requesting time at this point, and I yield back the balance of my time.

Mr. GOSS. Mr. Speaker, we have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 961, CLEAN WATER AMENDMENTS OF 1995

Mr. GOSS, from the Committee on Rules, submitted a privileged report

(Rept. No. 104–114) on the resolution (H. Res. 140) providing for consideration of the bill (H.R. 961) to amend the Federal Water Pollution Control Act, which was referred to the House Calendar and ordered to be printed.

AUTHORIZING 1995 SPECIAL OLYMPICS TORCH RELAY TO BE RUN THROUGH CAPITAL GROUNDS

Mr. GILCHREST. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 64) authorizing the 1995 Special Olympics Torch Relay to be run through the Capitol Grounds.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

Mr. WISE. Reserving the right to object, Mr. Speaker, I do not plan to object, and I yield to the gentleman from Maryland for an explanation of his request.

Mr. GILCHREST. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the concurrent resolution before us would authorize the 1995 Special Olympics Torch Relay to be run through the Capitol Grounds on May 19, 1995, as part of the journey of the special olympics torch to the Special Olympics Summer Games at Gallaudet University here in the District.

Under the resolution, the Capitol Police Board will oversee the run and the Architect of the Capitol is responsible for establishing the conditions and making preparations necessary for the event.

This is an annual event and one which Congress has approved several times before. This year approximately 60 local and Federal law enforcement agencies throughout the region will participate in this 26-mile relay run through the city in support of the Special Olympics. As we all know, this program gives handicapped children and adults the opportunity to participate in athletic events.

Because of laws prohibiting open flames on Capitol Grounds, and because of safety concerns about activities taking place thereon, this resolution is necessary to permit the relay to occur. The resolution authorizes the Capitol Police Board to take necessary action to insure the safety of the Capitol, and the Architect of the Capitol may set forth conditions on participation in this event.

Activities will begin on Capitol Hill where the U.S. Capitol Police will host opening ceremonies and thereafter over 1,000 law enforcement officials will relay the torch through the city to Gallaudet University where the D.C. Special Olympics Summer Games will be held.

Mr. Speaker, this is a very worthwhile endeavor and I strongly encourage my colleagues to support the resolution which authorizes the event.

Mr. WISE. Mr. Speaker, I join my colleague in supporting use of the Capitol Grounds for the Special Olympics Torch Relay Run. As has been the custom, law enforcement officials from over 65 Federal and local agencies will relay the special olympics torch through the District to Gallaudet University to signal the beginning of the Special Olympics.

The event is scheduled this year for May 19. Since this date is a week from this Friday, we need to act on this legislation expeditiously.

This is a very worthwhile event which benefits not only the families and participants but also the volunteers and sponsors who contribute their time and efforts for handicapped children and adults.

I ask my colleagues to join in supporting this resolution.

Mr. MINETA. Mr. Speaker, the Special Olympics is a program which gives handicapped children and adults the opportunity to compete in sporting events and thereby enhance their self-esteem and self-image.

The Torch Relay Run through the Capitol Grounds is an annual event which this committee has traditionally supported and I am very pleased once again to support the resolution authorizing use of the grounds for this very worthwhile endeavor.

I commend both the gentleman from Maryland [Mr. GILCHREST], chairman of the Subcommittee on Public Buildings and Economic Development, and the gentleman from West Virginia [Mr. WISE], the subcommittee's ranking Democrat for moving this resolution in a timely fashion. The event is scheduled for May 19.

I join my colleagues in urging passage of this resolution.

Mr. WISE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 64

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. AUTHORIZATION OF RUNNING OF SPECIAL OLYMPICS TORCH RELAY THROUGH CAPITOL GROUNDS.

On May 19, 1995, or on such other date as the Speaker of the House of Representatives and the President pro tempore of the Senate may jointly designate, the 1995 Special Olympics Torch Relay may be run through the Capitol Grounds, as part of the journey of the Special Olympics torch to the District of Columbia Special Olympics summer games at Gallaudet University in the District of Columbia.

SEC. 2. RESPONSIBILITY OF CAPITOL POLICE BOARD.

The Capitol Police Board shall take such action as may be necessary to carry out section 1.

SEC. 3. CONDITIONS RELATING TO PHYSICAL PREPARATIONS.

The Architect of the Capitol may prescribe conditions for physical preparations for the event authorized by section 1.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GILCHREST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on House Concurrent Resolution 64.

The SPEAKER pro tempore (Mr. EWING). Is there objection to the request of the gentleman from Maryland?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 743

Mr. FATTAH. Mr. Speaker, I rise to ask unanimous consent to remove my name as cosponsor of H.R. 743, the Teamwork for Employees and Management Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

GENERAL LEAVE

Mr. COBLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous matter on H.R. 1361.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

COAST GUARD AUTHORIZATION ACT FOR FISCAL YEAR 1996

The SPEAKER pro tempore. Pursuant to House Resolution 139 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1361.

□ 1507

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1361) to authorize appropriations for fiscal year 1996 for the Coast Guard, and for other purposes, with Mr. DICKEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from North Carolina [Mr. COBLE] and the gentleman from Ohio [Mr. TRAFICANT] will each be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, many Americans, and for that matter many Members of this body, do not really know the Coast Guard. I want to introduce the Coast Guard that I know to those uninformed about America's oldest continuous seagoing service.

The Coast Guard is the butt of many jokes, some submitted good-naturedly, some submitted maliciously. Many refer to the Coast Guard as the shallow water Navy, hooligan Navy, as shallow-water sailors or hooligan sailors.

Even Hollywood gets into the act. A recently released movie depicted a military force about to depart on a combat mission. The commander of the force said to his group, "Be careful, men." One of his troops replied, "If I wanted to be careful, I would have joined the Coast Guard."

This comment, of course, drew wild laughter from the moviegoers and was yet another example of a joke at the expense of the Coast Guard. Permit me to identify those who do not consider the Coast Guard a joke.

The wife whose husband was adrift in a treacherous sea was rescued by the Coast Guard. The husband whose wife was stranded at sea in a disabled vessel rescued by the Coast Guard. Property owners whose property could have been destroyed by oil spills, property protected and saved by the Coast Guard. Seamen who rely upon accurately marked aids to navigation maintained by the Coast Guard. The mama and daddy whose child is hauled from the grasp of an angry sea by a Coast Guard helicopter crew.

In the poem, Mr. Chairman, entitled "The Coast Guard Cutter," the poet vividly and emotionally portrays these lifesavers as legitimate heroes:

But the men that sail the ocean
In a wormy, rotten craft,
When the sea ahead is mountains
With a hell-blown gale abaft;
When the mainmast cracks and topples
And she's lurchin' in the trough—
Them's the guys that greets the Cutter
With the smiles that won't come off.
When the old storm signal's flyin'
Every vessel seeks a lee,
'Cept the Cutter, which ups anchor
And goes ploughin' out to sea.
When the hurricane's a-blowin'
From the Banks to old Cape Cod,
Oh, the Cutter, with her searchlight,
Seems the messenger of God.

* * * * *

She goes thumpin' and a bumpin'
When the waters are a hell,
Savin' ships. Here's to you, Cutter,
For we like you mighty well!

This is the Coast Guard, Mr. Chairman, I want to introduce to my colleagues today who may not know her, as we debate and discuss the 1996 authorization bill for the Coast Guard.

Mr. Chairman, I rise in strong support of H.R. 1361. Before I discuss this bill, I would like to thank the distinguished chairman of the full committee, Mr. SHUSTER, our ranking minority member, Mr. MINETA, and the ranking minority member of the Coast Guard and Maritime Transportation Subcommittee, Mr. TRAFICANT, and their staff for their help and cooperation on this legislation. H.R. 1361 was developed in a bipartisan manner, and deserves the support of all the Members.

The primary purpose of H.R. 1361 is to authorize funds for the U.S. Coast Guard for fiscal year 1996. H.R. 1361 authorizes the portion of the Coast Guard budget that requires an annual authorization at the level requested by the President, approximately $3.7 billion. This is compared to the fiscal year 1995 appropriated level for these programs of $3.6 billion.

Specifically, this legislation includes approximately $2.6 billion for operating expenses, $428 million for acquisition of vessels, aircraft, and shore facilities, and $582 million for retired pay. The bill also authorizes reductions in Coast Guard operations, including personnel reductions and the closure of 23 search and rescue stations.

Also included in the bill is a provision to allow us to more closely monitor the Coast Guard drug interdiction mission. In 1989, the Coast Guard spent 24 percent of its operating budget on drug interdiction. Since fiscal year 1994, Coast Guard drug interdiction funding has been reduced by $21 million. Last year, less than 9 percent of the Coast Guard's operating funds were devoted to drug interdiction because the Coast Guard was forced to divert a large amount of its resources to respond to the crises in Haiti and Cuba. I fear that a continuation of this low level of funding will increase the amount of illegal narcotics being smuggled into our country. Admiral Kramek testified before our Coast Guard and Maritime Transportation Subcommittee that the Coast Guard plans to spend about 12 percent of its operating budget on drug interdiction during the next fiscal year. Because this is such an important Coast Guard mission, section 103 of H.R. 1361 requires the Secretary of Transportation to submit to our committee quarterly reports on Coast Guard drug interdiction expenditures. This will give us timely information on this important topic, and allow us to act to prevent a diversion of resources to any other Coast Guard activity.

Title II of H.R. 1361 deals with several internal Coast Guard personnel management matters.

Title III of the bill addresses issues related to navigation safety and waterway services management. This title renews several important navigation safety advisory committees which advise the Coast Guard on matters relating to marine safety issues.

Title IV of this legislation includes several miscellaneous provisions. One of these sections exempts dedicated oilspill response vessels from certain requirements that apply to oil tank vessels. It is not appropriate to regulate oilspill cleanup vessels in the same manner as commercial oil tank vessels. This section in the bill gives the Coast Guard the authority to prescribe appropriate manning requirements for oilspill response vessels by regulation.

Title IV also contains several commonsense amendments to the Oil Pollution Act of 1990, including a provision which requires the Coast Guard to regulate edible vegetable oils differently than toxic petroleum oils. I strongly support this change which will end an unnecessary and damaging burden on our Nation's farmers.

Title V of H.R. 1361, Coast Guard Regulatory Reform, is important in establishing U.S. ship construction and operational standards that are comparable to international standards. These provisions will allow the U.S. maritime industry to be more competitive with foreign ocean carriers.

Title VI of the bill contains several provisions related to U.S. vessel documentation, including several limited Jones Act waivers.

Title VII of the bill contains many technical and conforming amendments suggested by the Coast Guard, including provisions to implement the new International Tonnage Convention for the measurement of vessels.

Finally, title VIII of H.R. 1361 contains amendments to allow the U.S. Coast Guard Auxiliary, a 36,000 member voluntary organization, to provide assistance to the Coast Guard and the boating public that the Commandant finds appropriate.

At the appropriate time, I will offer an en bloc amendment which makes several technical corrections and includes several noncontroversial amendments to the bill.

I urge the Members to support this legislation.

□ 1515

Mr. Chairman, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as an original cosponsor of this bill, I rise in strong support. It represents a commonsense approach to a wide range of issues that face our Coast Guard.

The bill was drafted in a bipartisan fashion, and I commend the distinguished Chair of the subcommittee, the gentleman from North Carolina [Mr. COBLE], for his efforts. Nobody in the Congress is better prepared to lead this subcommittee than the gentleman from North Carolina [Mr. COBLE] who is in fact a veteran of Coast Guard affairs. I am sure the other person in here, the gentleman from Massachusetts [Mr. STUDDS], who is not present, after the wealth of knowledge he gained on that committee for years,

also I think is a valuable resource. I commend the chairman. I am proud to work with him.

I want to also commend the chairman of the new Transportation Infrastructure Committee, the gentleman from Pennsylvania [Mr. SHUSTER]. He has done a tremendous job. I am proud to support him, and our ranking member, the gentleman from California [Mr. MINETA]. I want to commend the Coast Guard and also the administration for their assistance.

Many of the provisions before us were proposed by the Coast Guard. They had merit and were, in fact, thus incorporated into this bill.

I want to specifically commend the Commandant of the Coast Guard, Admiral Kramek, for the strong commitment he has to fighting drugs and the extraordinary efforts the Coast Guard has made in the area of drug interdiction.

I am confident that under the leadership of the good admiral, the Coast Guard will continue to play a vital role in the war on drugs as well as the other missions.

This bill includes a provision that requires the Coast Guard to report quarterly to Congress on the amount of money that the Coast Guard is devoting, in fact, to drug interdiction. This provision will allow the committee to monitor and get an accurate account, a snapshot, if you will, of how well the Coast Guard is perhaps performing its duties in the areas of drug interdiction.

I look forward to working with the chairman, the gentleman from North Carolina [Mr. COBLE], and Admiral Kramek to ensure that the Coast Guard has the resources necessary to get that job done.

I would like to note the bill includes a Buy American provision I inserted in the bill. It is a modest provision. It puts the Coast Guard on notice that Congress expects the Coast Guard, whenever practicable, to purchase American-made equipment and products.

But for the time being, I would like to talk about an amendment I intend to offer that I believe makes the bill a great bill. As well as other Members of this Congress, I have concerns of the closing of 23 multimission small boat stations that are on track here to be in fact closed.

Now, I know there are a number of amendments that speak to some criteria and procedures about this safety concern and this closing apparatus, but the truth of the matter is, any and all of these amendments, if passed, will amount to one official action here today: These 23 stations will be closed. They will have some nice language. There will be some little exercises people will go through, but they will be closed.

And here is my concern: Passage of the Traficant amendment, or failure to pass it, will have no bearing on my final vote. I support this bill. But let me get right to the point. We have had testimony before the Congress that is clear and explicit.

The last time Congress allowed for the closing of small boat stations, lives were lost. The Coast Guard has a major mission: safety.

The Traficant amendment deals with $3 million in finances. Now, my staff tells me maybe $2 million; $2 million in savings from the closing of the stations to jeopardize possible lives could be garnered by making some administrative adjustments in travel or expense. So let us not talk about money.

When the Coast Guard starts to be driven by financial concerns, then the major issue of the Coast Guard, safety, has been in fact, compromised.

The Traficant amendment would bar the Coast Guard from closing any of these stations, but it would still give the Coast Guard the flexibility in transferring resources as long as some active-duty personnel remain. For example, here is what the Traficant amendment will do: They could transfer out nearly every part of that station, but the Traficant amendment says one full-time Coast Guard personnel officer shall remain to coordinate and stabilize programs that are in fact operated with cooperation of the auxiliary.

I use the words "weekend warriors"; that is not a fair explanation of our auxiliary. The auxiliary is a great force we have for the Coast Guard. I do not want my words to seem demeaning.

As a former sheriff, let me tell you something, ladies and gentlemen, when you take away full-time personnel, you do not have the same focus that you once had.

Now, if we are going to have a voluntary Coast Guard in 23 stations, that will be the decision that you will make and you will vote for, JIM TRAFICANT cannot accept that, and I am saying for this $3 million, Congress, do not close these stations.

Now, I have heard all of that business about the Congress cannot micromanage. My God, let us forget micromanaging. We set policy. The policy the Congress would be setting through the Traficant amendment is, "Coast Guard, save lives. The Congress of the United States charges you with saving lives." If there is a problem on money, we will talk about it. But the Congress of the United States saying our policy is find that $3 million somewhere else.

Now, I do not know how else we can save that. The Coast Guard's own analysis indicated that for each small boat station closure, there would be at least one additional life lost every 12 years. I find any Government prospectus that, in fact, delineates the future loss of life from an action taken by this Congress is totally unacceptable, without merit, and should not be tolerated by the Congress itself.

But in any regard, there has been a substitute passed in the committee. That substitute gives flexibility to the Coast Guard to deal with safety issues, but I do not believe the Congress of the United States should delegate lives when there is documented evidence of the loss of life on record.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, I had a question to the gentleman and the chairman, if he might.

Is it your understanding that the amendment offered by the chairman, and adopted in committee, which amends section 1016(c) of the Oil Pollution Act of 1990 provides an exemption for marinas from the requirement to demonstrate $150 million in financial responsibility under that section?

Mr. TRAFICANT. The answer I would have would be yes. I would defer to the gentleman from North Carolina.

Mr. COBLE. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from North Carolina.

Mr. COBLE. Mr. Chairman, I concur with the gentleman from Ohio. I say to the gentleman from Connecticut that is, indeed, correct.

Mr. GEJDENSON. I thank both gentlemen, for this is an issue critically important. It would have devastated most of the small boatyards along the shore. I commend them for their action.

Mr. GEJDENSON. Mr. Chairman, I rise in support of H.R. 1361, the Coast Guard Authorization Act for Fiscal Year 1996. I want to thank Chairman SHUSTER and Ranking Member MINETA for bringing this bill to the floor today.

This bill authorizes the important activities of the U.S. Coast Guard for fiscal year 1996. My district is home to the Coast Guard Academy and the Coast Guard Research and Development Center. I am pleased that the bill authorizes $22.5 million for R&D. The R&D Center serves the entire Coast Guard and is involved in wideranging research to improve maritime safety, aids to navigation, and oil spill detection. As everyone knows, the Academy is responsible for training the next generation of Coast Guard officers.

I also support this bill because it includes language similar to legislation I have introduced, H.R. 1002, to provide relief to marinas from onerous financial responsibility requirements of the Oil Pollution Act of 1990 [OPA 90]. Under section 1016 of OPA, offshore facilities handling petroleum products are required to demonstrate $150 million in financial responsibility to cover the costs of cleaning up oil spills. While I believe this is entirely appropriate for entities handling large volumes of heavy oil, the Minerals Management Service [MMS], which is writing the regulations governing this section, has interpreted it to apply to marinas. This interpretation would be devastating to marinas and detrimental to millions of boaters coast to coast.

As my colleagues know, marinas are overwhelmingly small businesses which handle relatively small amounts of gasoline and diesel fuel. They do not pose a major threat to the environment. In fact, according to the Coast Guard, in fiscal year 1993 fuel spills from marinas totaled a little more than 9,000 gallons nationwide. Under the MMS proposal, marinas would be required to have insurance policies providing $150 million in liability coverage. According to the Marina Operators Association of America [MOAA], such policies would carry premiums between $150,000 and $450,000 per year. The vast majority of marinas could not afford this expense and would be forced to close their fuel docks. This would have adverse effects on their businesses as well as millions of Americans who fuel their boats safely and conveniently at marinas. I am also concerned that if fuel docks are closed, many boaters would begin carrying fuel in their cars and transferring it to boats with funnels. This practice would substantially increase the likelihood of spills and accidents.

Under an amendment offered by Mr. COBLE and adopted by the Transportation Committee, marinas would be exempt from the financial responsibility requirements. While this amendment goes beyond the scope of my bill, I am pleased that marinas will be protected. I want to take this opportunity to thank Mr. COBLE and Mr. TRAFICANT and their staffs for working with me on this issue. This amendment will protect small businesses as well as ensure that boaters continue to have access to fuel in a safe, convenient, and environmentally sound manner.

Mr. Chairman, I urge my colleagues to support H.R. 1361.

Mr. TRAFICANT. Let me say to the gentleman from Connecticut I believe the language that goes beyond Congress' stopping these closures will ultimately bring us into concerns that you ultimately have. I would recommend, if your concern lies in those areas, to give us consideration.

Mr. Chairman, I reserve the balance of my time.

Mr. COBLE. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Pennsylvania [Mr. SHUSTER], the chairman of the full committee.

Mr. SHUSTER. Mr. Chairman, I thank the distinguished gentleman for yielding.

Mr. Chairman, I rise in strong support of this legislation.

Sometimes here in Washington we confuse what is controversial with what is important, and even though this legislation is not controversial, it is extremely important.

Let me share with you what the Coast Guard does for America on the average day, 365 days out of the year. Every day, on average, our Coast Guard boards 90 large vessels for port security checks, processes 120 seamen's documents, seizes 209 pounds of marijuana and 170 pounds of cocaine, worth $9.2 million, conducts, and get this, conducts 191 search and rescue missions, responds to 34 oil or hazardous chemical spills, conducts 120 law enforcement boardings, identifies 65 violations, investigates 17 marine accidents, inspects 64 commercial vessels, saves 14 lives, assists 328 people, saves $2.5 million in property, services 150 aids to navigation, and interdicts 176 illegal immigrants.

So, while this legislation is not controversial, has strong bipartisan support, it is extremely important legislation. In fact, it provides $3.7 billion a year to perform these missions.

Our Coast Guard today is represented by 37,000 active duty personnel, 8,000 reservists, 6,000 civilians, and over 35,000 volunteers. I know of few agencies in Government where the number of volunteers, over 35,000, virtually equals the number on active duty as in the Coast Guard.

So we have a Coast Guard that is deeply involved every day in making life better for the American people.

Our Defense Department and the people in the military certainly do a fine job, but they spend most of their time training. In fact, we hope that they never have to go into actual action.

□ 1530

The Coast Guard, however, quite to the contrary, every day is involved in performing vital services for the American people 365 days a year. So I urge strong support for this legislation. Our Coast Guard deserves nothing less.

Mr. COBLE. Mr. Chairman I yield back the balance of my time.

Mr. TRAFICANT. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. DEFAZIO], a fine member of the Committee on Transportation and Infrastructure.

Mr. DEFAZIO. Mr. Chairman, I thank the gentleman from Ohio [Mr. TRAFICANT] for yielding this time to me.

Mr. Chairman, I am going to speak particularly to the Traficant amendment which will be before this body soon. The question that must be decided by this Congress:

Is one-tenth of 1 percent of the Coast Guard budget too much to prevent loss of life?

We heard already the actuarial statistics from the Coast Guard, cold numbers; that is, once in 12 years each of these 23 stations will experience a loss of life because of the closures. That means two lives per year. We are saving $2.6 million for two lives per year if we believe the Coast Guard estimate. The last time the Coast Guard closed these two life saving stations in my district five people drowned within a 2-month period, so maybe they are off by factor of two, or three, or five.

I say to my colleagues, however you look at it, if you use the most conservative estimates, we're going to say that there is not one-tenth of 1 percent of waste in the entire $2.7 billion operating budget of the U.S. Coast Guard? If that agency is run so well that there is not a penny of waste, then we should put them in charge of the Pentagon, we should put them in charge of HUD, we should put them in charge of all of the Federal Government of the United States of America. Is there anybody on this side of the aisle who believes there is any Federal operation, any Federal agency, that doesn't have one-tenth of 1 percent of savings they can't find if they look hard? That's what we are debating here, lives. We're going to lose lives; people are going to die. I can put names to the people who died in my district the last time we did this. Five people in 2 months, but they tell us, "No, it will only be two people a year." Well, even if it's one person a year, I believe that this body will be making a mistake if it doesn't tell the Coast Guard to go back to the drawing boards, find that one-tenth of 1 percent of savings and fully fund these life saving stations.

Mr. TRAFICANT. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Chairman, again, as part of the general debate, I wanted to indicate very strongly that this is a good bill other than the fact that the Coast Guard has proposed closing these 23 stations around the country. The problem that I see, and again the gentleman from Oregon [Mr. DEFAZIO] already pointed it out, is that, when these closures occurred back in 1988, for a period of time there were deaths, and there were serious incidents that occurred without the Coast Guard presence, and we do not want that to occur again. We have had documentation of the problems that occurred when many of these stations that are now proposed for closure were, in fact, closed going back 6 or 7 years ago.

I always try to look at these things from what I would call a cost-benefit analysis, if my colleagues will. Think about what we are talking about here. The Coast Guard has estimated that closing these stations will save about $6 million. Various estimates that have been composed today go lower than that, to $3 million, or perhaps $2 million, but all of those things assume that a certain number of lives will be lost because of these stations being closed. Again I find that unacceptable.

One of the biggest problems that I have also with the proposed streamlining and closure of the stations is the fact that it assumes that State, or local or nonprofit agencies will take up the slack, that somehow, if we close these stations, that the State; for example, in New Jersey the State Marine Police, or the local municipal fire department, or the Coast Guard Auxiliary, are going to step in and pursue those search-and-rescue functions. It is not the case. That assumption is a false one.

I say to my colleagues, if you look at my own State of New Jersey, our own

State Marine Police has been downsized considerably during the last few years. The local fire departments in some cases may have a boat or some person who has some knowledge of boat safety, but not enough to step in, and even when we talk about the Coast Guard Auxiliary and suggest somehow they're going to take over this responsibility, let me assure you that, if the station closes and there is no regular Coast Guard personnel at that station, the Coast Guard Auxiliary won't be able to perform these function either. One of the beauties of the Auxiliary is that they work with the Coast Guard, so what we're saying over and over again is this is not an acceptable solution.

We need support for the Traficant amendment.

Mr. TRAFICANT. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Chairman, I thank the gentleman from Ohio [Mr. TRAFICANT] for yielding me the time.

Mr. Chairman, I rise in support of the Coast Guard bill and, in particular, the Traficant amendment to H.R. 1361.

In my district in northern Michigan, it has more coast line than any other congressional district except Alaska, but yet the Coast Guard is proposing to close Station Marquette located in the middle of the Upper Peninsula of Michigan, and they plan there to operate a search and rescue on this vast Northern Michigan Peninsula from the extreme ends of the peninsula in Portage and Ste. St. Marie. Now the shore line of Lake Superior up there is about 500 miles long, and our search-and-rescue missions will be on the extreme ends instead of in the middle where Marquette is, and at Marquette they have a 44-foot life boat capable of operating in the hazardous waters of Lake Superior. Now, if we are going to have to rely upon Ste. St. Marie and Portage to come over with a 44-foot boat for search and rescue from Ste. St. Marie, it takes 14 hours in a 44-foot boat, and, from Portage, 6½ hours.

I know that the distinguished chairman may argue, and has argued in a Dear Colleague letter, that the Coast Guard has a nationwide system of air stations with helicopters for search and rescue which is much faster than these 40-foot boats. I would agree that the problem is in northern Michigan there are no helicopters in the Upper Peninsula. They must come from the Lower Peninsula, and then, when they finally get from the Lower Peninsula to the Upper Peninsula of Michigan, they have to stop and refuel. So it costs not only precious lives, but also many valuable seconds in search and rescues and having to wait for helicopters coming from another part of the State to try to patrol the areas of northern Michigan. In Marquette County alone there are over 8,000 recreational boaters, and we should not put these people at risk by closing down their station. Marquette is a major shipping destination.

Marquette is also a major shipping destination in the Great Lakes, and more than 7½ million tons of iron ore flows from Marquette, but the Coast Guard, besides search and rescue, must also enforce our environmental laws, our law enforcement laws, fishing regulations, so it does not seem practical, at least from this point of view, that we close down Marquette, not just for search and rescue, but also for enforcement of environmental laws, pollution laws, and fishing laws.

So we, in the past few years, have asked the Coast Guard to continue to expand their services. They have. It has put great strain on their budget. We understand that, but I do not think at this time we can stand here and in a straight face say we can jeopardize lives, environmental laws, law enforcement of our Nation's waters, to save a mere $3 million in a multibillion dollar budget. So I strongly urge my colleagues to support this bill and, more importantly, to support the Traficant amendment.

Mr. TRAFICANT. Before yielding back my time, let me say this:

With 60-mile-per-hour winds and no visibility these real high-technology helicopters are about as useful—I better not say it. My colleagues know what I am talking about from razorback country.

This is an excellent bill. None of the debate that has come from this side of the aisle is to any way take away from this bill and the first effort of this fine chairman.

I was hoping that maybe we would come to some understanding on the limited amount of money and the Congress of the United States would say: "Fine, we're willing to negotiate and give you a free rein. You've done a good job, Coast Guard, but one thing we can be sure of. When we have information that says lives can be placed at risk, the decision is easy. The Congress will not allow the dice to be rolled."

I am hoping the Congress will be able to look at that, pass that one amendment. It could make this a great bill. But in any regard I am going to vote for this bill. I support the efforts of this fine chairman. I commend him for his efforts here today.

Mr. Chairman, having talked so long, I yield 2 minutes to the gentleman from California [Mr. FARR].

Mr. FARR. Mr. Chairman, I would like to engage in a colloquy between myself and the gentleman from North Carolina [Mr. COBLE].

I rise today to engage in a colloquy to confirm my understanding of the impact of the Coast Guard reauthorization bill on Santa Cruz, CA.

Am I correct in my understanding of the bill that the substation will not be closed if public safety is endangered by departure of the Coast Guard presence?

Mr. COBLE. Mr. Chairman, will the gentleman yield?

Mr. FARR. I yield to the gentleman from North Carolina.

Mr. COBLE. That is correct, sir.

Mr. FARR. Mr. Chairman, am I correct in assuming that a substation could remain open according to this bill if a community could come together to create a reasonable solution to maintaining limited Coast Guard presence without incurring costs associated with maintaining a Coast Guard substation facility?

Mr. COBLE. Is there a situation such as that in the Santa Cruz Port District?

Mr. FARR. Yes, Mr. Chairman. The Santa Cruz Port District has offered to retain crew quarters in the current building. It has also offered to provide patrol boat berthing adjacent to the current Coast Guard building, and provide a communications network. The Port District would also maintain the premises and provide administrative support to meet any needs that the Coast Guard has in deploying resources to the Santa Cruz Harbor District. Personnel cost would be minimal as Coast Guard reservists would man the facility and a Coast Guard presence would be required only on weekends during summer months. Essentially, the community would provide for all costs associated with maintaining the substation. Does this sound like a reasonable solution?

Mr. COBLE. If the gentleman would yield, it does indeed sound reasonable, and it is my belief that this bill would not prohibit such an approach from occurring.

Mr. FARR. I thank the gentleman very much for that understanding, Mr. Chairman, and I say to the gentleman, I look forward to working with you.

Mr. TRAFICANT. Mr. Chairman, I urge the Congress to support the Traficant amendment and the bill, and I yield back the balance of my time.

Mr. BILIRAKIS. Mr. Chairman, I rise today in support of H.R. 1361, the Coast Guard Authorization Act. When the House considered similar legislation in the previous Congress, I offered an amendment directing the Secretary of Transportation to submit an annual report to the relevant House committee and the Senate Committee on Commerce, Science, and Transportation no later than April 1.

This report was to have described in detail the status of implementation of the vessel traffic service [VTS] in all ports ranked in the port needs study issued by the Coast Guard in 1991. However, the Coast Guard authorization was not enacted in the 103d Congress.

While the VTS system has yet to be implemented in Tampa, after a number of meetings with Coast Guard officials, I am satisfied that the Coast Guard is committed to implementation of this important service as soon as is practicable. For this reason, I am not offering my amendment today.

My interest in the VTS began when on August 10, 1993, a collision occurred in a navigation channel outside the entrance to Tampa Bay in Florida, between two tug/barges and a 357-foot freighter. This accident resulted in a thunderous explosion that shot a fireball hundreds of feet into the air. In addition, approximately 380,000 gallons of oil spilled into the Gulf of Mexico. The cost of the cleanup of this spill was enormous—several million dollars at least.

Mr. Chairman, this was not the first accident to occur at the mouth of Tampa Bay. Many of us remember the disaster that occurred in May 1980, when a freighter ran into the Sunshine Skyway Bridge causing one of its spans to collapse. Some 40 people were killed.

In fact, the Tampa Bay area has been prominently listed by the Coast Guard as a danger area for cargo ships carrying hazardous materials. As I mentioned earlier, in 1991, the Coast Guard conducted a port needs study on 23 ports across the United States. The goal of this study was to recognize the ports that are most prone to accidents. The study ranked Tampa Bay as one of the top 10 most dangerous ports.

The Coast Guard VTS is designed to prevent these types of accidents, and the VTS has been successfully implemented by the Coast Guard in several major port areas.

The VTS functions like an air traffic control system. It tracks vessels by radar and assists them in navigating through hazardous areas.

Unfortunately, however, under the fiscal year 1995 transportation appropriation bill, further implementation of the VTS was pushed back yet another year because, and I quote from that bill's report language: "Subsequent to the transmittal of the budget, the committee was advised by the Coast Guard that the schedule for the VTS 2000 program had slipped."

The report goes on further to say: "Review of the program's operational requirements and associated cost estimates took the Coast Guard much longer than anticipated."

Mr. Chairman, the VTS is a vital program that can potentially save lives and save money. Therefore, we cannot afford vague promises and further delays due to undetermined slippage—and I believe we have moved beyond this state of affairs. However, I will be working closely with the Coast Guard and the Department of Transportation to ensure that the VTS is implemented as soon as possible.

This was the purpose of my amendment in the last Congress and I was pleased that it was adopted by this Chamber without dissent. VTS is a cost-effective answer to environmental disasters, such as the one that took place in Tampa Bay in 1993. Nationally, the cost to clean up these types of accidents far exceeds the funding requested by the Department of Transportation to operate the VTS program.

Mr. Chairman, I want to be clear that I believe the Coast Guard must speed up its implementation of the VTS in all the ports listed in the port needs study. Likewise, I believe it is imperative that this Congress work with the Coast Guard in making sure that this fiscally responsible program is put into place.

I express this desire, not only in memory of the lives that have been lost in accidents such as those that I have described, but for the sake of the lives we will save through the VTS Program.

Mr. REED. Mr. Chairman, I rise in support of H.R. 1361, the fiscal year 1996 Coast Guard authorization bill.

In particular, I want to thank the chairman and ranking Democrat of the Coast Guard and Maritime Transportation Subcommittee for including a number of Rhode Island specific amendments in the bipartisan en bloc amendment.

Mr. Chairman, the Coast Guard is vital to the safety of our Nation's commercial fishermen, pleasure boaters, and merchant mariners. Each year, Coast Guard men and women save thousands of Americans from death at sea. In addition, these brave men and women help prevent many more tragedies through education and prevention programs, including efforts to curb boating under the influence. H.R. 1361 aims to continue this tradition of vigilance, and it has my full support.

This legislation will also provide specific relief to several vessel owners in Rhode Island, who currently cannot engage in the coast-wise trade because of the Jones Act. By providing Jones Act waivers for the *Isabelle* and three Harbor Marine barges and a fisheries waiver for the *Aboriginal,* the House will ensure that the owners of these vessels will be able to use their boats as intended. The *Isabelle,* an historic ketch built in Scotland in 1924, will be used as a charter boat. Harbor Marine Corporation's barges will have clear titles. Last, the *Aboriginal's* owner, a disabled firefighter and Vietnam veteran, will finally be able to start his charter fishing business.

In addition, the chairman's en bloc amendment will permit the transfer of un-used Coast Guard property on Block Island, RI, to the town of New Shoreham. The people of Block Island have leased this property for a number of years for education, police activities, harbor safety efforts, and environmental protection. In addition, the town has made over $60,000 in repairs and alterations to the buildings on the property, including new wiring, heating, windows, and a roof. It is my understanding that the Coast Guard supports this transfer, and I thank the chairman and Mr. TRAFICANT for including this provision in the en bloc amendment.

While I believe this legislation contains many important initiatives, I am concerned that H.R. 1361 would allow the Coast Guard to close a number of important small boat stations. These stations, many of which have been in existence for decades, are usually located in areas where a high visibility Coast Guard presence sends a signal of reassurance and deterrence. Such is the case with the Point Judith Station in Narragansett, RI. Point Judith is the home to my State's fishing fleet. It is also a focal point for the State's pleasure boaters and fishing charter boats. The same can be said of the summer station on Block Island. Although I have met with the Coast Guard to discuss their proposals, I must agree with the town of Narragansett and others in Rhode Island that these stations should not be closed. Therefore, I will support the Traficant amendment which prohibits the closure of small boat stations and ensures rapid, local response to emergency calls, unless the Secretary of Transportation finds that maritime safety will not be diminished.

Mr. Chairman, I urge my colleagues to support H.R. 1361, and I thank the subcommittee for the concern it has shown for Rhode Island's needs.

Mr. VISCLOSKY. Mr. Chairman, I rise today in support of the Transportation and Infrastructure Committee's en bloc amendment to H.R. 1361. This amendment contains an important provision to ensure that the so-called Johnson Act does not interfere with riverboat gambling in Indiana. This noncontroversial measure, which has the bipartisan support of Transportation Committee members, is based upon legislation I introduced in April, H.R. 1419.

I would like to clarify for my colleagues that this provision would not affect any other State, or State laws regarding gambling, since the Johnson Act exemption would apply only to Indiana riverboats operating within the territorial jurisdiction of the State of Indiana. Indeed, my goal is to ensure that an outdated Federal statute does not prevent the State of Indiana from implementing its riverboat gambling legislation.

In 1993, the Indiana General Assembly approved riverboat gambling legislation to allow gambling on Lake Michigan. However, as cities in northwest Indiana prepare to implement the Indiana Riverboat Gambling Act, concerns have been raised that the Johnson Act, passed in 1951 to prohibit the transportation of gambling devices on U.S.-flag ships in special maritime and territorial waters of the United States, may prohibit the use of casino gambling boats on Lake Michigan.

The U.S. Department of Justice has not yet decided if the Johnson Act would actually prohibit the operation of riverboat casinos. This legislation would ensure smooth sailing regardless of the Justice Department's decision.

It's better to be safe than sorry. The people of Indiana have spoken and I want to ensure that a section of an archaic law doesn't stand in the way of the people's will and continued efforts to create jobs and improve the economy in northwest Indiana.

I would like to thank Transportation and Infrastructure Committee Chairman SHUSTER, ranking member MINETA, Coast Guard and Maritime Transportation Subcommittee Chairman COBLE, ranking member TRAFICANT, and the Republican and Democratic committee and subcommittee staff for their cooperation and assistance.

Mr. GILCHREST. Mr. Chairman, I rise to voice opposition to the Coast Guard's current fee schedule that took effect on May 1, 1995. This user fee schedule is overly burdensome to small operators.

The final rule states that as of May 1, 1995, all inspected commercial vessels, including vessels carrying as few as seven passengers, will be required to pay the Coast Guard a user fee for the inspection of their vessels. The fees for inspected operators with vessels less than 54 feet would be $670 per year, escalating up to $1,200 for larger vessels. For small seasonal marine businesses, this fee represents a large percentage of their net revenue.

I believe these fees would have a disproportionate impact on small business. In my district, thousands of small operators would be hurt by this rule.

The Coast Guard should adjust its proposed fees for small operators to ensure that they are not regressive. This can be done by basing user fees on the actual time it takes to inspect a small vessel, usually 2 to 4 hours, which would translate into a fee much lower than announced.

The Coast Guard states that its fee is $87 per hour for inspections. The one topside inspection done each year and the one drydock inspection done every 18 months, takes approximately 3 hours per year per vessel. Therefore, the inspection fee should be no higher than $261 per year. In addition, a number of vessels could be inspected at one time, thus increasing the efficiency of the travel time spent by the Coast Guard, and possibly lowering the fees further.

I support the efforts of the gentleman from Louisiana [Mr. TAUZIN] to eliminate the regressive nature of these fees. I urge my colleague from North Carolina, Mr. COBLE to work with us toward this end.

Ms. FURSE. Mr. Chairman, I rise to express my strong support for the Coast Guard and the critical work that it performs.

The First District of Oregon, which I represent, is extremely grateful for the prominent presence of the Coast Guard in several locations along our shoreline. This agency saves lives, helps prevent accidents from occurring, and responds quickly to clean up oil spills. This agency is also responsible for drug interdiction and the enforcement of numerous laws and treaties governing the high seas. The Coast Guard in northern Oregon is also closely involved with our local communities in improving response to oilspills and training civilian oilspill cleanup volunteers.

In particular, I can't overemphasize how heavily dependent we in coastal States are upon the marine safety assistance services the Coast Guard provides. During the last year and a half, the Coast Guard in Astoria participated in more than 1,200 search and rescue operations, saving more than 70 lives and protecting more than 150 million dollars' worth of property.

I am concerned that we do not take for granted the role of this extremely valuable agency. Plans to close or consolidate Coast Guard stations must be carefully scrutinized to ensure that they will result in no decrease in public safety. Yes, we need to do all we can to downsize and streamline our Government—but not at the expense of human life. In the past, Coast Guard station closures have led to the loss of lives because the agency was stretched too thin to respond adequately to marine emergencies.

I am pleased to add my voice to the support expressed by my colleagues for the fiscal year 1996 authorization for the Coast Guard. The amount authorized under H.R. 1361 provides an increase from 1995 levels and I am pleased to see this rise in funding. In past years, this agency has consistently been underfunded. It's time to give the Coast Guard the resources they need to do their job. The work they do is essential to our coastal communities and our entire Nation. I urge my colleagues to support H.R. 1361.

Mr. BENTSEN. Mr. Chairman, I rise in support of H.R. 1361, which authorized appropriations for fiscal year 1996 for the U.S. Coast Guard. The bill funds vital areas for the U.S. Coast Guard so that it can perform its mission. Those areas include operations and maintenance; acquisition, construction and improvements; research and development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard; retired pay; alterations or removal of bridges over navigable waters; and environmental compliance and restoration functions.

I also strongly support provisions in the bill to extend advisory committees until the year 2000. These statutory committees were established to advise, consult with and make recommendations to the secretary of the department in which the Coast Guard is operating on matters relating to the transit of vessels and products to and from ports. These committees are very effective. The Port of Houston, which is in my district has 2 members on the 18-member committee.

I do, however, have some concerns over a provision in the bill to consolidate the Coast Guard marine safety office in Houston and Galveston into a single site. I believe it is imperative that the Coast Guard remains on the industrialized portion of the channel, and I wholeheartily support Congressman GREEN's amendment to prohibit this move. The proposed consolidation of the Galveston and Houston facilities from Galena Park to Clear Lake would seriously threaten the response time in cases of accidents or spills in the upper reaches of the Houston ship channel.

Additionally, I have some concerns as to why the provisions of the wreck removal bill were not incorporated in this bill. I understand that an attempt was made by Congressman LAUGHLIN to have a wreck removal amendment added, he was informed that it was not germane to this bill. This is an important issue for the Port of Houston, and I suspect that it is equally important for other ports across the country. Our Nation's ports and waterways are vital to the economy, trade, and national security. The closure of ports and waterways for any length of time due to obstruction by sunken or grounded vessels blocks the flow of commerce and results in significant financial loss. I believe this should be addressed, and I commend Congressman LAUGHLIN for his effort in trying to get such an amendment added to this bill.

Ms. HARMAN. Mr. Chairman, I am pleased to join my colleagues in supporting H.R. 1361, the Coast Guard Authorization bill for fiscal year 1996.

Among the bill's provisions is one which I and other members of our delegation reintroduced as a bill earlier this session to help California's tourism industry. That provision closes an existing loophole through which California loses an estimated $82 million annually.

Currently, under the Johnson Act, a cruise ship which makes an intrastate stop is subject to State law even if that ship travels in international waters and is destined for another State or foreign country. Using this loophole and its authority to regulate gambling, States like California prohibit gambling aboard these ships.

Section 408 of H.R. 1361, like our original bill, would allow gambling on internationally bound cruises. The provision would not cause mainland gambling to expand beyond current State controls. Instead, the provision simply amends the Johnson Act to allow Federal control over voyages that begin and end in the same State so long as any stopovers are part of a voyage to another State or foreign country which is reached within 3 days of the start of the voyage. Cruises within the boundaries of the State of Hawaii are expressly excluded from the effect of this provision.

This issue is one of great interest to the citizens of San Pedro and Catalina Island whom I represent. According to Catalina's Chamber of Commerce, the city of Avalon itself loses $1.5 million annually in canceled port visits because of existing law.

Similarly, the city of San Diego, from which many cruises originate, is affected. In the last Congress, San Diego's representative, Lynn Schenk, introduced the original legislation on behalf of her constituents and the cruise industry. That measure passed the House, only to die in the Senate. Today's action is a tribute to her dedicated efforts.

I urge support for this provision, and for the bill.

Mr. HILLEARY. Mr. Chairman, I want to thank the chairman of the Coast Guard and Maritime Transportation Subcommittee for including the language of my bill, H.R. 1550, in his en bloc amendment to H.R. 1361, the Coast Guard Authorization Act.

My language is noncontroversial. It concerns the vessel *Carolyn* which has been operating safely in Hardin County in my district for several decades. This vessel has passed numerous inspections but does not have documentation as to where it was built.

This is a violation of the Jones Act which requires documented proof that a vessel was built in the United States in order to be certified.

The vessel *Carolyn* is owned and operated by the Hardin County Highway Department. It is used to push a barge holding automobiles across the Tennessee River in Saltillo, TN.

There is no bridge in Saltillo. Many families and incomes depend on the Saltillo Ferry to give access to both shores of the Tennessee River. Ending this ferry service would severely impact the entire community.

The language of my bill provides for a waiver of the Jones Act for the *Carolyn* so that Coast Guard can certify the ferry for operation. This would simply allow the *Carolyn* to continue its important service to my constituents in Hardin County as it has dependably served for many years.

Again, I appreciate the chairman for including my bill in this en bloc amendment to H.R. 1361 and encourage all of my colleagues to support this amendment.

Mr. BARCIA. Mr. Chairman, the Coast Guard's mission in helping to provide for public boating safety is most important. As a Member whose district contains more shoreline than most other States, I sincerely appreciate the need for the Coast Guard.

It is also why I am upset about proposals to close small Coast Guard facilities. We face a situation in my district where the facility at Harbor Beach may be closed, and the nearest coverage will come from 60 miles away. No realistic individual believes that adequate assistance can be provided to boaters facing

emergencies from such a distance. Certainly Mike Gage, the sheriff of Huron County, disagrees with the Coast Guard's assessment that his department can provide adequate coverage for the area.

Public safety is also broader than the presence of a Coast Guard station. It is also affected by the provision of other Coast Guard services. Now we are hearing of several cases in which the Coast Guard will not place marker buoys in waterways this year because these waterways have not been dredged. The Coast Guard doesn't want the liability for placing the buoys, because the Corps of Engineers will not dredge these riverways as they have done in the past.

Mr. Chairman, when people wonder what is wrong with Washington and agency bureaucrats, they need look no further than their own personal needs for day-to-day routine services.

The Coast Guard is about public safety. Small stations should stay open, and I will support the Traficant amendment for this reason. Marker buoys need to be placed for the safety of the boating public, and if the Corps of Engineers has to reestablish its ability to provide the dredging that recreational boaters need before the Coast Guard can replace the buoys, then I will do all that I can to help restore that ability.

Our citizens want their Government to recognize their needs. They deserve better treatment than they have been getting. Not every ship wreck will be as dramatic as that of the *Edmund Fitzgerald,* but every life lost and every injury sustained is just as important. We must find ways to make room for recreational boating activities.

Mr. MINETA. Mr. Chairman, I am in strong support of H.R. 1361, the Coast Guard authorization for fiscal year 1996 and urge our colleagues to support it as well.

This is the first time the Transportation and Infrastructure Committee has brought a Coast Guard authorization bill to the House floor as it is new to our jurisdiction. When the House reorganized the committee structure at the beginning of this session, our committee was assigned the transportation jurisdiction of the old Merchant Marine and Fisheries Committee. I believe that that was an excellent step in the interest of good public policymaking, since there are many areas in which our transportation policies need to be considered together. I had long supported this area being placed under the Transportation Committee's jurisdiction. It is clear that this new arrangement is working very well.

This bill authorized the Coast Guard at the level requested by the administration, approximately $3.8 billion. While this is a slight increase over the current year level, this amount assumes a major streamlining in Coast Guard personnel and budget already underway that will reduce the Coast Guard's size by 12 percent by 1999. The Coast Guard is an agency in the lead of finding ways to do more with less.

The Coast Guard's responsibilities are enormous. They must conduct drug interdiction for the entire coastline of the United States; perform search and rescue along the entire coastline; ensure maritime safety in all navigable waters; be the frontline agency in all oil-spills; protect our fisheries within the U.S. economic zone; respond to human migration crises; and enforce all U.S. laws on the high seas. Beyond these broad responsibilities, Congress has enacted a score of specific laws over the past 20 years which have given them specific new duties, particularly in the environmental and safety areas. The Coast Guard is doing all of this with a staff that is smaller than the size of the New York City Police Department.

Beyond authorizing the necessary funds to carry out its responsibilities, this bill makes a number of important policy changes which are being described in detail by the distinguished subcommittee leaders, Chairman COBLE and the ranking Democrat, Mr. TRAFICANT. But I would like to call attention to some of them.

The bill takes very significant steps to reform Coast Guard safety laws so that the Coast Guard and vessel operators can ensure safety in a better, but also more cost-effective way. The bill brings a number of our navigation codes into conformance with international standards. It makes a number of narrow, but commonsense changes, in the Oil Pollution Act of 1990, as that law pertains to the carriage of vegetable oil, marinas and certain other offshore facilities. The bill also provides some direct safety benefits such as requiring emergency locator beacons on vessels in the Great Lakes and raising the penalties for not reporting accidents or operating a vessel without a licensed operator. The bill also makes important clarifications in the legal status of the Coast Guard auxiliary.

Finally, I want to commend Chairman COBLE and Congressman TRAFICANT for their good work on this bill. It has been a cooperative, bipartisan effort, and the fine bill before us today reflects the manner in which they have approached their responsibilities.

Mr. Chairman, this is a bill that deserves all of our support. I urge that it be passed.

Ms. PELOSI. Mr. Chairman, I rise today to offer my support for H.R. 1361, the Coast Guard Authorization Act of 1996.

Since 1915, the Coast Guard has played a critical role in the protection of life and property on the high seas and in the enforcement of all applicable federal laws on, over, and under our oceans. The Coast Guard has maintained coastal navigation aids, engaged in icebreaking activities and has protected our fragile environment. The Coast Guard is also responsible for the safety and security of vessels, ports, waterways, and their related facilities.

Mr. Speaker, in addition to these maritime safety responsibilities, the Coast Guard also performs drug interdiction for the entire U.S. coastline, responds to all coastal oil spills, protects U.S. fisheries, and responds to human migration crises.

H.R. 1361, which reflects a slight increase over this year's funding level, recognizes the enormous responsibilities performed by the men and women of the Coast Guard every day and it deserves our bipartisan support. I urge all of my colleagues to support this legislation.

Mr. YOUNG of Florida. Mr. Chairman, I rise in strong support of H.R. 1361, the Coast Guard Authorization Act.

The men and women of the Coast Guard are life savers, they protect our national security, they fight crime, and they protect our environment.

The people of Florida have a special appreciation for the work of the Coast Guard. As the chairman of the Florida congressional delegation, I in particular pay tribute to the 7th District which serves Florida, the busiest Coast Guard district in our Nation.

It is a privilege for me to represent Pinellas County, FL, which is home to three Coast Guard stations including Group St. Petersburg, which is responsible for protecting Florida's west coast down through the Carribbean, the Clearwater Air Station, the largest Coast Guard Air Station in the United States, and the Sand Key Station, which responds regularly to emergencies at sea and in our inland waters.

Because the Coast Guard has consistently responded to untraditional challenges to our Nation with determination, creativity, and effectiveness, the Congress has seen fit year after year to add to its long list of multifaceted responsibilities. In the early 1980's, when the flow of illegal narcotics through the Carribbean threatened the nationality security of the United States, the U.S. Coast Guard was charged with slamming the door on this drug trade. The vigilance with which the Coast Guard undertook this mission forced drug smugglers to abandon Florida as a primary point of entry into the United States. Those who persist in trying to bring drugs into our Nation through Florida have been met with the firm response, such as last year when the St. Petersburg based Coast Guard Cutter *Point Countess* intercepted the freighter *Inge Frank* near the Sunshine Skyway bridge at the entrance to Tampa Bay, escorted it to its mooring, and joined the DEA and Customs Service in a raid that seized more than 6,000 pounds of cocaine, preventing $272 million in illegal drugs from reaching our streets.

Most recently, when our Nation was faced with an exodus of tens of thousands of Cuban and Haitian refugees, the Coast Guard responded. The 7th District rescued more than 23,000 Haitians at sea in unsafe vessels last Spring, and expanded its operations last Summer, pulling more than 35,000 Cubans from the waters of the Florida Straits. Aircraft from the Clearwater Air Station flew 3,200 flying hours in support of these missions, and delivered over 600 tons of cargo to the U.S. forces implementing our immigration policies on shore.

It is the Coast Guard which is responsible for enforcing all United States laws at sea, whether they be immigration, narcotics, environmental, fishery, or safety-related.

It is the Coast Guard which is responsible for its well known search and rescue missions at sea. This mission not only saves lives just about every day of the year, but also saves significant amount of public and private property. Recently the Florida pilot of a small plane learned this lesson the hard way, when, far from land, he radioed a mayday, saying he had only 15 minutes of fuel left. His plane hit the water 70 miles west of Tampa Bay, and sank within 60 seconds. A nearby Coast Guard Falcon Fanjet used direction-finding equipment to locate the plane, witnessed it hit the water, and dropped a life-raft and emergency locating transmitter which enabled the pilot to be rescued later. Similar air rescues

have saved 188 lives off the coasts of Florida alone since last April, and will continue to provide Americans with a level of safety at sea.

It is also the Coast Guard which is responsible for the less glamorous, but vitally important responsibility of maintaining vital aids to navigation that keep ships and boats out of jeopardy. Though some take channel markers, ocean buoys, loran stations, and other necessary navigational aids for granted, they are the critical signposts that allow for the safe passage of boaters on our waterways.

The Coast Guard receives invaluable help in fulfilling many of these diverse responsibilities from the volunteers of the Coast Guard Auxiliary. The 572 active members of Auxiliary Division 8, who provide support to Group St. Petersburg, make up the largest auxiliary unit in the Nation. Auxiliary members are very active in educating the public about boating safety issues, providing free boating safety classes and dockside courtesy marine examinations. Last year alone, in addition to training 1,330 students and conducting 8,104 courtesy marine examinations, Division 8 also conducted 1,364 support missions, logged over 14,607 underway hours, saved five lives, assisted 393 boaters, and saved more than $2.6 million in property.

Mr. Speaker, perhaps the least known and understood of the Coast Guard's mission is one for which I have funding and oversight responsibility: defense readiness. When activated by the President, the Coast Guard assists the U.S. Navy in time of conflict, guarding the foreign and domestic ports we use to deliver troops and vital supplies in support of operations such as Desert Shield/Desert Storm, Grenada, and most recently in Haiti. In recognition of these readiness and port security missions, the Appropriations Subcommittee on National Security, which I chair, has consistently provided funding support for the Coast Guard. In addition, I have worked to ensure that we better link our military intelligence assets with the Coast Guard to provide greater assistance in its drug-interdiction and security-related efforts. Such intelligence and detection capabilities dramatically improve the Coast Guard's ability to do its job, and I look forward to promoting more effective cooperation between the services in the future.

While the duties and expectations of the Coast Guard continue to grow, the funding necessary to fully meet them has not. Over the years, the Coast Guard has worked to find cost-effective ways to meet the demands placed upon it within an extremely tight budget, and I commend them. It is difficult to find another part of Government that does so much, so well, with so little. The last 2 years serve as the greatest example of this conflict between goals and resources. This administration has recommended sharp reductions in funding for drug interdiction, and as a result reports now indicate Caribbean trafficking may again be rising.

Changing administration policies with regard to Haiti and Cuba have encouraged greater and greater numbers of refugees to take to the water, forcing the Coast Guard to shift assets from other important areas to tackle this overwhelming burden. In each of these instances, the Coast Guard has become our Nation's last line of defense, and the line is being stretched thinner and thinner.

If past performance is any guide, the men and women of the Coast Guard will continue to meet the new threats to America's national and economic security with creativity, perseverance, and professionalism. Mr. Speaker, I salute them and their important mission and rise in support of this legislation to give them the tools to continue to undertake their important work which saves lives and protects our coastline.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the bill shall be considered by titles as an original bill for purposes of amendment. The first two sections and each title are considered as read.

The Clerk will designate section 1.

The Clerk read 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 "Coast Guard Authorization Act For Fiscal Year 1996".

Mr. COBLE. Mr. Chairman, I ask unanimous consent that the remainder of the committee amendment in the nature of a substitute made in order as original text by the rule be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—AUTHORIZATIONS

Sec. 101. Authorization of appropriations.
Sec. 102. Authorized levels of military strength and training.
Sec. 103. Quarterly reports on drug interdiction.
Sec. 104. Safety determination for small boat closures.

TITLE II—PERSONNEL MANAGEMENT IMPROVEMENT

Sec. 201. Hurricane Andrew relief.
Sec. 202. Exclude certain reserves from end-of-year strength.
Sec. 203. Provision of child development services.
Sec. 204. Access to national driver register information on certain Coast Guard personnel.
Sec. 205. Officer retention until retirement eligible.

TITLE III—NAVIGATION SAFETY AND WATERWAY SERVICES MANAGEMENT

Sec. 301. Foreign passenger vessel user fees.
Sec. 302. Florida Avenue Bridge.
Sec. 303. Renewal of Houston-Galveston Navigation Safety Advisory Committee and Lower Mississippi River Waterway Advisory Committee.
Sec. 304. Renewal of the Navigation Safety Advisory Council.
Sec. 305. Renewal of Commercial Fishing Industry Vessel Advisory Committee.
Sec. 306. Nondisclosure of port security plans.
Sec. 307. Maritime drug and alcohol testing program civil penalty.
Sec. 308. Withholding vessel clearance for violation of certain Acts.
Sec. 309. Increased civil penalties.
Sec. 310. Amendment to require emergency position indicating radio beacons on the Great Lakes.

TITLE IV—MISCELLANEOUS

Sec. 401. Transfer of Coast Guard property in Traverse City, Michigan.
Sec. 402. Transfer of Coast Guard property in Ketchikan, Alaska.
Sec. 403. Electronic filing of commercial instruments.
Sec. 404. Board for correction of military records deadline.
Sec. 405. Judicial sale of certain documented vessels to aliens.
Sec. 406. Improved authority to sell recyclable material.
Sec. 407. Recruitment of women and minorities.
Sec. 408. Limitation of certain State authority over vessels.
Sec. 409. Vessel financing.
Sec. 410. Sense of Congress; requirement regarding notice.
Sec. 411. Special selection boards.
Sec. 412. Availability of extrajudicial remedies for default on preferred mortgage liens on vessels.
Sec. 413. Implementation of water pollution laws with respect to vegetable oil.
Sec. 414. Certain information from marine casualty investigations barred in legal proceedings.
Sec. 415. Report on LORAN-C requirements.
Sec. 416. Limited double hull exemptions.
Sec. 417. Oil spill response vessels.
Sec. 418. Offshore facility financial responsibility requirements.
Sec. 419. Manning and watch requirements on towing vessels on the Great Lakes.
Sec. 420. Limitation on application of certain laws to Lake Texoma.

TITLE V—COAST GUARD REGULATORY REFORM

Sec. 501. Short title.
Sec. 502. Safety management.
Sec. 503. Use of reports, documents, records, and examinations of other persons.
Sec. 504. Equipment approval.
Sec. 505. Frequency of inspection.
Sec. 506. Certificate of inspection.
Sec. 507. Delegation of authority of Secretary to classification societies.

TITLE VI—DOCUMENTATION OF VESSELS

Sec. 601. Authority to issue coastwise endorsements.
Sec. 602. Vessel documentation for charity cruises.
Sec. 603. Extension of deadline for conversion of vessel M/V TWIN DRILL.
Sec. 604. Documentation of vessel RAINBOW'S END.
Sec. 605. Documentation of vessel GLEAM.
Sec. 606. Documentation of various vessels.
Sec. 607. Documentation of 4 barges.

TITLE VII—TECHNICAL AND CONFORMING AMENDMENTS

Sec. 701. Amendment of inland navigation rules.
Sec. 702. Measurement of vessels.
Sec. 703. Longshore and harbor workers compensation.
Sec. 704. Radiotelephone requirements.
Sec. 705. Vessel operating requirements.
Sec. 706. Merchant Marine Act, 1920.
Sec. 707. Merchant Marine Act, 1956.
Sec. 708. Maritime education and training.
Sec. 709. General definitions.
Sec. 710. Authority to exempt certain vessels.
Sec. 711. Inspection of vessels.
Sec. 712. Regulations.

Sec. 713. Penalties—inspection of vessels.
Sec. 714. Application—tank vessels.
Sec. 715. Tank vessel construction standards.
Sec. 716. Tanker minimum standards.
Sec. 717. Self-propelled tank vessel minimum standards.
Sec. 718. Definition—abandonment of barges.
Sec. 719. Application—load lines.
Sec. 720. Licensing of individuals.
Sec. 721. Able seamen—limited.
Sec. 722. Able seamen—offshore supply vessels.
Sec. 723. Scale of employment—able seamen.
Sec. 724. General requirements—engine department.
Sec. 725. Complement of inspected vessels.
Sec. 726. Watchmen.
Sec. 727. Citizenship and naval reserve requirements.
Sec. 728. Watches.
Sec. 729. Minimum number of licensed individuals.
Sec. 730. Officers' competency certificates convention.
Sec. 731. Merchant mariners' documents required.
Sec. 732. Certain crew requirements.
Sec. 733. Freight vessels.
Sec. 734. Exemptions.
Sec. 735. United States registered pilot service.
Sec. 736. Definitions—merchant seamen protection.
Sec. 737. Application—foreign and intercoastal voyages.
Sec. 738. Application—coastwise voyages.
Sec. 739. Fishing agreements.
Sec. 740. Accommodations for seamen.
Sec. 741. Medicine chests.
Sec. 742. Logbook and entry requirements.
Sec. 743. Coastwise endorsements.
Sec. 744. Fishery endorsements.
Sec. 745. Clerical amendment.
Sec. 746. Repeal of Great Lakes endorsements.
Sec. 747. Convention tonnage for licenses, certificates, and documents.

TITLE VIII—COAST GUARD AUXILIARY AMENDMENTS

Sec. 801. Administration of the Coast Guard Auxiliary.
Sec. 802. Purpose of the Coast Guard Auxiliary.
Sec. 803. Members of the Auxiliary; status.
Sec. 804. Assignment and performance of duties.
Sec. 805. Cooperation with other agencies, States, territories, and political subdivisions.
Sec. 806. Vessel deemed public vessel.
Sec. 807. Aircraft deemed public aircraft.
Sec. 808. Disposal of certain material.

TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1996, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,618,316,000, of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $428,200,000, to remain available until expended, of which $32,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $22,500,000, to remain available until expended, of which $3,150,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $582,022,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $16,200,000, to remain available until expended.

(6) For necessary expenses to carry out the Coast Guard's environmental compliance and restoration functions, other than parts and equipment associated with operations and maintenance, under chapter 19 of title 14, United States Code, at Coast Guard facilities, $25,000,000, to remain available until expended.

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) ACTIVE DUTY STRENGTH.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 38,400 as of September 30, 1996.

(b) MILITARY TRAINING STUDENT LOADS.—For fiscal year 1996, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 1,604 student years.

(2) For flight training, 85 student years.

(3) For professional training in military and civilian institutions, 330 student years.

(4) For officer acquisition, 874 student years.

SEC. 103. QUARTERLY REPORTS ON DRUG INTERDICTION.

Not later than 30 days after the end of each fiscal year quarter, the Secretary of Transportation shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on all expenditures related to drug interdiction activities of the Coast Guard during that quarter.

SEC. 104. SAFETY DETERMINATION FOR SMALL BOAT CLOSURES.

None of the funds authorized to be appropriated under this Act may be used to close Coast Guard multimission small boat stations unless the Secretary of Transportation determines that maritime safety will not be diminished by the closures.

TITLE II—PERSONNEL MANAGEMENT IMPROVEMENT

SEC. 201. HURRICANE ANDREW RELIEF.

Section 2856 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484) applies to the military personnel of the Coast Guard who were assigned to, or employed at or in connection with, any Federal facility or installation in the vicinity of Homestead Air Force Base, Florida, including the areas of Broward, Collier, Dade, and Monroe Counties, on or before August 24, 1992, except that—

(1) funds available to the Coast Guard, not to exceed a total of $25,000, shall be used; and

(2) the Secretary of Transportation shall administer that section with respect to Coast Guard personnel.

SEC. 202. EXCLUDE CERTAIN RESERVES FROM END-OF-YEAR STRENGTH.

Section 712 of title 14, United States Code, is amended by adding at the end the following:

"(d) Reserve members ordered to active duty under this section shall not be counted in computing authorized strength of members on active duty or members in grade under this title or under any other law.".

SEC. 203. PROVISION OF CHILD DEVELOPMENT SERVICES.

Section 93 of title 14, United States Code, is amended by striking "and" after the semicolon at the end of paragraph (t)(2), by striking the period at the end of paragraph (u) and inserting "; and", and by adding at the end the following new paragraph:

"(v) make child development services available to members of the armed forces and Federal civilian employees under terms and conditions comparable to those under the Military Child Care Act of 1989 (10 U.S.C. 113 note).".

SEC. 204. ACCESS TO NATIONAL DRIVER REGISTER INFORMATION ON CERTAIN COAST GUARD PERSONNEL.

(a) AMENDMENT TO TITLE 14.—Section 93 of title 14, United States Code, as amended by section 203, is further amended—

(1) by striking "and" after the semicolon at the end of paragraph (u);

(2) by striking the period at the end of paragraph (v) and inserting "; and"; and

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

"(w) require that any officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment to any of the foregoing and any member of a uniformed service who is assigned to the Coast Guard) request that all information contained in the National Driver Register pertaining to the individual, as described in section 30304(a) of title 49, be made available to the Commandant under section 30305(a) of title 49, may receive that information, and upon receipt, shall make the information available to the individual.".

(b) AMENDMENT TO TITLE 49.—Section 30305(b) of title 49, United States Code, is amended by redesignating paragraph (7) as paragraph (8) and inserting after paragraph (6) the following new paragraph:

"(7) An individual who is an officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment of any of the foregoing and any member of a uniformed service who is assigned to the Coast Guard) may request the chief driver licensing official of a State to provide information about the individual under subsection (a) of this section to the Commandant of the Coast Guard. The Commandant may receive the information and shall make the information available to the individual. Information may not be obtained from the Register under this paragraph if the information was entered in the Register more than 3 years before the request, unless the information is about a revocation or suspension still in effect on the date of the request.".

SEC. 205. OFFICER RETENTION UNTIL RETIREMENT ELIGIBLE.

Section 283(b) of title 14, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by striking the last sentence; and

(3) by adding at the end the following:

"(2) Upon the completion of a term under paragraph (1), an officer shall, unless selected for further continuation—

"(A) except as provided in subparagraph (B), be honorably discharged with severance pay computed under section 286 of this title;

"(B) in the case of an officer who has completed at least 18 years of active service on the date of discharge under subparagraph (A), be retained on active duty and retired on the last day of the month in which the officer completes 20 years of active service, unless earlier removed under another provision of law; or

"(C) if, on the date specified for the officer's discharge in this section, the officer has completed at least 20 years of active service or is eligible for retirement under any law, be retired on that date.".

TITLE III—NAVIGATION SAFETY AND WATERWAY SERVICES MANAGEMENT

SEC. 301. FOREIGN PASSENGER VESSEL USER FEES.

Section 3303 of title 46, United States Code, is amended—

(1) in subsection (a) by striking "(a) Except as" and inserting "Except as"; and

(2) by striking subsection (b).

SEC. 302. FLORIDA AVENUE BRIDGE.

For purposes of the alteration of the Florida Avenue Bridge (located approximately 1.63 miles east of the Mississippi River on the Gulf Intracoastal Waterway in Orleans Parish, Louisiana) ordered by the Secretary of Transportation under the Act of June 21, 1940 (33 U.S.C. 511 et seq.; popularly known as the Truman-Hobbs Act), the Secretary of Transportation shall treat the drainage siphon that is adjacent to the bridge as an appurtenance of the bridge, including with respect to apportionment and payment of costs for the removal of the drainage siphon in accordance with that Act.

SEC. 303. RENEWAL OF HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE AND LOWER MISSISSIPPI RIVER WATERWAY ADVISORY COMMITTEE.

The Coast Guard Authorization Act of 1991 (Public Law 102-241, 105 Stat. 2208-2235) is amended—

(1) in section 18 by adding at the end the following:

"(h) The Committee shall terminate on October 1, 2000."; and

(2) in section 19 by adding at the end the following:

"(g) The Committee shall terminate on October 1, 2000.".

SEC. 304. RENEWAL OF THE NAVIGATION SAFETY ADVISORY COUNCIL.

(a) RENEWAL.—Section 5(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended by striking "September 30, 1995" and inserting "September 30, 2000".

(b) CLERICAL AMENDMENT.—The section heading for section 5(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended by striking "Rules of the Road Advisory Council" and inserting "Navigation Safety Advisory Council".

SEC. 305. RENEWAL OF COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE.

Subsection (e)(1) of section 4508 of title 46, United States Code, is amended by striking "September 30, 1994" and inserting "October 1, 2000".

SEC. 306. NONDISCLOSURE OF PORT SECURITY PLANS.

Section 7 of the Ports and Waterways Safety Act (33 U.S.C. 1226), is amended by adding at the end the following new subsection (c):

"(c) NONDISCLOSURE OF PORT SECURITY PLANS.—Notwithstanding any other provision of law, information related to security plans, procedures, or programs for passenger vessels or passenger terminals authorized under this Act is not required to be disclosed to the public.".

SEC. 307. MARITIME DRUG AND ALCOHOL TESTING PROGRAM CIVIL PENALTY.

(a) PENALTY IMPOSED.—Chapter 21 of title 46, United States Code, is amended by adding at the end the following new section:

"§2115. Civil penalty to enforce alcohol and dangerous drug testing

"Any person who fails to comply with or otherwise violates the requirements prescribed by the Secretary under this subtitle for chemical testing for dangerous drugs or for evidence of alcohol use is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. Each day of a continuing violation shall constitute a separate violation.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 21 of title 46, United States Code, is amended by inserting after the item relating to section 2114 the following new item:

"2115. Civil penalty to enforce alcohol and dangerous drug testing.".

SEC. 308. WITHHOLDING VESSEL CLEARANCE FOR VIOLATION OF CERTAIN ACTS.

(a) TITLE 49, UNITED STATES CODE.—Section 5122 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(c) WITHHOLDING OF CLEARANCE.—(1) If any owner, operator, or person in charge of a vessel is liable for a civil penalty under section 5123 of this title or for a fine under section 5124 of this title, or if reasonable cause exists to believe that such owner, operator, or person in charge may be subject to such a civil penalty or fine, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91).

"(2) Clearance refused or revoked under this subsection may be granted upon the filing of a bond or other surety satisfactory to the Secretary.".

(b) PORT AND WATERWAYS SAFETY ACT.—Section 13(f) of the Ports and Waterways Safety Act (33 U.S.C. 1232(f)) is amended to read as follows:

"(f) WITHHOLDING OF CLEARANCE.—(1) If any owner, operator, or person in charge of a vessel is liable for a penalty or fine under this section, or if reasonable cause exists to believe that the owner, operator, or person in charge may be subject to a penalty or fine under this section, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91).

"(2) Clearance refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.".

(c) INLAND NAVIGATION RULES ACT OF 1980.—Section 4(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2072(d)) is amended to read as follows:

"(d) WITHHOLDING OF CLEARANCE.—(1) If any owner, operator, or person in charge of a vessel is liable for a penalty under this section, or if reasonable cause exists to believe that the owner, operator, or person in charge may be subject to a penalty under this section, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91).

"(2) Clearance or a permit refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.".

(d) TITLE 46, UNITED STATES CODE.—Section 3718(e) of title 46, United States Code, is amended to read as follows:

"(e)(1) If any owner, operator, or person in charge of a vessel is liable for any penalty or fine under this section, or if reasonable cause exists to believe that the owner, operator, or person in charge may be subject to any penalty or fine under this section, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

"(2) Clearance or a permit refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.".

SEC. 309. INCREASED CIVIL PENALTIES.

(a) PENALTY FOR FAILURE TO REPORT A CASUALTY.—Section 6103(a) of title 46, United States Code, is amended by striking "$1,000" and inserting "not more than $25,000".

(b) OPERATION OF UNINSPECTED VESSEL IN VIOLATION OF MANNING REQUIREMENTS.—Section 8906 of title 46, United States Code, is amended by striking "$1,000" and inserting "not more than $25,000".

SEC. 310. AMENDMENT TO REQUIRE EMERGENCY POSITION INDICATING RADIO BEACONS ON THE GREAT LAKES.

Paragraph (7) of section 4502(a) of title 46, United States Code, is amended by inserting "or beyond three nautical miles from the coastline of the Great Lakes" after "high seas".

TITLE IV—MISCELLANEOUS

SEC. 401. TRANSFER OF COAST GUARD PROPERTY IN TRAVERSE CITY, MICHIGAN.

(a) REQUIREMENT.—The Secretary of Transportation (or any other official having control over the property described in subsection (b)) shall expeditiously convey to the Traverse City Area Public School District in Traverse City, Michigan, without consideration, all right, title, and interest of the United States in and to the property described in subsection (b), subject to all easements and other interests in the property held by any other person.

(b) PROPERTY DESCRIBED.—The property referred to in subsection (a) is real property located in the city of Traverse City, Grand Traverse County, Michigan, and consisting of that part of the southeast ¼ of Section 12, Township 27 North, Range 11 West, described as: Commencing at the southeast ¼ corner of said Section 12, thence north 03 degrees 05 minutes 25 seconds east along the East line of said Section, 1074.04 feet, thence north 86 degrees 36 minutes 50 seconds west 207.66 feet, thence north 03 degrees 06 minutes 00 seconds east 572.83 feet to the point of beginning, thence north 86 degrees 54 minutes 00 seconds west 1,751.04 feet, thence north 03 degrees 02 minutes 38 seconds east 330.09 feet, thence north 24 degrees 04 minutes 40 seconds east 439.86 feet, thence south 86 degrees 56 minutes 15 seconds east 116.62 feet, thence north 03 degrees 08 minutes 45 seconds east 200.00 feet, thence south 87 degrees 08 minutes 20 seconds east 68.52 feet, to the southerly right-of-way of the C & O Railroad, thence south 65 degrees 54 minutes 20 seconds east along said right-of-way 1508.75 feet, thence south 03 degrees 06 minutes 00 seconds west 400.61 to the point of beginning, consisting of 27.10 acres of land, and all improvements located on that property including buildings, structures, and equipment.

(c) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to subsection (a), any conveyance of property described in subsection (b) shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used by the Traverse City School District.

SEC. 402. TRANSFER OF COAST GUARD PROPERTY IN KETCHIKAN, ALASKA.

(a) CONVEYANCE REQUIREMENT.—The Secretary of Transportation shall convey to the Ketchikan Indian Corporation in Ketchikan, Alaska, without reimbursement and by no later than 120 days after the date of enactment of this Act, all right, title, and interest of the United States in and to the property known as the

"Former Marine Safety Detachment" as identified in Report of Excess Number CG-689 (GSA Control Number 9-U-AK-0747) and described in subsection (b), for use by the Ketchikan Indian Corporation as a health or social services facility.

(b) PROPERTY DESCRIBED.—The property referred to in subsection (a) is real property located in the city of Ketchikan, Township 75 south, range 90 east, Copper River Meridian, First Judicial District, State of Alaska, and commencing at corner numbered 10, United States Survey numbered 1079, the true point of beginning for this description: Thence north 24 degrees 04 minutes east, along the 10-11 line of said survey a distance of 89.76 feet to corner numbered 1 of lot 5B; thence south 65 degrees 56 minutes east a distance of 345.18 feet to corner numbered 2 of lot 5B; thence south 24 degrees 04 minutes west a distance of 101.64 feet to corner numbered 3 of lot 5B; thence north 64 degrees 01 minute west a distance of 346.47 feet to corner numbered 10 of said survey, to the true point of beginning, consisting of 0.76 acres (more or less), and all improvements located on that property, including buildings, structures, and equipment.

(c) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to subsection (a), any conveyance of property described in subsection (b) shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used by the Ketchikan Indian Corporation as a health or social services facility.

SEC. 403. ELECTRONIC FILING OF COMMERCIAL INSTRUMENTS.

Section 31321(a) of title 46, United States Code, is amended by adding at the end the following new paragraph:

"(4)(A) A bill of sale, conveyance, mortgage, assignment, or related instrument may be filed electronically under regulations prescribed by the Secretary.

"(B) A filing made electronically under subparagraph (A) shall not be effective after the 10-day period beginning on the date of the filing unless the original instrument is provided to the Secretary within that 10-day period.".

SEC. 404. BOARD FOR CORRECTION OF MILITARY RECORDS DEADLINE.

(a) REMEDIES DEEMED EXHAUSTED.—Ten months after a complete application for correction of military records is received by the Board for Correction of Military Records of the Coast Guard, administrative remedies are deemed to have been exhausted, and—

(1) if the Board has rendered a recommended decision, its recommendation shall be final agency action and not subject to further review or approval within the Department of Transportation; or

(2) if the Board has not rendered a recommended decision, agency action is deemed to have been unreasonably delayed or withheld and the applicant is entitled to—

(A) an order under section 706(1) of title 5, United States Code, directing final action be taken within 30 days from the date the order is entered; and

(B) from amounts appropriated to the Department of Transportation, the costs of obtaining the order, including a reasonable attorney's fee.

(b) EXISTING DEADLINE MANDATORY.—The 10-month deadline established in section 212 of the Coast Guard Authorization Act of 1989 (Public Law 101-225, 103 Stat. 1914) is mandatory.

(c) APPLICATION.—This section applies to all applications filed with or pending before the Board or the Secretary of Transportation on or after June 12, 1990. For applications that were pending on June 12, 1990, the 10-month deadline referred to in subsection (b) shall be calculated from June 12, 1990.

SEC. 405. JUDICIAL SALE OF CERTAIN DOCUMENTED VESSELS TO ALIENS.

Section 31329 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(f) This section does not apply to a documented vessel that has been operated only—

"(1) as a fishing vessel, fish processing vessel, or fish tender vessel; or

"(2) for pleasure.".

SEC. 406. IMPROVED AUTHORITY TO SELL RECYCLABLE MATERIAL.

Section 641(c)(2) of title 14, United States Code, is amended by inserting before the period the following: ", except that the Commandant may conduct sales of materials for which the proceeds of sale will not exceed $5,000 under regulations prescribed by the Commandant".

SEC. 407. RECRUITMENT OF WOMEN AND MINORITIES.

Not later than January 31, 1996, the Commandant of the Coast Guard shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, on the status of and the problems in recruitment of women and minorities into the Coast Guard. The report shall contain specific plans to increase the recruitment of women and minorities and legislative recommendations needed to increase the recruitment of women and minorities.

SEC. 408. LIMITATION OF CERTAIN STATE AUTHORITY OVER VESSELS.

(a) SHORT TITLE.—This section may be cited as the "California Cruise Industry Revitalization Act".

(b) LIMITATION.—Section 5(b)(2) of the Act of January 2, 1951 (15 U.S.C. 1175(b)(2)), commonly referred to as the "Johnson Act", is amended by adding at the end the following:

"(C) EXCLUSION OF CERTAIN VOYAGES AND SEGMENTS.—Except for a voyage or segment of a voyage that occurs within the boundaries of the State of Hawaii, a voyage or segment of a voyage is not described in subparagraph (B) if it includes or consists of a segment—

"(i) that begins and ends in the same State;

"(ii) that is part of a voyage to another State or to a foreign country; and

"(iii) in which the vessel reaches the other State or foreign country within 3 days after leaving the State in which it begins.".

SEC. 409. VESSEL FINANCING.

(a) ELIMINATION OF MORTGAGEE RESTRICTIONS.—Section 31322(a) of title 46, United States Code, is amended to read as follows:

"(a) A preferred mortgage is a mortgage, whenever made, that—

"(1) includes the whole of the vessel;

"(2) is filed in substantial compliance with section 31321 of this title; and

"(3)(A) covers a documented vessel; or

"(B) covers a vessel for which an application for documentation is filed that is in substantial compliance with the requirements of chapter 121 of this title and the regulations prescribed under that chapter.".

(b) ELIMINATION OF TRUSTEE RESTRICTIONS.—

(1) REPEAL.—Section 31328 of title 46, United States Code, is repealed.

(2) CONFORMING AMENDMENTS.—Section 31330(b) of title 46, United States Code, is amended in paragraphs (1), (2), and (3) by striking "31328 or" each place it appears.

(3) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 313 of title 46, United States Code, is amended by striking the item relating to section 31328.

(c) REMOVAL OF MORTGAGE RESTRICTIONS.—Section 9 of the Shipping Act, 1916 (46 App. U.S.C. 808) is amended—

(1) in subsection (c)—

(A) by striking "31328" and inserting "12106(e)"; and

(B) in paragraph (1) by striking "mortgage," each place it appears; and

(2) in subsection (d)—

(A) in paragraph (1) by striking "transfer, or mortgage" and inserting "or transfer";

(B) in paragraph (2) by striking "transfers, or mortgages" and inserting "or transfers";

(C) in paragraph (3)(B) by striking "transfers, or mortgages" and inserting "or transfers"; and

(D) in paragraph (4) by striking "transfers, or mortgages" and inserting "or transfers".

(d) LEASE FINANCING.—Section 12106 of title 46, United States Code, is amended by adding at the end the following new subsections:

"(e)(1) A certificate of documentation for a vessel may be endorsed with a coastwise endorsement if—

"(A) the vessel is eligible for documentation under section 12102;

"(B) the vessel is otherwise qualified under this section to be employed in the coastwise trade;

"(C) the person that owns the vessel, a parent entity of that person, or a subsidiary of a parent entity of that person, is engaged in leasing;

"(D) the vessel is under a demise charter to a person qualifying as a citizen of the United States for engaging in the coastwise trade under section 2 of the Shipping Act, 1916; and

"(E) the demise charter is for—

"(i) a period of at least 3 years; or

"(ii) such shorter period as may be prescribed by the Secretary.

"(2) On termination of a demise charter required under paragraph (1)(D), the coastwise endorsement may be continued for a period not to exceed 6 months on any terms and conditions that the Secretary of Transportation may prescribe.

"(f) For purposes of the first proviso of section 27 of the Merchant Marine Act, 1920, section 2 of the Shipping Act, 1916, and section 12102(a) of this title, a vessel meeting the criteria of subsection (d) or (e) is deemed to be owned exclusively by citizens of the United States.".

SEC. 410. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the official responsible for providing the assistance, to the greatest extent practicable, shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. 411. SPECIAL SELECTION BOARDS.

(a) REQUIREMENT.—Chapter 21 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 747. Special selection boards

"(a) The Secretary shall provide for special selection boards to consider the case of any officer who is eligible for promotion who—

"(1) was not considered for selection for promotion by a selection board because of administrative error; or

"(2) was considered for selection for promotion by a selection board but not selected because—

"(A) the action of the board that considered the officer was contrary to law or involved a material error of fact or material administrative error; or

"(B) the board that considered the officer did not have before it for its consideration material information.

"(b) Not later than 6 months after the date of the enactment of the Coast Guard Authorization Act For Fiscal Year 1996, the Secretary shall

issue regulations to implement this section. The regulations shall conform, as appropriate, to the regulations and procedures issued by the Secretary of Defense for special selection boards under section 628 of title 10, United States Code.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 21 of title 14, United States Code, is amended by adding after the item for section 746 the following:

"747. Special selection boards.".

SEC. 412. AVAILABILITY OF EXTRAJUDICIAL REMEDIES FOR DEFAULT ON PREFERRED MORTGAGE LIENS ON VESSELS.

(a) AVAILABILITY OF EXTRAJUDICIAL REMEDIES.—Section 31325(b) of title 46, United States Code, is amended—

(1) in the matter preceding paragraph (1) by striking "mortgage may" and inserting "mortgagee may";

(2) in paragraph (1) by—

(A) striking "perferred" and inserting "preferred"; and

(B) striking "; and" and inserting a semicolon; and

(3) by adding at the end the following:

"(3) enforce the preferred mortgage lien or a claim for the outstanding indebtedness secured by the mortgaged vessel, or both, by exercising any other remedy (including an extrajudicial remedy) against a documented vessel, a vessel for which an application for documentation is filed under chapter 121 of this title, a foreign vessel, or a mortgagor, maker, comaker, or guarantor for the amount of the outstanding indebtedness or any deficiency in full payment of that indebtedness, if—

"(A) the remedy is allowed under applicable law; and

"(B) the exercise of the remedy will not result in a violation of section 9 or 37 of the Shipping Act, 1916 (46 App. U.S.C. 808, 835).".

(b) NOTICE.—Section 31325 of title 46, United States Code, is further amended by adding at the end the following:

"(f)(1) Before title to the documented vessel or vessel for which an application for documentation is filed under chapter 121 is transferred by an extrajudicial remedy, the person exercising the remedy shall give notice of the proposed transfer to the Secretary, to the mortgagee of any mortgage on the vessel filed in substantial compliance with section 31321 of this title before notice of the proposed transfer is given to the Secretary, and to any person that recorded a notice of a claim of an undischarged lien on the vessel under section 31343 (a) or (d) of this title before notice of the proposed transfer is given to the Secretary.

"(2) Failure to give notice as required by this subsection shall not affect the transfer of title to a vessel. However, the rights of any holder of a maritime lien or a preferred mortgage on the vessel shall not be affected by a transfer of title by an extrajudicial remedy exercised under this section, regardless of whether notice is required by this subsection or given.

"(3) The Secretary shall prescribe regulations establishing the time and manner for providing notice under this subsection.".

(c) RULE OF CONSTRUCTION.—The amendments made by subsections (a) and (b) may not be construed to imply that remedies other than judicial remedies were not available before the date of enactment of this section to enforce claims for outstanding indebtedness secured by mortgaged vessels.

SEC. 413. IMPLEMENTATION OF WATER POLLUTION LAWS WITH RESPECT TO VEGETABLE OIL.

(a) DIFFERENTIATION AMONG FATS, OILS, AND GREASES.—

(1) IN GENERAL.—In issuing or enforcing a regulation, an interpretation, or a guideline relating to a fat, oil, or grease under a Federal law related to water pollution control, the head of a Federal agency shall—

(A) differentiate between and establish separate classes for—

(i)(I) animal fats; and

(II) vegetable oils; and

(ii) other oils, including petroleum oil; and

(B) apply different standards to different classes of fat and oil as provided in paragraph (2).

(2) CONSIDERATIONS.—In differentiating between the classes of animal fats and vegetable oils referred to in paragraph (1)(A)(i) and the classes of oils described in paragraph (1)(A)(ii), the head of a Federal agency shall consider differences in physical, chemical, biological, and other properties, and in the environmental effects, of the classes.

(b) FINANCIAL RESPONSIBILITY.—

(1) LIMITS ON LIABILITY.—Section 1004(a)(1) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(a)(1)) is amended by striking "for a tank vessel," and inserting "for a tank vessel carrying oil in bulk as cargo (unless the only oil carried is an animal fat or vegetable oil, as those terms are defined in section 413(c) of the Coast Guard Authorization Act For Fiscal Year 1996),".

(2) FINANCIAL RESPONSIBILITY.—The first sentence of section 1016(a) of the Act (33 U.S.C. 2716(a)) is amended by striking "in the case of a tank vessel," and inserting "in the case of a tank vessel carrying oil in bulk as cargo (unless the only oil carried is an animal fat or vegetable oil, as those terms are defined in section 413(c) of the Coast Guard Authorization Act for Fiscal Year 1996),".

(c) DEFINITIONS.—In this section, the following definitions apply:

(1) ANIMAL FAT.—The term "animal fat" means each type of animal fat, oil, or grease, including fat, oil, or grease from fish or a marine mammal and any fat, oil, or grease referred to in section 61(a)(2) of title 13, United States Code.

(2) VEGETABLE OIL.—The term "vegetable oil" means each type of vegetable oil, including vegetable oil from a seed, nut, or kernel and any vegetable oil referred to in section 61(a)(1) of title 13, United States Code.

SEC. 414. CERTAIN INFORMATION FROM MARINE CASUALTY INVESTIGATIONS BARRED IN LEGAL PROCEEDINGS.

(a) IN GENERAL.—Title 46, United States Code, is amended by inserting after section 6307 the following new section:

"§6308. Information barred in legal proceedings

"(a) Notwithstanding any other provision of law, any opinion, recommendation, deliberation, or conclusion contained in a report of a marine casualty investigation conducted under section 6301 of this title with respect to the cause of, or factors contributing to, the casualty set forth in the report of the investigation is not admissible as evidence or subject to discovery in any civil, administrative, or State criminal proceeding arising from a marine casualty, other than with the permission and consent of the Secretary of Transportation, in his or her sole discretion. Any employee of the United States or military member of the Coast Guard investigating a marine casualty or assisting in any such investigation conducted pursuant to section 6301 of this title, shall not be subject to deposition or other discovery, or otherwise testify or give information in such proceedings relevant to a marine casualty investigation, without the permission and consent of the Secretary of Transportation in his or her sole discretion. In exercising this discretion in cases where the United States is a party, the Secretary shall not withhold permission for an employee to testify solely on factual matters where the information is not available elsewhere or is not obtainable by other means. Nothing in this section prohibits the United States from calling an employee as an expert witness to testify on its behalf.

"(b) The information referred to in subsection (a) of this section shall not be considered an admission of liability by the United States or by any person referred to in those conclusions or statements.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 46, United States Code, is amended by adding after the item related to section 6307 the following:

"6308. Information barred in legal proceedings.".

SEC. 415. REPORT ON LORAN-C REQUIREMENTS.

Not later than 6 months after the date of the enactment of this Act, the Secretary of Transportation shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science and Transportation of the Senate, prepared in consultation with users of the LORAN-C radionavigation system, defining the future use of and funding for operations, maintenance, and upgrades of the LORAN-C radionavigation system. The report shall address the following:

(1) An appropriate timetable for transition from ground-based radionavigation technology after it is determined that satellite-based technology is available as a sole means of safe and efficient navigation.

(2) The need to ensure that LORAN-C technology purchased by the public before the year 2000 has a useful economic life.

(3) The benefits of fully utilizing the compatibilities of LORAN-C technology and satellite-based technology by all modes of transportation.

(4) The need for all agencies in the Department of Transportation and other relevant Federal agencies to share the Federal Government's costs related to LORAN-C technology.

SEC. 416. LIMITED DOUBLE HULL EXEMPTIONS.

Section 3703a(b) of title 46, United States Code, is amended by—

(1) striking "or" at the end of paragraph (2);

(2) striking the period at the end of paragraph (3) and inserting a semicolon; and

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

"(4) a vessel equipped with a double hull before August 12, 1992; or

"(5) a barge of less than 2,000 gross tons that is primarily used to carry deck cargo and bulk fuel to Native villages (as that term is defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1601)) located on or adjacent to bays or rivers above 58 degrees north latitude.".

SEC. 417. OIL SPILL RESPONSE VESSELS.

(a) DEFINITION.—Section 2101 of title 46, United States Code, is amended—

(1) by redesignating paragraph (20a) as paragraph (20b); and

(2) by inserting after paragraph (20) the following new paragraph:

"(20a) 'oil spill response vessel' means a vessel that is designated in its certificate of inspection as such a vessel, or that is adapted to respond to a discharge of oil or a hazardous material.".

(b) EXEMPTION FROM LIQUID BULK CARRIAGE REQUIREMENTS.—Section 3702 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(f) This chapter does not apply to an oil spill response vessel if—

"(1) the vessel is used only in response-related activities; or

"(2) the vessel is—

"(A) not more than 500 gross tons;

"(B) designated in its certificate of inspection as an oil spill response vessel; and

"(C) engaged in response-related activities.".

(c) MANNING.—Section 8104(p) of title 46, United States Code, is amended to read as follows:

"(p) The Secretary may prescribe the watchstanding requirements for an oil spill response vessel.".

(d) MINIMUM NUMBER OF LICENSED INDIVIDUALS.—Section 8301(e) of title 46, United States Code, is amended to read as follows:

"(e) The Secretary may prescribe the minimum number of licensed individuals for an oil spill response vessel.".

(e) MERCHANT MARINER DOCUMENT REQUIREMENTS.—Section 8701(a) of title 46, United States Code, is amended by striking "and" after the semicolon at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting "; and", and by adding at the end the following new paragraph:

"(9) the Secretary may prescribe the individuals required to hold a merchant mariner's document serving onboard an oil spill response vessel.".

(f) EXEMPTION FROM TOWING VESSEL REQUIREMENT.—Section 8905 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(c) Section 8904 of this title does not apply to an oil spill response vessel while engaged in oil spill response or training activities.".

(g) INSPECTION REQUIREMENT.—Section 3301 of title 46, United States Code, is amended by adding at the end the following new paragraph:

"(14) oil spill response vessels.".

SEC. 418. OFFSHORE FACILITY FINANCIAL RESPONSIBILITY REQUIREMENTS.

(a) DEFINITION OF RESPONSIBLE PARTY.—Section 1001(32)(C) of the Oil Pollution Act of 1990 (33 U.S.C. 2701(32)(C)) is amended by striking "applicable State law or" and inserting "applicable State law relating to exploring for, producing, or transporting oil on submerged lands on the Outer Continental Shelf in accordance with a license or permit issued for such purpose, or under".

(b) AMOUNT OF FINANCIAL RESPONSIBILITY.—Section 1016(c)(1) of the Oil Pollution Act of 1990 (33 U.S.C. 2716(c)(1)) is amended to read as follows:

"(1) IN GENERAL.—

"(A) EVIDENCE OF FINANCIAL RESPONSIBILITY REQUIRED.—Except as provided in paragraph (2), each responsible party with respect to an offshore facility described in section 1001(32)(C) located seaward of the line of mean high tide that is—

"(i) used for drilling for, producing, or processing oil; and

"(ii) has the capacity to transport, store, transfer, or otherwise handle more than 1,000 barrels of oil at any one time,

shall establish and maintain evidence of financial responsibility in the amount required under subparagraph (B) or (C), applicable.

"(B) AMOUNT REQUIRED GENERALLY.—Except as provided in subparagraph (C), for purposes of subparagraph (A) the amount of financial responsibility required is $35,000,000.

"(C) GREATER AMOUNT.—If the President determines that an amount of financial responsibility greater than the amount required by subparagraph (B) is necessary for an offshore facility, based on an assessment of the risk posed by the facility that includes consideration of the relative operational, environmental, human health, and other risks posed by the quantity or quality of oil that is transported, stored, transferred, or otherwise handled by the facility, the amount of financial responsibility required shall not exceed $150,000,000 determined by the President on the basis of clear and convincing evidence that the risks posed justify the greater amount.

"(D) MULTIPLE FACILITIES.—In a case in which a person is responsible for more than one facility subject to this subsection, evidence of financial responsibility need be established only to meet the amount applicable to the facility having the greatest financial responsibility requirement under this subsection.

"(E) GUARANTEE METHOD.—Except with respect of financial responsibility established by the guarantee method, subsection (f) shall not apply with respect to this subsection.".

SEC. 419. MANNING AND WATCH REQUIREMENTS ON TOWING VESSELS ON THE GREAT LAKES.

(a) Section 8104(c) of title 46, United States Code, is amended—

(1) by striking "or permitted"; and

(2) by inserting after "day" the following: "or permitted to work more than 15 hours in any 24-hour period, or more than 36 hours in any 72-hour period".

(b) Section 8104(e) of title 46, United States Code, is amended by striking "subsections (c) and (d)" and inserting "subsection (d)".

(c) Section 8104(g) of title 46, United States Code, is amended by striking "(except a vessel to which subsection (c) of this section applies)".

SEC. 420. LIMITATION ON APPLICATION OF CERTAIN LAWS TO LAKE TEXOMA.

(a) LIMITATION.—The laws administered by the Coast Guard relating to documentation or inspection of vessels or licensing or documentation of vessel operators do not apply to any small passenger vessel operating on Lake Texoma.

(b) DEFINITIONS.—In this section:

(1) The term "Lake Texoma" means the impoundment by that name on the Red River, located on the border between Oklahoma and Texas.

(2) The term "small passenger vessel" has the meaning given that term in section 2101 of title 46, United States Code.

TITLE V—COAST GUARD REGULATORY REFORM

SEC. 501. SHORT TITLE.

This title may be cited as the "Coast Guard Regulatory Reform Act of 1995".

SEC. 502. SAFETY MANAGEMENT.

(a) MANAGEMENT OF VESSELS.—Title 46, United States Code, is amended by adding after chapter 31 the following new chapter:

"CHAPTER 32—MANAGEMENT OF VESSELS

"Sec.
"3201. Definitions.
"3202. Application.
"3203. Safety management system.
"3204. Implementation of safety management system.
"3205. Certification.

"§3201. Definitions

"In this chapter—

"(1) 'International Safety Management Code' has the same meaning given that term in chapter IX of the Annex to the International Convention for the Safety of Life at Sea, 1974;

"(2) 'responsible person' means—

"(A) the owner of a vessel to which this chapter applies; or

"(B) any other person that has—

"(i) assumed the responsibility for operation of a vessel to which this chapter applies from the owner; and

"(ii) agreed to assume with respect to the vessel responsibility for complying with all the requirements of this chapter and the regulations prescribed under this chapter;

"(3) 'vessel engaged on a foreign voyage' means a vessel to which this chapter applies—

"(A) arriving at a place under the jurisdiction of the United States from a place in a foreign country;

"(B) making a voyage between places outside the United States; or

"(C) departing from a place under the jurisdiction of the United States for a place in a foreign country.

"§3202. Application

"(a) MANDATORY APPLICATION.—This chapter applies to the following vessels engaged on a foreign voyage:

"(1) Beginning July 1, 1998—

"(A) a vessel transporting more than 12 passengers described in section 2101(21)(A) of this title; and

"(B) a tanker, bulk freight vessel, or high-speed freight vessel, of at least 500 gross tons.

"(2) Beginning July 1, 2002, a freight vessel and a mobile offshore drilling unit of at least 500 gross tons.

"(b) VOLUNTARY APPLICATION.—This chapter applies to a vessel not described in subsection (a) of this section if the owner of the vessel requests the Secretary to apply this chapter to the vessel.

"(c) EXCEPTION.—Except as provided in subsection (b) of this section, this chapter does not apply to—

"(1) a barge;

"(2) a recreational vessel not engaged in commercial service;

"(3) a fishing vessel;

"(4) a vessel operating on the Great Lakes or its tributary and connecting waters; or

"(5) a public vessel.

"§3203. Safety management system

"(a) IN GENERAL.—The Secretary shall prescribe regulations which establish a safety management system for responsible persons and vessels to which this chapter applies, including—

"(1) a safety and environmental protection policy;

"(2) instructions and procedures to ensure safe operation of those vessels and protection of the environment in compliance with international and United States law;

"(3) defined levels of authority and lines of communications between, and among, personnel on shore and on the vessel;

"(4) procedures for reporting accidents and nonconformities with this chapter;

"(5) procedures for preparing for and responding to emergency situations; and

"(6) procedures for internal audits and management reviews of the system.

"(b) COMPLIANCE WITH CODE.—Regulations prescribed under this section shall be consistent with the International Safety Management Code with respect to vessels engaged on a foreign voyage.

"§3204. Implementation of safety management system

"(a) SAFETY MANAGEMENT PLAN.—Each responsible person shall establish and submit to the Secretary for approval a safety management plan describing how that person and vessels of the person to which this chapter applies will comply with the regulations prescribed under section 3203(a) of this title.

"(b) APPROVAL.—Upon receipt of a safety management plan submitted under subsection (a), the Secretary shall review the plan and approve it if the Secretary determines that it is consistent with and will assist in implementing the safety management system established under section 3203.

"(c) PROHIBITION ON VESSEL OPERATION.—A vessel to which this chapter applies under section 3202(a) may not be operated without having on board a Safety Management Certificate and a copy of a Document of Compliance issued for the vessel under section 3205 of this title.

"§3205. Certification

"(a) ISSUANCE OF CERTIFICATE AND DOCUMENT.—After verifying that the responsible person for a vessel to which this chapter applies

and the vessel comply with the applicable requirements under this chapter, the Secretary shall issue for the vessel, on request of the responsible person, a Safety Management Certificate and a Document of Compliance.

"(b) MAINTENANCE OF CERTIFICATE AND DOCUMENT.—A Safety Management Certificate and a Document of Compliance issued for a vessel under this section shall be maintained by the responsible person for the vessel as required by the Secretary.

"(c) VERIFICATION OF COMPLIANCE.—The Secretary shall—

"(1) periodically review whether a responsible person having a safety management plan approved under section 3204(b) and each vessel to which the plan applies is complying with the plan; and

"(2) revoke the Secretary's approval of the plan and each Safety Management Certificate and Document of Compliance issued to the person for a vessel to which the plan applies, if the Secretary determines that the person or a vessel to which the plan applies has not complied with the plan.

"(d) ENFORCEMENT.—At the request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes (46 App. U.S.C. 91) of a vessel that is subject to this chapter under section 3202(a) of this title or to the International Safety Management Code, if the vessel does not have on board a Safety Management Certificate and a copy of a Document of Compliance for the vessel. Clearance may be granted on filing a bond or other surety satisfactory to the Secretary.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle II of title 46, United States Code, is amended by inserting after the item relating to chapter 31 the following:

"32. Management of vessels ..... 3201".

(c) STUDY.—

(1) STUDY.—The Secretary of Transportation shall conduct, in cooperation with the owners, charterers, and managing operators of vessels documented under chapter 121 of title 46, United States Code, and other interested persons, a study of the methods that may be used to implement and enforce the International Management Code for the Safe Operation of Ships and for Pollution Prevention under chapter IX of the Annex to the International Convention for the Safety of Life at Sea, 1974.

(2) REPORT.—The Secretary shall submit to the Congress a report of the results of the study required under paragraph (1) before the earlier of—

(A) the date that final regulations are prescribed under section 3203 of title 46, United States Code (as enacted by subsection (a)); or

(B) the date that is 1 year after the date of enactment of this Act.

SEC. 503. USE OF REPORTS, DOCUMENTS, RECORDS, AND EXAMINATIONS OF OTHER PERSONS.

(a) REPORTS, DOCUMENTS, AND RECORDS.—Chapter 31 of title 46, United States Code, is amended by adding the following new section:

"§3103. Use of reports, documents, and records

"The Secretary may rely, as evidence of compliance with this subtitle, on—

"(1) reports, documents, and records of other persons who have been determined by the Secretary to be reliable; and

"(2) other methods the Secretary has determined to be reliable.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 31 of title 46, United States Code, is amended by adding at the end the following:

"3103. Use of reports, documents, and records.".

(c) EXAMINATIONS.—Section 3308 of title 46, United States Code, is amended by inserting "or have examined" after "examine".

SEC. 504. EQUIPMENT APPROVAL.

(a) IN GENERAL.—Section 3306(b) of title 46, United States Code, is amended to read as follows:

"(b)(1) Equipment and material subject to regulation under this section may not be used on any vessel without prior approval of the Secretary.

"(2) Except with respect to use on a public vessel, the Secretary may treat an approval of equipment or materials by a foreign government as approval by the Secretary for purposes of paragraph (1) if the Secretary determines that—

"(A) the design standards and testing procedures used by that government meet the requirements of the International Convention for the Safety of Life at Sea, 1974;

"(B) the approval of the equipment or material by the foreign government will secure the safety of individuals and property on board vessels subject to inspection; and

"(C) for lifesaving equipment, the foreign government—

"(i) has given equivalent treatment to approvals of lifesaving equipment by the Secretary; and

"(ii) otherwise ensures that lifesaving equipment approved by the Secretary may be used on vessels that are documented and subject to inspection under the laws of that country.".

(b) FOREIGN APPROVALS.—The Secretary of Transportation, in consultation with other interested Federal agencies, shall work with foreign governments to have those governments approve the use of the same equipment and materials on vessels documented under the laws of those countries that the Secretary requires on United States documented vessels.

(c) TECHNICAL AMENDMENT.—Section 3306(a)(4) of title 46, United States Code, is amended by striking "clauses (1)–(3)" and inserting "paragraphs (1), (2), and (3)".

SEC. 505. FREQUENCY OF INSPECTION.

(a) FREQUENCY OF INSPECTION, GENERALLY.—Section 3307 of title 46, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "nautical school vessel" and inserting ", nautical school vessel, and small passenger vessel allowed to carry more than 12 passengers on a foreign voyage"; and

(B) by adding "and" after the semicolon at the end;

(2) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(3) in paragraph (2) (as so redesignated), by striking "2 years" and inserting "5 years".

(b) CONFORMING AMENDMENT.—Section 3710(b) of title 46, United States Code, is amended by striking "24 months" and inserting "5 years".

SEC. 506. CERTIFICATE OF INSPECTION.

Section 3309(c) of title 46, United States Code, is amended by striking "(but not more than 60 days)".

SEC. 507. DELEGATION OF AUTHORITY OF SECRETARY TO CLASSIFICATION SOCIETIES.

(a) AUTHORITY TO DELEGATE.—Section 3316 of title 46, United States Code, is amended—

(1) by striking subsections (a) and (d);

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively; and

(3) in subsection (b), as so redesignated, by—

(A) redesignating paragraph (2) as paragraph (3); and

(B) striking so much of the subsection as precedes paragraph (3), as so redesignated, and inserting the following:

"(b)(1) The Secretary may delegate to the American Bureau of Shipping or another classification society recognized by the Secretary as meeting acceptable standards for such a society, for a vessel documented or to be documented under chapter 121 of this title, the authority to—

"(A) review and approve plans required for issuing a certificate of inspection required by this part;

"(B) conduct inspections and examinations; and

"(C) issue a certificate of inspection required by this part and other related documents.

"(2) The Secretary may make a delegation under paragraph (1) to a foreign classification society only—

"(A) to the extent that the government of the foreign country in which the society is headquartered delegates authority and provides access to the American Bureau of Shipping to inspect, certify, and provide related services to vessels documented in that country; and

"(B) if the foreign classification society has offices and maintains records in the United States.".

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 3316 of title 46, United States Code, is amended to read as follows:

"§3316. Classification societies".

(2) The table of sections for chapter 33 of title 46, United States Code, is amended by striking the item relating to section 3316 and inserting the following:

"3316. Classification societies.".

TITLE VI—DOCUMENTATION OF VESSELS

SEC. 601. AUTHORITY TO ISSUE COASTWISE ENDORSEMENTS.

Section 12106 of title 46, United States Code, is further amended by adding at the end the following new subsection:

"(g) A coastwise endorsement may be issued for a vessel that—

"(1) is less than 200 gross tons;

"(2) is eligible for documentation;

"(3) was built in the United States; and

"(4) was—

"(A) sold foreign in whole or in part; or

"(B) placed under foreign registry.".

SEC. 602. VESSEL DOCUMENTATION FOR CHARITY CRUISES.

(a) AUTHORITY TO DOCUMENT VESSELS.—

(1) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), and section 12106 of title 46, United States Code, and subject to paragraph (2), the Secretary of Transportation may issue a certificate of documentation with a coastwise endorsement for each of the following vessels:

(A) GALLANT LADY (Feadship hull number 645, approximately 130 feet in length).

(B) GALLANT LADY (Feadship hull number 651, approximately 172 feet in length).

(2) LIMITATION ON OPERATION.—Coastwise trade authorized under a certificate of documentation issued for a vessel under this section shall be limited to carriage of passengers in association with contributions to charitable organizations no portion of which is received, directly or indirectly, by the owner of the vessel.

(3) CONDITION.—The Secretary may not issue any certificate of documentation under paragraph (1) unless the owner of the vessel referred to in paragraph (1)(A) (in this section referred to as the "owner"), within 90 days after the date of the enactment of this Act, submits to the Secretary a letter expressing the intent of the owner to enter into a contract before October 1, 1996, for construction in the United States of a passenger vessel of at least 130 feet in length.

(4) EFFECTIVE DATE OF CERTIFICATES.—A certificate of documentation issued under paragraph (1)—

(A) for the vessel referred to in paragraph (1)(A), shall take effect on the date of issuance of the certificate; and

(B) for the vessel referred to in paragraph (1)(B), shall take effect on the date of delivery of the vessel to the owner.

(b) TERMINATION OF EFFECTIVENESS OF CERTIFICATES.—A certificate of documentation issued for a vessel under section (a)(1) shall expire—

(1) on the date of the sale of the vessel by the owner;

(2) on October 1, 1996, if the owner has not entered into a contract for construction of a vessel in accordance with the letter of intent submitted to the Secretary under subsection (a)(3); and

(3) on any date on which such a contract is breached, rescinded, or terminated (other than for completion of performance of the contract) by the owner.

SEC. 603. EXTENSION OF DEADLINE FOR CONVERSION OF VESSEL M/V TWIN DRILL.

Section 601(d) of Public Law 103-206 (107 Stat. 2445) is amended—

(1) in paragraph (3), by striking "1995" and inserting "1996"; and

(2) in paragraph (4), by striking "12" and inserting "24".

SEC. 604. DOCUMENTATION OF VESSEL RAINBOW'S END.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), and sections 12106, 12107, and 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsements for employment in the coastwise trade, Great Lakes trade, and the fisheries for the vessel RAINBOW'S END (official number 1026899; hull identification number MY13708C787).

SEC. 605. DOCUMENTATION OF VESSEL GLEAM.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel GLEAM (United States official number 921594).

SEC. 606. DOCUMENTATION OF VARIOUS VESSELS.

(a) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), the Act of May 28, 1906 (46 App. U.S.C. 292), and sections 12106, 12107, and 12108 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with appropriate endorsements for each of the vessels listed in subsection (b).

(b) VESSELS DESCRIBED.—The vessels referred to in subsection (a) are the following:

(1) ANNAPOLIS (United States official number 999008).

(2) CHESAPEAKE (United States official number 999010).

(3) CONSORT (United States official number 999005).

(4) CURTIS BAY (United States official number 999007).

(5) HAMPTON ROADS (United States official number 999009).

(6) JAMESTOWN (United States official number 999006).

SEC. 607. DOCUMENTATION OF 4 BARGES.

(a) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), section 1 of the Act of May 28, 1906 (46 App. U.S.C. 292), and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsements for each of the vessels listed in subsection (b).

(b) VESSELS DESCRIBED.—The vessels referred to in subsection (a) are 4 barges owned by McLean Contracting Company (a corporation organized under the laws of the State of Maryland) and numbered by that company as follows:

(1) Barge 76 (official number 1030612).

(2) Barge 77 (official number 1030613).

(3) Barge 78 (official number 1030614).

(4) Barge 100 (official number 1030615).

TITLE VII—TECHNICAL AND CONFORMING AMENDMENTS

SEC. 701. AMENDMENT OF INLAND NAVIGATION RULES.

Section 2 of the Inland Navigational Rules Act of 1980 is amended—

(1) by amending Rule 9(e)(i) (33 U.S.C. 2009(e)(i)) to read as follows:

"(i) In a narrow channel or fairway when overtaking, the power-driven vessel intending to overtake another power-driven vessel shall indicate her intention by sounding the appropriate signal prescribed in Rule 34(c) and take steps to permit safe passing. The power-driven vessel being overtaken, if in agreement, shall sound the same signal and may, if specifically agreed to take steps to permit safe passing. If in doubt she shall sound the danger signal prescribed in Rule 34(d).";

(2) in Rule 15(b) (33 U.S.C. 2015(b)) by inserting "power-driven" after "Secretary, a";

(3) in Rule 23(a)(i) (33 U.S.C. 2023(a)(i)) after "masthead light forward"; by striking "except that a vessel of less than 20 meters in length need not exhibit this light forward of amidships but shall exhibit it as far forward as is practicable;";

(4) by amending Rule 24(f) (33 U.S.C. 2024(f)) to read as follows:

"(f) Provided that any number of vessels being towed alongside or pushed in a group shall be lighted as one vessel, except as provided in paragraph (iii)—

"(i) a vessel being pushed ahead, not being part of a composite unit, shall exhibit at the forward end, sidelights and a special flashing light;

"(ii) a vessel being towed alongside shall exhibit a sternlight and at the forward end, sidelights and a special flashing light; and

"(iii) when vessels are towed alongside on both sides of the towing vessels a stern light shall be exhibited on the stern of the outboard vessel on each side of the towing vessel, and a single set of sidelights as far forward and as far outboard as is practicable, and a single special flashing light.";

(5) in Rule 26 (33 U.S.C 2026)—

(A) in each of subsections (b)(i) and (c)(i) by striking "a vessel of less than 20 meters in length may instead of this shape exhibit a basket;"; and

(B) by amending subsection (d) to read as follows:

"(d) The additional signals described in Annex II to these Rules apply to a vessel engaged in fishing in close proximity to other vessels engaged in fishing."; and

(6) by amending Rule 34(h) (33 U.S.C. 2034) to read as follows:

"(h) A vessel that reaches agreement with another vessel in a head-on, crossing, or overtaking situation, as for example, by using the radiotelephone as prescribed by the Vessel Bridge-to-Bridge Radiotelephone Act (85 Stat. 164; 33 U.S.C. 1201 et seq.), is not obliged to sound the whistle signals prescribed by this rule, but may do so. If agreement is not reached, then whistle signals shall be exchanged in a timely manner and shall prevail.".

SEC. 702. MEASUREMENT OF VESSELS.

Section 14104 of title 46, United States Code, is amended by redesignating the existing text after the section heading as subsection (a) and by adding at the end the following new subsection:

"(b) If a statute allows for an alternate tonnage to be prescribed under this section, the Secretary may prescribe it by regulation. The alternate tonnage shall, to the maximum extent possible, be equivalent to the statutorily established tonnage. Until an alternate tonnage is prescribed, the statutorily established tonnage shall apply to vessels measured under chapter 143 or chapter 145 of this title.".

SEC. 703. LONGSHORE AND HARBOR WORKERS COMPENSATION.

Section 3(d)(3)(B) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 903(d)(3)(B)) is amended by inserting after "1,600 tons gross" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 704. RADIOTELEPHONE REQUIREMENTS.

Section 4(a)(2) of the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1203(a)(2)) is amended by inserting after "one hundred gross tons" the following "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title,".

SEC. 705. VESSEL OPERATING REQUIREMENTS.

Section 4(a)(3) of the Ports and Waterways Safety Act (33 U.S.C. 1223(a)(3)) is amended by inserting after "300 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 706. MERCHANT MARINE ACT, 1920.

Section 27A of the Merchant Marine Act, 1920 (46 U.S.C. App. 883-1), is amended by inserting after "five hundred gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title,".

SEC. 707. MERCHANT MARINE ACT, 1956.

Section 2 of the Act of June 14, 1956 (46 U.S.C. App. 883a), is amended by inserting after "five hundred gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 708. MARITIME EDUCATION AND TRAINING.

Section 1302(4)(A) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295a(4)(a)) is amended by inserting after "1,000 gross tons or more" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 709. GENERAL DEFINITIONS.

Section 2101 of title 46, United States Code, is amended—

(1) in paragraph (13), by inserting after "15 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in paragraph (13a), by inserting after "3,500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(3) in paragraph (19), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(4) in paragraph (22), by inserting after "100 gross tons" the following: "as measured under

section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(5) in paragraph (30)(A), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(6) in paragraph (32), by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(7) in paragraph (33), by inserting after "300 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(8) in paragraph (35), by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(9) in paragraph (42), by inserting after "100 gross tons" each place it appears, the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 710. AUTHORITY TO EXEMPT CERTAIN VESSELS.

Section 2113 of title 46, United States Code, is amended—

(1) in paragraph (4), by inserting after "at least 100 gross tons but less than 300 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(2) in paragraph (5), by inserting after "at least 100 gross tons but less than 500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 711. INSPECTION OF VESSELS.

Section 3302 of title 46, United States Code, is amended—

(1) in subsection (c)(1), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in subsection (c)(2), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(3) in subsection (c)(3), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(4) in subsection (c)(4)(A), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(5) in subsection (d)(1), by inserting after "150 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(6) in subsection (i)(1)(A), by inserting after "300 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(7) in subsection (j), by inserting after "15 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 712. REGULATIONS.

Section 3306 of title 46, United States Code, is amended—

(1) in subsection (h), by inserting after "at least 100 gross tons but less than 300 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(2) in subsection (i), by inserting after "at least 100 gross tons but less than 500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 713. PENALTIES—INSPECTION OF VESSELS.

Section 3318 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(2) in subsection (j)(1), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 714. APPLICATION—TANK VESSELS.

Section 3702 of title 46, United States Code, is amended—

(1) in subsection (b)(1), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in subsection (c), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(3) in subsection (d), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 715. TANK VESSEL CONSTRUCTION STANDARDS.

Section 3703a of title 46, United States Code, is amended—

(1) in subsection (b)(2), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in subsection (c)(2), by inserting after "5,000 gross tons" each place it appears the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(3) in subsection (c)(3)(A), by inserting after "15,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(4) in subsection (c)(3)(B), by inserting after "30,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(5) in subsection (c)(3)(C), by inserting after "30,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 716. TANKER MINIMUM STANDARDS.

Section 3707 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after "10,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(2) in subsection (b), by inserting after "10,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 717. SELF-PROPELLED TANK VESSEL MINIMUM STANDARDS.

Section 3708 of title 46, United States Code, is amended by inserting after "10,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 718. DEFINITION—ABANDONMENT OF BARGES.

Section 4701(1) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 719. APPLICATION—LOAD LINES.

Section 5102(b) of title 46, United States Code, is amended—

(1) in paragraph (4), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in paragraph (5), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(3) in paragraph (10), by inserting after "150 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 720. LICENSING OF INDIVIDUALS.

Section 7101(e)(3) of title 46, United States Code, is amended by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 721. ABLE SEAMEN—LIMITED.

Section 7308 of title 46, United States Code, is amended by inserting after "100 gross tons" the

following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 722. ABLE SEAMEN—OFFSHORE SUPPLY VESSELS.

Section 7310 of title 46, United States Code, is amended by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 723. SCALE OF EMPLOYMENT—ABLE SEAMEN.

Section 7312 of title 46, United States Code, is amended—

(1) in subsection (b), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in subsection (c)(1), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(3) in subsection (d), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(4) in subsection (f)(1), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(5) in subsection (f)(2), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 724. GENERAL REQUIREMENTS—ENGINE DEPARTMENT.

Section 7313(a) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 725. COMPLEMENT OF INSPECTED VESSELS.

Section 8101(h) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 726. WATCHMEN.

Section 8102(b) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 727. CITIZENSHIP AND NAVAL RESERVE REQUIREMENTS.

Section 8103(b)(3)(A) of title 46, United States Code, is amended by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 728. WATCHES.

Section 8104 of title 46, United States Code, is amended—

(1) in subsection (b), by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in subsection (d), by inserting after "100 gross tons" and after "5,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(3) in subsection (l)(1), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(4) in subsection (m)(1), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(5) in subsection (o)(1), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(6) in subsection (o)(2), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 729. MINIMUM NUMBER OF LICENSED INDIVIDUALS.

Section 8301 of title 46, United States Code, is amended—

(1) in subsection (a)(2), by inserting after "1,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in subsection (a)(3), by inserting after "at least 200 gross tons but less than 1,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(3) in subsection (a)(4), by inserting after "at least 100 gross tons but less than 200 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(4) in subsection (a)(5), by inserting after "300 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(5) in subsection (b), by inserting after "200 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 730. OFFICERS' COMPETENCY CERTIFICATES CONVENTION.

Section 8304(b)(4) of title 46, United States Code, is amended by inserting after "200 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 731. MERCHANT MARINERS' DOCUMENTS REQUIRED.

Section 8701 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(2) in subsection (a)(6), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 732. CERTAIN CREW REQUIREMENTS.

Section 8702 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(2) in subsection (a)(6), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 733. FREIGHT VESSELS.

Section 8901 of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 734. EXEMPTIONS.

Section 8905(b) of title 46, United States Code, is amended by inserting after "200 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 735. UNITED STATES REGISTERED PILOT SERVICE.

Section 9303(a)(2) of title 46, United States Code, is amended by inserting after "4,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 736. DEFINITIONS—MERCHANT SEAMEN PROTECTION.

Section 10101(4)(B) of title 46, United States Code, is amended by inserting after "1,600 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 737. APPLICATION—FOREIGN AND INTERCOASTAL VOYAGES.

Section 10301(a)(2) of title 46, United States Code, is amended by inserting after "75 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 738. APPLICATION—COASTWISE VOYAGES.

Section 10501(a) of title 46, United States Code, is amended by inserting after "50 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 739. FISHING AGREEMENTS.

Section 10601(a)(1) of title 46, United States Code, is amended by inserting after "20 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of

that title as prescribed by the Secretary under section 14104 of that title".

SEC. 740. ACCOMMODATIONS FOR SEAMEN.

Section 11101(a) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 741. MEDICINE CHESTS.

Section 11102(a) of title 46, United States Code, is amended by inserting after "75 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 742. LOGBOOK AND ENTRY REQUIREMENTS.

Section 11301(a)(2) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 743. COASTWISE ENDORSEMENTS.

Section 12106(c)(1) of title 46, United States Code, is amended by striking "two hundred gross tons" and inserting "200 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 744. FISHERY ENDORSEMENTS.

Section 12108(c)(1) of title 46, United States Code, is amended by striking "two hundred gross tons" and inserting "200 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 745. CLERICAL AMENDMENT.

Chapter 121 of title 46, United States Code, is amended—

(1) by striking the first section 12123; and

(2) in the table of sections at the beginning of the chapter by striking the first item relating to section 12123.

SEC. 746. REPEAL OF GREAT LAKES ENDORSEMENTS.

(a) REPEAL.—Section 12107 of title 46, United States Code, is repealed.

(b) CONFORMING AMENDMENTS.—

(1) The analysis at the beginning of chapter 121 of title 46, United States Code, is amended by striking the item relating to section 12107.

(2) Section 12101(b)(3) of title 46, United States Code, is repealed.

(3) Section 4370(a) of the Revised Statutes of the United States (46 App. U.S.C. 316(a)) is amended by striking "or 12107".

(4) Section 2793 of the Revised Statutes of the United States (46 App. U.S.C. 111, 123) is amended—

(A) by striking "coastwise, Great Lakes endorsement" and all that follows through "foreign ports," and inserting "registry endorsement, engaged in foreign trade on the Great Lakes or their tributary or connecting waters in trade with Canada,"; and

(B) by striking ", as if from or to foreign ports".

SEC. 747. CONVENTION TONNAGE FOR LICENSES, CERTIFICATES, AND DOCUMENTS.

(a) AUTHORITY TO USE CONVENTION TONNAGE.—Chapter 75 of title 46, United States Code, is amended by adding at the end the following:

"§7506. Convention tonnage for licenses, certificates, and documents

"Notwithstanding any provision of section 14302(c) or 14305 of this title, the Secretary may—

"(1) evaluate the service of an individual who is applying for a license, a certificate of registry, or a merchant mariner's document by using the tonnage as measured under chapter 143 of this title for the vessels on which that service was acquired, and

"(2) issue the license, certificate, or document based on that service.".

(b) CLERICAL AMENDMENT.—The analysis to chapter 75 of title 46, United States Code, is amended by adding a new item as follows:

"7506. Convention tonnage for licenses, certificates, and documents.".

TITLE VIII—COAST GUARD AUXILIARY AMENDMENTS

SEC. 801. ADMINISTRATION OF THE COAST GUARD AUXILIARY.

(a) IN GENERAL.—Section 821 of title 14, United States Code, is amended to read as follows:

"§821. Administration of the Coast Guard Auxiliary

"(a) The Coast Guard Auxiliary is a nonmilitary organization administered by the Commandant under the direction of the Secretary. For command, control, and administrative purposes, the Auxiliary shall include such organizational elements and units as are approved by the Commandant, including but not limited to, a national board and staff (to be known as the 'Auxiliary headquarters unit'), districts, regions, divisions, flotillas, and other organizational elements and units. The Auxiliary organization and its officers shall have such rights, privileges, powers, and duties as may be granted to them by the Commandant, consistent with this title and other applicable provisions of law. The Commandant may delegate to officers of the Auxiliary the authority vested in the Commandant by this section, in the manner and to the extent the Commandant considers necessary or appropriate for the functioning, organization, and internal administration of the Auxiliary.

"(b) Each organizational element or unit of the Coast Guard Auxiliary organization (but excluding any corporation formed by an organizational element or unit of the Auxiliary under subsection (c) of this section), shall, except when acting outside the scope of section 822, at all times be deemed to be an instrumentality of the United States, for purposes of—

"(1) chapter 26 of title 28 (popularly known as the Federal Tort Claims Act);

"(2) section 2733 of title 10 (popularly known as the Military Claims Act);

"(3) the Act of March 3, 1925 (46 App. U.S.C. 781–790; popularly known as the Public Vessels Act);

"(4) the Act of March 9, 1920 (46 App. U.S.C. 741–752; popularly known as the Suits in Admiralty Act);

"(5) the Act of June 19, 1948 (46 App. U.S.C. 740; popularly known as the Admiralty Extension Act); and

"(6) other matters related to noncontractual civil liability.

"(c) The national board of the Auxiliary, and any Auxiliary district or region, may form a corporation under State law in accordance with policies established by the Commandant.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 23 of title 14, United States Code, is amended by striking the item relating to section 821, and inserting the following:

"821. Administration of the Coast Guard Auxiliary.".

SEC. 802. PURPOSE OF THE COAST GUARD AUXILIARY.

(a) IN GENERAL.—Section 822 of title 14, United States Code, is amended to read as follows:

"§822. Purpose of the Coast Guard Auxiliary

"The purpose of the Auxiliary is to assist the Coast Guard as authorized by the Commandant, in performing any Coast Guard function, power, duty, role, mission, or operation authorized by law.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 23 of title 14, United States Code, is amended by striking the item relating to section 822 and inserting the following:

"822. Purpose of the Coast Guard Auxiliary.".

SEC. 803. MEMBERS OF THE AUXILIARY; STATUS.

(a) IN GENERAL.—Section 823 of title 14, United States Code, is amended—

*(1) in the heading by adding **", and status"** after **"enrollments"**;*

(2) by inserting "(a)" before "The Auxiliary"; and

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

"(b) A member of the Coast Guard Auxiliary is not a Federal employee except for the following purposes:

"(1) Chapter 26 of title 28 (popularly known as the Federal Tort Claims Act).

"(2) Section 2733 of title 10 (popularly known as the Military Claims Act).

"(3) The Act of March 3, 1925 (46 App. U.S.C. 781–790; popularly known as the Public Vessel Act).

"(4) The Act of March 9, 1920 (46 App. U.S.C. 741–752; popularly known as the Suits in Admiralty Act).

"(5) The Act of June 19, 1948 (46 App. U.S.C. 740; popularly known as the Admiralty Extension Act).

"(6) Other matters related to noncontractual civil liability.

"(7) Compensation for work injuries under chapter 81 of title 5.

"(8) The resolution of claims relating to damage to or loss of personal property of the member incident to service under section 3721 of title 31 (popularly known as the Military Personnel and Civilian Employees' Claims Act of 1964).

"(c) A member of the Auxiliary, while assigned to duty, shall be deemed to be a person acting under an officer of the United States or an agency thereof for purposes of section 1442(a)(1) of title 28.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 23 of title 14, United States Code, is amended by striking the item relating to section 823 and inserting the following:

"823. Eligibility, enrollments, and status.".

SEC. 804. ASSIGNMENT AND PERFORMANCE OF DUTIES.

(a) TRAVEL AND SUBSISTENCE EXPENSE.—Section 830(a) of title 14, United States Code, is amended by striking "specific".

(b) ASSIGNMENT OF GENERAL DUTIES.—Section 831 of title 14, United States Code, is amended by striking "specific" each place it appears.

(c) BENEFITS FOR INJURY OR DEATH.—Section 832 of title 14, United States Code, is amended by striking "specific" each place it appears.

SEC. 805. COOPERATION WITH OTHER AGENCIES, STATES, TERRITORIES, AND POLITICAL SUBDIVISIONS.

(a) IN GENERAL.—Section 141 of title 14, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§141. Cooperation with other agencies, States, territories, and political subdivisions";

(2) in the first sentence of subsection (a), by inserting after "personnel and facilities" the following: "(including members of the Auxiliary and facilities governed under chapter 23)"; and

(3) by adding at the end of subsection (a) the following new sentence: "The Commandant may prescribe conditions, including reimbursement, under which personnel and facilities may be provided under this subsection.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of title 14, United States Code, is amended by striking the item relating to section 141 and inserting the following:

"141. Cooperation with other agencies, States, territories, and political subdivisions.".

SEC. 806. VESSEL DEEMED PUBLIC VESSEL.

Section 827 of title 14, United States Code, is amended to read as follows:

"§827. Vessel deemed public vessel

"While assigned to authorized Coast Guard duty, any motorboat or yacht shall be deemed to be a public vessel of the United States and a vessel of the Coast Guard within the meaning of sections 646 and 647 of this title and other applicable provisions of law.".

SEC. 807. AIRCRAFT DEEMED PUBLIC AIRCRAFT.

Section 828 of title 14, United States Code, is amended to read as follows:

"§828. Aircraft deemed public aircraft

"While assigned to authorized Coast Guard duty, any aircraft shall be deemed to be a Coast Guard aircraft, a public vessel of the United States, and a vessel of the Coast Guard within the meaning of sections 646 and 647 of this title and other applicable provisions of law. Subject to the provisions of sections 823a and 831 of this title, while assigned to duty, qualified Auxiliary pilots shall be deemed to be Coast Guard pilots.".

SEC. 808. DISPOSAL OF CERTAIN MATERIAL.

Section 641(a) of title 14, United States Code, is amended—

(1) by inserting after "with or without charge," the following: "to the Coast Guard Auxiliary, including any incorporated unit thereof,"; and

(2) by striking "to any incorporated unit of the Coast Guard Auxiliary,".

The text of the remainder of the committee amendment in the nature of a substitute is as follows:

AMENDMENT OFFERED BY MR. COBLE

Mr. COBLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COBLE: On page 5, line 20, strike the period and add "to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.".

At the end of title III (page 18, after line 12) add the following new section:

SEC. . EXTENSION OF TOWING SAFETY ADVISORY COMMITTEE.

Subsection (e) of the Act to establish a Towing Safety Advisory Committee in the Department of Transportation (33 U.S.C. 1231a(e)), is amended by striking "September 30, 1995" and inserting "October 1, 2000".

On page 25, strike line 9 through page 28, line 7, and insert the following:

SEC. 409. VESSEL FINANCING.

(a) DOCUMENTATION CITIZEN ELIGIBLE MORTGAGEE.—Section 31322(a)(1)(D) of title 46, United States Code, is amended—

(1) by striking "or" at the end of 31322(a)(1)(D)(v) and inserting "or" at the end of 31322(a)(1)(D)(vi); and

(2) by adding at the end a new subparagraph as follows:

"(vii) a person eligible to own a documented vessel under chapter 121 of this title."

(b) AMENDMENT TO TRUSTEE RESTRICTIONS.—Section 31328(a) of title 46, United States Code, is amended—

(1) by striking "or" at the end of 31328(a)(3) and inserting "or" at the end of 31328(a)(4); and

(2) by adding at the end a new subparagraph as follows:

"(5) is a person eligible to own a documented vessel under chapter 121 of this title."

(c) LEASE FINANCING.—Section 12106 of title 46, United States Code, is amended by adding at the end the following new subsections:

"(e)(1) A certificate of documentation for a vessel may be endorsed with a coastwise endorsement if—

"(A) the vessel is eligible for documentation under section 12102;

"(B) the person that owns the vessel, a parent entity of that person or a subsidiary of a parent entity of that person, is engaged in lease financing;

"(C) the vessel is under a demise charter to a person qualifying as a citizen of the United States for engaging in the coastwise trade under section 2 of the Shipping Act, 1916;

"(D) the demise charter is for—

"(i) a period of at least 3 years; or

"(ii) a shorter period as may be prescribed by the Secretary; and

"(E) the vessel is otherwise qualified under this section to be employed in the coastwise trade.

"(2) Upon default by a bareboat charterer of a demise charter required under paragraph (1)(D), the coastwise endorsement of the vessel may, in the sole discretion of the Secretary, be continued after the termination for default of the demise charter for a period not to exceed 6 months on terms and conditions as the Secretary may prescribe.

"(3) For purposes of section 2 of the Shipping Act, 1916, and section 12102(a) of this title, a vessel meeting the criteria of this subsection is deemed to be owned exclusively by citizens of the United States.".

(d) CONFORMING AMENDMENT.—Section 9(c) of the Shipping Act, 1916, as amended (46 App. U.S.C. 808(c)) is amended by inserting "12106(e)," after the word "sections" and before 31322(a)(1)(D).

On page 33, strike lines 11 through page 34, line 2 and insert the following:

"(b) FINANCING RESPONSIBILITY.—

"(1) LIMITS ON LIABILITY.—Section 1004(a)(1) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(a)(1)) is amended by striking "for a tank vessel," and inserting "for a tank vessel carrying oil in bulk as cargo or cargo residue (except a tank vessel on which the only oil carried is an animal fat or vegetable oil, as those terms are defined in section 413(c) of the Coast Guard Authorization Act for Fiscal Year 1996)".

"(2) FINANCIAL RESPONSIBILITY.—The first sentence of section 1016(a) of the Act (33 U.S.C. 2716(a)) is amended by striking ", in the case of a tank vessel, the responsible party could be subject under section 1004 (a)(1) or (d) of this Act, or to which, in the case of any other vessel, the responsible party could be subjected under section 1004 (a)(2) or (d)" and inserting "the responsible party could be subjected under section 1004 (a) or (d) of this Act"."

On page 37, line 14, strike "or".

On page 37, line 20, strike "latitude."." and insert "latitude;".

On page 37, after line 20, insert the following new paragraph:

"(6) a vessel in the National Defense Reserve Fleet pursuant to section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744).".

On page 40, line 18, strike "the line of mean" through line 19, and insert "the line of ordinary low water along that portion of the coast that is in direct contact with the open sea and the line marking the seaward limit of inland waters that is—".

On page 40, line 20, strike "drilling for, producing, or" through line 21, and insert "exploring for, producing, or transporting oil' and".

At the end of title IV (page 43, after line 13) add the following new sections:

SEC. . LIMITATIONS ON CONSOLIDATION OR RELOCATION OF HOUSTON AND GALVESTON MARINE SAFETY OFFICES.

The Secretary of Transportation may not consolidate or relocate the Coast Guard Marine Safety Offices in Galveston, Texas, and Houston, Texas.

SEC. . SENSE OF THE CONGRESS REGARDING FUNDING FOR COAST GUARD.

It is the sense of the Congress that in appropriating amounts for the Coast Guard the Congress should appropriate amounts adequate to enable the Coast Guard to carry out all extraordinary functions and duties the Coast Guard is required to undertake in addition to its normal functions established by law.

SEC. . CONVEYANCE OF LIGHT STATION, MONTAUK POINT, NEW YORK.

(a) CONVEYANCE REQUIREMENT.—

(1) REQUIREMENT.—The Secretary of Transportation shall convey to the Montauk Historical Association in Montauk, New York, by an appropriate means of conveyance, all right, title, and interest of the United States in and to property comprising Light Station Montauk Point, located at Montauk, New York.

(2) DETERMINATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b) TERMS OF CONVEYANCE.—

(1) IN GENERAL.—A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to the conditions required by paragraphs (3) and (4) and such other terms and conditions as the Secretary may consider appropriate.

(2) REVERSIONARY INTEREST.—Any conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in the Montauk Light Station shall immediately revert to the United States if the Montauk Light Station ceases to be maintained as a nonprofit center for public benefit for the interpretation and preservation of the material culture of the United States Coast Guard, the maritime history of Montauk, New York, and Native American and colonial history.

(3) MAINTENANCE OF NAVIGATION AND FUNCTIONS.—Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, and associated lighthouse equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States for as long as they are needed for this purpose;

(B) the Montauk Historical Association may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to replace, or add any aids to navigation, or make any changes to the Montauk Lighthouse as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter the property conveyed without notice for the purpose of maintaining navigation aids;

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property; and

(F) the Montauk Light Station shall revert to the United States at the end of the 30-day period beginning on any date on which the Secretary of Transportation provides written notice to the Montauk Historical Association that the Montauk Light Station is needed for national security purposes.

(4) MAINTENANCE OF LIGHT STATION.—Any conveyance of property under this section shall be subject to the condition that the Montauk Historical Association shall maintain the Montauk Light Station in accordance with the provisions of the National Historic Preservation Act (16 U.S.C. 470 et seq.) and other applicable laws.

(5) LIMITATION ON OBLIGATIONS OF MONTAUK HISTORICAL ASSOCIATION.—The Montauk Historical Association shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "Montauk Light Station" means the Coast Guard light station known as Light Station Montauk Point, located at Montauk, New York, including the keeper's dwellings, adjacent Coast Guard rights of way, the World War II submarine spotting tower, the lighthouse tower, and the paint locker; and

(2) the term "Montauk Lighthouse" means the Coast Guard lighthouse located at the Montauk Light Station.

SEC. . CONVEYANCE OF CAPE ANN LIGHTHOUSE, THACHERS ISLAND, MASSACHUSETTS.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary of Transportation shall convey to the town of Rockport, Massachusetts, by an appropriate means of conveyance, all right, title, and interest of the United States in and to the property comprising the Cape Ann Lighthouse, located on Thachers Island, Massachusetts.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed pursuant to this subsection.

(b) TERMS OF CONVEYANCE.—

(1) IN GENERAL.—The conveyance of property pursuant to this section shall be made—

(A) without payment of consideration; and

(B) subject to the conditions required by paragraphs (3) and (4) and other terms and conditions the Secretary may consider appropriate.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to paragraph (1), the conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in the Cape Ann Lighthouse shall immediately revert to the United States if the Cape Ann Lighthouse, or any part of the property—

(A) ceases to be used as a nonprofit center for the interpretation and preservation of maritime history;

(B) ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation; or

(C) ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.).

(3) MAINTENANCE AND NAVIGATION FUNCTIONS.—The conveyance of property pursuant to this section shall be made subject to the conditions that the Secretary considers to be necessary to assure that—

(A) the lights, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the town of Rockport may not interfere or allow interference with any manner with aids to navigation without express written permission from the Secretary of Transportation;

(C) there is reserved to the United States the right to relocate, replace, or add any aid to navigation or make any changes to the Cape Ann Lighthouse as may be necessary for navigational purposes;

(D) the United States shall have the right, at any time, to enter the property without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to the property for the purpose of maintaining the aids to navigation in use on the property.

(4) OBLIGATION LIMITATION.—The town of Rockport is not required to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(5) PROPERTY TO BE MAINTAINED IN ACCORDANCE WITH CERTAIN LAWS.—The town of Rockport shall maintain the Cape Ann Lighthouse in accordance with the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), and other applicable laws.

(c) DEFINITIONS.—For purposes of this section, the term "Cape Ann Lighthouse" means the Coast Guard property located on Thachers Island, Massachusetts, except any historical artifact, including any lens or lantern, located on the property at or before the time of the conveyance.

SEC. . AMENDMENTS TO JOHNSON ACT.

For purposes of section 5(b)(1)(A) of the Act of January 2, 1951 (15 U.S.C. 1175(b)(1)(A)), commonly known as the Johnson Act, a vessel on a voyage that begins in the territorial jurisdiction of the State of Indiana and that does not leave the territorial jurisdiction of the State of Indiana shall be considered to be a vessel that is not within the boundaries of any State or possession of the United States.

SEC. . TRANSFER OF COAST GUARD PROPERTY IN GOSNOLD, MASSACHUSETTS.

(a) CONVEYANCE REQUIREMENT.—The Secretary of Transportation may convey to the town of Gosnold, Massachusetts, without reimbursement and by no later than 120 days after the date of enactment of this Act, all right, title, and interest of the United States in and to the property known as the "United States Coast Guard Cuttyhunk Boathouse and Wharf", as described in subsection (c).

(b) CONDITIONS.—Any conveyance of property under subsection (a) shall be subject to the condition that the Coast Guard shall retain in perpetuity and at no cost—

(1) the right of access to, over, and through the boathouse, wharf, and land comprising the property at all times for the purpose of berthing vessels, including vessels belonging to members of the Coast Guard Auxiliary; and

(2) the right of ingress to and egress from the property for purposes of access to Coast Guard facilities and performance of Coast Guard functions.

(c) PROPERTY DESCRIBED.—The property referred to in subsection (a) is real property located in the town of Gosnold, Massachusetts (including all buildings, structures, equipment, and other improvements), as determined by the Secretary of Transportation.

SEC. . TRANSFER OF COAST GUARD PROPERTY IN NEW SHOREHARM, RHODE ISLAND.

(a) REQUIREMENT.—The Secretary of Transportation (or any other official having control over the property described in subsection (b)) shall expeditiously convey to the town of New Shoreham, Rhode Island, without consideration, all right, title, and interest of the United States in and to the property known as the United States Coast Guard Station Block Island, as described in subsection (b), subject to all easements and other interest in the property held by any other person.

(b) PROPERTY DESCRIBED.—The property referred to in subsection (a) is real property (including buildings and improvements) located on the west side of Block Island, Rhode Island, at the entrance to the Great Salt Pond and referred to in the books of the Tax Assessor of the town of New Shoreham, Rhode Island, as lots 10 and 12, comprising approximately 10.7 acres.

(c) REVOLUTIONARY INTEREST.—In addition to any term or condition established pursuant to subsection (a), any conveyance of property under subsection (a) shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used by the town of New Shoreham, Rhode Island.

(d) INDEMNIFICATION FOR PREEXISTING ENVIRONMENTAL LIABILITIES.—Notwithstanding any conveyance of property under this section, after such conveyance the Secretary of Transportation shall indemnify the town of New Shoreham, Rhode Island, for any environmental liability arising from the property, that existed before the date of the conveyance.

SEC. . VESSEL DEEMED TO BE A RECREATIONAL VESSEL.

The vessel, an approximately 96 meter twin screw motor yacht for which construction commenced in October 1993, (to be named the LIMITLESS) is deemed to be a recreational vessel under chapter 43 of title 46, United States Code.

SEC. . REQUIREMENT FOR PROCUREMENT OF BUOY CHAIN.

(a) REQUIREMENT.—Chapter 5 of title 14, United States Code, is amended by adding at the end the following:

§ 96. Procurement of buoy chain

"(a) The Coast Guard may not procure buoy chain—

"(1) that is not manufactured in the United States; or

"(2) substantially all of the components of which are not produced or manufactured in the United States.

"(b) For purposes of subsection (a)(2), substantially all of the components of a buoy chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components thereof which are produced or manufactured in the United States is greater than the aggregate cost of the components thereof which are produced or manufactured outside the United States.

"(c) In this section—

"(1) the term 'buoy chain' means any chain, cable, or other device that is—

"(A) used to hold in place, by attachment to the bottom of a body of water, a floating aid to navigation; and

"(B) not more than 4 inches in diameter; and

"(2) the term 'manufacture' includes cutting, heat treating, quality control, welding

(including the forging and shot blasting process), and testing.".

(b) CLERICAL AMENDMENT.—

The table of sections for chapter 5 of title 14, United States Code, is amended by adding at the end the following:

"96. Procurement of buoy chain".

SEC. . CRUISE VESSEL TORT REFORM.

(a) Section 4283 of the Revised Statutes of the United States (46 App. 183), is amended by adding a new subsection (g) to read as follows:

"(g) In a suit by any person in which a shipowner, operator, or employer of a crew member is claimed to have direct or vicarious liability for medical malpractice or other tortious conduct occurring at a shoreside facility, or in which the damages sought are alleged to result from the referral to or treatment by any shoreside doctor, hospital, medical facility or other facility or other health care provider, the shipowner, operator or employer shall be entitled to rely upon any and all statutory limitations of liability applicable to the doctor, hospital, medical facility or other health care provider in the state in which the shoreside medical care was provided".

(b) Section 4283b of the Revised Statutes of the United States (46 App. 183c) is amended by adding a new subsection to read as follows:

"(b) Subsection (a) shall not prohibit provisions or limitations in contracts, agreements, or ticket conditions of carriage with passengers which relieve a manager, agent, master, owner or operator of a vessel from liability for infliction of emotional distress, mental suffering or psychological injury so long as such provisions or limitations do not limit liability if the emotional distress, mental suffering or psychological injury was—

"(1) the result of substantial physical injury to the claimant caused by the negligence or fault of the manager, agent, master, owner or operator; or

"(2) the result of the claimant having been at actual risk of substantial physical injury, which risk was caused by the negligence or fault of the manager, agent, master, owner or operator; or

"(3) intentionally inflicted by the manager, agent, master, owner or operator".

(c) Section 20 of chapter 153 of the Act of March 4, 1915 (46 App. 688) is amended by adding a new subsection to read as follows:

"(c) Limitation for certain aliens in case of contractual alternative forum.

"(1) No action may be maintained under subsection (a) or under any other maritime law of the United States for maintenance and cure or for damages for the injury or death of a person who was not a citizen or permanent legal resident alien of the United States at the time of the incident giving rise to the action, if the incident giving rise to the action occurred while the person was employed on board a vessel documented other than under the laws of the United States, which vessel was owned by an entity organized other than under the laws of the United States or by a person who is not a citizen or permanent legal resident alien.

"(2) The provisions of paragraph (1) shall only apply if—

"(A) the incident giving rise to the action occurred while the person bringing the action was a party to a contract of employment or was subject to a collective bargaining agreement which, by its terms, provided for an exclusive forum for resolution of all such disputes or actions in a nation other than the United States, a remedy is available to the person under the laws of that nation, and the party seeking to dismiss an action under paragraph (1) is willing to stipulate to jurisdiction under the laws of such nation as to such incident; or

"(B) a remedy is available to the person bringing the action under the laws of the nation in which the person maintained citizenship or permanent residency at the time of the incident giving rise to the action and the party seeking to dismiss an action under paragraph (1) is willing to stipulate to jurisdiction under the laws of such nation as to such incident.

"(3) The provisions of paragraph (1) of this subsection shall not be interpreted to require a court in the United States to accept jurisdiction of any actions".

On page 59, after line 18k add the following new paragraphs:

(7) 2 barges owned by Roen Salvage (a corporation organized under the laws of the State of Wisconsin) and numbered by that company as barge 103 and barge 203.

(8) RATTLESNAKE (Canadian registry official number 802702).

(9) CAROLYN (Tennessee State registration number TN1765C).

(10) SMALLEY (6808 Amphibious Dredge, Florida State registration number FL1855FF).

(11) BEULA LEE (United States official number 928211).

(12) FINESSE (Florida State official number 7148HA).

(13) WESTEJORD (Hull Identification Number X-53-109).

(14) MAGIC CARPET (United States official number 278971).

(15) AURA (United States official number 1027807).

(16) ABORIGINAL (United States official number 942118).

(17) ISABELLE (United States official number 600655).

(18) 3 barges owned by the Harbor Marine Corporation (a corporation organized under the laws of the State of Rhode Island) and referred to by that company as Harbor 221, Harbor 223, and Gene Elizabeth.

(19) SHAMROCK V (United States official number 900936).

(20) ENDEAVOUR (United States official number 947869).

(21) CHRISSY (State of Maine registration number 4778B).

(22) EAGLE MAR (United States official number 575349).

At the end of title VI (page 60, after line 11) add the following new sections:

SEC. . LIMITED WAIVER FOR ENCHANTED ISLE AND ENCHANTED SEAS.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), section 12106 of title 46, United States Code, section 506 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1156), and any agreement with the United States Government, the Secretary of Transportation may issue a certificate of documentation with a coastwise endorsement for the vessels ENCHANTED ISLE (Panamanian official number 14087-84B), and ENCHANTED SEAS (Panamanian official number 14064-84D), except that the vessels may not operate between or among islands in the State of Hawaii.

SEC. . LIMITED WAIVER FOR MV PLATTE.

Notwithstanding any other law or any agreement with the United States Government, the vessel MV PLATTE (ex-SPIRIT OF TEXAS) (United States official number 653210) may be sold to a person that is not a citizen of the United States and transferred to or placed under a foreign registry.

Mr. COBLE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. COBLE. Mr. Chairman, this amendment contains many noncontroversial, technical and clarifying changes to H.R. 1361. The amendment also extends the termination date of the Towing Safety Advisory Committee until October 1, the year 2000. Expressing the sense of Congress on Coast Guard funding conveys several Coast Guard lighthouses and other Coast Guard property to local communities and provides many waivers of vessel documentation restrictions. This amendment was developed and agreed to on a bipartisan basis, and I urge the Members to support it.

□ 1545

Mr. TRAFICANT. Mr. Chairman, if the gentleman will yield, we have examined this amendment, and we support it. We urge it be passed without controversy.

Mr. COBLE. Mr. Chairman, I include for the RECORD a series of letters between the chairman of the Committee on Transportation and Infrastructure and the chairman of the Committee on Ways and Means:

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, HOUSE OF REPRESENTATIVES,
Washington, DC, May 9, 1995.

Hon. BILL ARCHER,
Chairman, Committee on Ways and Means, Washington, DC.

DEAR BILL: I am writing in response to your letter of May 9, 1995 regarding consideration of H.R. 1361, the Coast Guard Authorization Act for FY 1996.

As indicated in your letter, we are agreeing to offer a technical amendment on the floor to clarify that the Coast Guard expenditures authorized in Section 101 of H.R. 1361 that are derived from the Oil Spill Liability Trust Fund are specifically limited to carry out the purposes of Section 1012(a)(5) of the Pollution Act of 1990.

I understand that this addresses the jurisdictional concerns of the Committee on Ways and Means. Thank you for your assistance and cooperation in this matter.

With warm regards, I remain.

Sincerely,

BUD SHUSTER,
Chairman.

COMMITTEE ON WAYS AND MEANS, HOUSE OF REPRESENTATIVES,
Washington, DC, May 9, 1995.

Hon. BUD SHUSTER,
Chairman, Committee on Transportation and Infrastructure, Washington, DC.

DEAR CHAIRMAN SHUSTER: I am writing you regarding your Committee's consideration of H.R. 1361, the Coast Guard Authorization Act for Fiscal Year 1996. I want to thank you for your assistance in clarifying certain jurisdictional issues involving this legislation.

Specifically, section 101 of H.R. 1361 would authorize expenditures for the Coast Guard for fiscal year 1996, including funds derived

from the Oil Spill Liability Trust Fund for (1) operation and maintenance of the Coast Guard; (2) acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto; and (3) research development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, and enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness.

As you know, the Committee on Ways and Means has jurisdiction over the expenditure purposes of the Oil Spill Liability Trust Fund, as set forth in section 9509 of the Internal Revenue Code of 1986, as amended. Section 9509(c) provides that amounts in the Oil Spill Liability Trust Fund shall be available, as provided in appropriation Acts or section 6002(b) of the Oil Pollution Act of 1990, only for purposes of making certain enumerated expenditures related to oil spills or discharges, including "the payment of removal costs and other cost, expenses, claims, and damages referred to in section 1012 of such Act".

I want to thank you for agreeing to offer a technical amendment on the Floor with language clarifying that the Coast Guard expenditures authorized in section 101 of H.R. 1361 derived from the Oil Spill Liability Trust Fund are specifically limited "to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990", as referred to in Code section 9509. This amendment, if passed, should address the jurisdictional concerns of the Committee on Ways and Means.

I understand that you would inform me if any further legislative changes concerning the Oil Spill Liability Trust Fund are contemplated during subsequent consideration of H.R. 1361. I also understand that you will insert copies of our exchange of correspondence in the Record during Floor consideration of H.R. 1361. Based on this understanding, I do not believe any action by the Committee on Ways and Means is required at this time.

Thank you again for your assistance and cooperation in this matter. With best personal regards,

Sincerely,

BILL ARCHER,
Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. COBLE].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Strike Sec. 104 and insert in lieu thereof:

SEC. 104. PROHIBITION ON SMALL BOAT STATION CLOSURES.

(a) The Secretary may not use amounts appropriated under the authority of this Act to close any multimission small boat station.

(b) The Secretary may implement management efficiencies within the small boat unit system, such as modifying the operational posture of the units or reallocating resources as necessary to ensure the safety of the maritime public, provided that there are adequate active duty and reserve Coast Guard personnel to perform search and rescue missions at existing small boat units.

Mr. TRAFICANT. Mr. Chairman, the bill has a provision in it which in effect terminates and closes 23 multi-mission small boat stations. No one has greater respect for the chairman of this committee, the gentleman from Pennsylvania [Mr. SHUSTER], than myself and the gentleman from North Carolina [Mr. COBLE]. I think this is the one element of the bill that we should change on the floor.

You have a number of amendments that are going to follow this and try and put some gingerbread and criteria on this closing. But in essence the Coast Guard has already determined they shall be closed, and all we are doing here is political window dressing.

The decision today is do we close 23 stations and save $3 million, roll the dice, or do we in fact say as a policy our mission is safety, not dollars, and the last time the Congress of the United States allowed bases to be closed, five people lost their lives off the shore of Oregon.

Now, you hear all about these big high class helicopters and all these radar evading planes. Quite frankly, I do not buy it. When there are winds of 65 miles per hour and someone is out at sea, they are not going to be seeing no big chopper come in for them. You know it and I know it.

The bill says, and this is what would become the law, none of the funds authorized to be appropriated under this act may be used to close Coast Guard multi-mission small boat stations, unless the Secretary of Transportation determines, the Secretary determines, that maritime safety will not be diminished by these closures.

Mr. Speaker, this is an after the fact bit of language. The Coast Guard has already determined to close them. The Secretary of Transportation is in agreement to close them. These bases are going to be closed.

The Coast Guard admits there will be a loss of life, at least one every 12 years, in these respective stations. They admit to it. The Traficant amendment is very simple and to the point: The Coast Guard is prohibited from closing. The Congress has set a policy; lives at stake are the policies of the Congress. That is the mandate we give to the Coast Guard.

Now, we could cover it with a lot of different words, but, yes, the Traficant amendment does say the Congress tells the Coast Guard you cannot close them, because we are not satisfied that we can adequately stop loss of life. If that is not our mission, what is?

But the Traficant amendment would allow the Coast Guard to implement management efficiencies within that system. There can be the transfer of resources. There can be the development of other strategies. But those small boat stations would be incorporated with active personnel into that strategy to ensure that along with these fancy helicopters, there is going to be good old Coast Guard personnel, trained to interact with local volunteers.

If these stations are closed, no matter who speaks to the contrary, even by the Coast Guard's own admission, lives will be lost. What is a life worth, Congress? I do not know anymore.

For each small boat station the Coast Guard's own analysis states there will be an additional life lost every 12 years at each small boat station. Whose constituent is it going to be this year? What if we have a real bad weather year? How many do we lose, folks?

Hey, I am willing to cut the budget, but this is not cutting the budget. This is a commonsense approach that I cannot believe that we are here debating.

The gentleman from Oregon [Mr. DEFAZIO] has noted here to the Congress, and I want to commend him on his leadership, and I can understand his passion, in 1988 the Coast Guard closed some small boat stations off of Oregon, and they lost five lives in 3 months. I am asking that we review this carefully before we in fact close these stations. I ask for your support.

Mr. COBLE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I appreciate the comments from my good friend, the distinguished gentleman from Ohio, and I wish we could go through life and never have to close a Coast Guard station.

Mr. Chairman, I told this story, you all bear with me, in the committee, but I think it is pertinent. Coast Guard stations, where we used to call them lifeboat stations in the old days, the old salts, small boat stations now, but they have a way of becoming very personally involved in the communities where they are located, particularly sparsely settled communities. Coast Guard stations become not unlike churches, schools, the country store, the volunteer fire department, and the communities involved warmly embrace them.

I was having an evening meal in the home of a retired Coast Guardsman and his wife on the Outer Banks of North Carolina, Mr. Chairman, about two decades ago. At that time there was a proposal to decommission or to shut down one of the lifeboat stations along the Outer Banks. This Coast Guard wife said to me, with tears in her eyes, if they shut down that Cost Guard station, things will never be the same along the Carolina cost.

What she was saying, without using the words, she was saying the Coast Guard is not going to be able to respond. If we shut down that station, the Coast Guard is ineffective. That had not been the case at all. In fact, the Coast Guard probably has been more effective through modernization.

Now, if any entity in this country and in our society places a high value

upon life, it is the U.S. Coast Guard, and I am confident that no loss of life is going to result from this. But I think, like my friend, the gentleman from Ohio [Mr. TRAFICANT], said $2 million; the Coast Guard indicates $6 million. Let us indicate for the sake of argument $6 million are involved. By Washington standards, $6 million is not a lot of money, the way we blow money on this Hill. To me it is a lot, but by Washington standards, it is not. Let us use the late Everett Dirksen's line, well-known to all of us. I think he was reported to have said a million here and a million there, boys, and then we are talking about real money.

So we must make a start. The Coast Guard is streamlining, and in order to do that effectively, they are going to have to be able to perform some sort of self-assessment. And it is they, better than any, who know what bases and what stations can best be closed.

I am confident, Mr. Chairman, and I say to my friend from Ohio, I am confident that safety is not going to be compromised. We have been told earlier today that at some of these small boat stations, some Coast Guard men and women are working 90 hours a week. I think that may well be another reason to downsize. We are in an era now, Mr. Chairman, of downsizing, not just with Government but in the commercial arena. And oftentimes downsizing does not mean less effectiveness or less efficiency. Conversely, many times it means an enhanced quality of efficiency and response time.

As much respect as I have for my good friend from Ohio, I must oppose him on this amendment and urge it be defeated.

Mr. PALLONE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I listened to what the gentleman from North Carolina [Mr. COBLE] said, and again I know of his distinguished career, both here in Congress as well as having been a member of the Coast Guard, but I, listening to him, believe in some ways he was making the case for the Traficant amendment, even though I know that was not his intention.

He said that the small boat stations tend to get involved with the local community. They are almost like the church. I have to agree. But that is the very reason why the Coast Guard presence is necessary to small boat stations.

Again, I would reiterate that one of the propositions that the Coast Guard is putting forward is that somehow when these stations close, that other State or local or nonprofit organizations are going to take up the slack.

The bottom line is, and I will use my own station at Shark River in New Jersey as an example, the only reason why those other organizations are involved, like the auxiliary, is because of the presence of the Coast Guard. If the station closes and there is no permanent Coast Guard presence there with full-time personnel, then it would be impossible in most situations for the auxiliary, and particularly in these times with downsizing of State government and local government, for the State government to step in. In my own State of New Jersey, that would not happen. The marine police has downsized and has less money today than it did a few years before.

The gentleman also mentioned modernization. It is true of course there have been a lot of changes in their technologies now. But those technologies are not that helpful for those in the immediate scene. Back in 1988, when they closed the Shark River station, sure, between 1988 and now there are more helicopters and new technology, but everyone on the scene will tell you the presence of people, of full-time Coast Guard personnel, at the location, in the inlet, in this case Shark River, and you could use it throughout the country, their immediate response is what is necessary, the fact that you have the people there, the hands on situation.

The chairman mentioned the $6 million in savings that is cited by the Coast Guard. Once again, I know our ranking Member, Mr. TRAFICANT, has noted that the actual cost is closer to $2.5 or $2.6 million. That $6 million is for consolidation and a lot of other things that are part of this plan. It is not specifically for closing the stations. We are talking about probably $2 to $3 million being saved. I know that seems like a lot, but in the overall scheme of things, when you are talking about 23 stations and you are talking about risk of life, it is not a lot of money.

Some stations, it was mentioned by the chairman, have men working 90 hours a week. We are not saying in this Traficant amendment that resources cannot be shifted around. The billets, as they say, or men, can be shifted, so some stations have less personnel and others more. What we are saying is we do not want the stations closed. Some of them maybe can get by with less personnel or can rely through a combination on auxiliary or other volunteer efforts, but they cannot be closed and cannot not have a full-time Coast Guard presence.

I have to stress, you know, one of the issues that is being raised here is that the Coast Guard maintains that at some of the stations the amount of search and rescue has not increased significantly in the last few years. I will point out, in making their analysis for this streamlining plan, they did not take into consideration, and they will tell you they did not, all the other functions that have been added by this body and by the Federal Government to the Coast Guard. They did not include the increase in dealing with environmental laws, fishing laws, in drug trafficking prevention. All of these extra things we have put on the Coast Guard for the last few years are being carried out at a lot of these small boat stations.

□ 1600

They are on the increase. The amount of traffic in a lot of these locations is also on the increase. It is ridiculous for us to assume that with all the extra burdens for us to assume that with all the additional pleasure craft that exist at these various locations around the country that somehow the amount of work has been reduced or somehow we are going to be able to get by without the presence of these stations.

If we talk, and I know many of us have during the break, we went back to our districts. I had a town meeting, and I talked to the people in the vicinity of my station. They were horrified to think that the station would close. The experience in 1988 showed that it does not work. Let us not put our population, our constituents through this again. Support the Traficant amendment as the only way to go to assure that lives are saved and let the Coast Guard presence continue in these various communities.

Mr. SHUSTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I must reluctantly rise in strong opposition to the amendment offered by my good friend from Ohio. Certainly it is well-intentioned, but I must point out that this amendment, if adopted, represents the ultimate in micromanagement. This amendment says to the U.S. Coast Guard, which is charged with safety, says to them: Congress is telling you you are not allowed to manage your own operations. Congress knows better than you about safety. Congress is telling you you cannot close a single Coast Guard station.

Indeed, many of these stations are over 100 years old, when row boats, yes, row boats were used as the means of getting out to perform search and rescue operations.

But it is not 1896. We are approaching 1996. And, therefore, we should recognize the advances in technology and modern capability and give the Coast Guard the freedom to make these kinds of decisions, particularly when GAO has looked carefully at their proposals and GAO has concluded that not only is the process used by the Coast Guard reasonable but that they reviewed them and they endorse what the Coast Guard is attempting to accomplish.

It is extremely important that we give this flexibility to the Coast Guard. And I would emphasize that in committee, in order to be certain that we were not going to give safety a second place

position in these considerations, we included in the bill language that requires the Secretary of Transportation to determine that safety will not be diminished before any search and rescue station can be closed.

So I say, let us recognize the Coast Guard as modernized. The Coast Guard, indeed, cares about safety. That is their mission. And we should not tie the hands of the Coast Guard by telling them that what they were doing in 1896 they still must continue to do in 1996.

For all of those reasons, I urge the defeat of this well-intentioned amendment.

Mr. STUDDS. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong support of the Traficant amendment.

Mr. Chairman, I fail to understand why the Republicans feel absolutely compelled to support the administration's every initiative. Now, I understand, I will remind Members, this is not some evil Republican budget cutting proposal. This is a proposal by the Democratic Administration to cut some $2 or $3 million, in the case of these small stations, out of Coast Guard. While I appreciate the intense loyalty of the new majority around here, I think you should feel free to oppose the administration when you think they are wrong. I certainly do. This is one of those cases.

I am aware that downsizing, God help us all, is in. It is in, in corporations. it is in, in government. Democrats are busy reinventing government, and you folks are busy eliminating government. But everybody is downsizing in one way or another. If there is anything that is not too big today, it is the U.S. Coast Guard. I defy any Member of this Congress to suggest that the Coast Guard has too many resources. I know that the gentleman may speak for himself, but I do not think anybody really believes that.

Year after year, decade after decade we have piled more responsibilities on the Coast Guard, not less: law enforcement, marine environmental protection, boating safety, drug law enforcement and, of course, the most important mission of all, search and rescue. They are one of most grossly underfunded and understaffed agencies in the Government.

To stand up here and suggest that we need to downsize them I think is a bit much.

We are going to have more debates this year, I suspect, of a calculus kind of how much is a human life worth. I do not choose to participate in that debate, because I do not think it can be done. I do not think any of us is able to put a dollar value on a human life. We are talking about $2 or $3 or, if you say $5 or $6, no more than $6 million. God knows how many human lives we are talking about. But if it were only one, is a human life worth $3 million? I guess it depends whose life it is. If it is yours or your spouse's or your child's, I doubt you would hesitate very long in answering the question.

We all have parochial concerns here. In my district, the original idea of Coast Guard was to close two stations and make one of them seasonal, summer only.

The first thing they ought to do is make Provincetown on the tip of Cape Cod summer only. I am pleased to report that we talked them out of that inane idea. I have lost five fishing vessels with all hands since I have been in this office out of that port, every one of them in the winter. Talk about closing such a station in the winter. You can fill in your own adjective.

Now they want to close the station in Scituate just south of Boston and the station in Menemsha on Martha's Vineyard. If we look at the criteria, they are looking at response times. They are saying, well, we need x numbers to respond. Would you believe they use the same response time in Florida as they do in Massachusetts and Maine? I doubt there is any Member of this House who, if told you have to spend 10 minutes in the water in January, would choose Cape Cod rather than southern Florida. The odds, to put it mildly, are very, very different.

But the calculus, as we understand it, used by the Coast Guard to say how many minutes response time there needs to be were uniform across the Nation. That is crazy. That does not make any sense.

In New England, furthermore, as you may have heard we have a fishing crisis. We are about to put into effect dramatic, new, stringent reductions in fishing efforts. This is going to mean dramatically increased law enforcement responsibilities for the Coast Guard. Sadly, it is probably going to mean greater search and rescue demands because people are going to stretch a little bit further and go out in weather they probably should not go out in, fish longer than they should with smaller crews than they should have to try to eke a living out of what they are still allowed to do. That means more search and rescue responsibilities for the Coast Guard.

Let me finally say, if I may, having conceded that this is not an evil Republican budget cutting amendment and sadly conceding that it is coming from my own administration, I hear that there is going to be released to the public a Republican budget this week sometime. I do not know, and I am certainly not privy to the consultations going on, but I would not be surprised if we were to see an order of magnitude cut across the board in the Department of Transportation far exceeding what we are talking about here.

This heat, this emotion that is being engendered in this debate is about a cut in the Coast Guard budget of a fraction of 1 percent. What would happen if the new Republican budget, in the spirit of downsizing of our times, asked for a 10- or a 20- or 30-percent cut in all functions of the Department of Transportation? I do not know whether that is going to happen, but I would not be surprised if that happens in all so-called discretionary programs. And if it does, the debate we have just had on this floor will be as nothing compared to the human lives that will be at stake if we are presented with that.

So let us take this opportunity, Republicans and Democrats together, to rally against one of the few instances where this Democratic administration has been wrong.

I urge the support of this amendment.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Ohio. I have grave reservations with regard to the Coast Guard's small boat unit streamlining initiative. In particular, I am concerned with the impact of this proposal on the maritime safety in New England. The Coast Guard has proposed closing three stations in Massachusetts, including two in my district—Station Scituate and Station Menemsha on Martha's Vineyard.

I fully understand the Coast Guard's need to periodically reallocate its personnel and equipment resources and, generally, to do more with less. However, there are several issues which, in my view, require the Coast Guard to maintain a high level of search-and-rescue [SAR] capacity in the region. For the past several months, I have been working closely with area fishermen, lobstermen, and municipal officials to study the merits of the streamlining plan. We have compiled what I believe are compelling reasons why these stations should remain open. However, while we are most familiar with the circumstances in the Northeast, these issues raise fundamental questions with the national impact of the Coast Guard's plan.

In my view, the Coast Guard's recommendations have not adequately taken into account the severe weather conditions, particularly water temperature, prevalent in the region. The difference between life and death can be a matter of minutes in the freezing waters off Northeast shores. Yet in recommending stations for closure the Coast Guard applied the same response time to Massachusetts as it did to Florida.

Additionally, there are serious questions about closing Stations Scituate and Menemsha in the larger context of personnel and asset relocations throughout New England. When taken together they appear to spread SAR resources too thinly. The Coast Guard plans to move three HU–25A Aireye jets from Air Station Cape Cod to Texas and transfer the cutter *Point Jackson* from Woods Hole to Florida. Under the streamlining initiative, the Coast Guard has also recommended the closure of several other stations in Massachusetts, Maine, and Rhode Island. I have seen little evidence that the Coast Guard fully considered the broader ramifications of these recommendations.

In fact, a recent event has demonstrated that the Coast Guard's SAR assets in the region may already be overextended. This past

weekend a helicopter from the New York National Guard responded to two separate SAR situations off Rhode Island because Coast Guard units based at Air Station Cape Cod were occupied with SAR operations elsewhere. It should be noted that this incident took place before the busy summer boating season and with all the Massachusetts SAR stations in operation.

Finally, the Coast Guard's closure study did not adequately take into consideration the other missions that these stations perform, including marine environmental protection, boating safety, and maritime law enforcement.

In particular, the collapse of groundfish stocks in New England—which has had severe ramifications on the fishing industry in the region—will require an increase in Coast Guard activities both in terms of a potential rise in SAR operations and administration of fisheries regulations.

While I am working with the Commerce Department to secure Federal assistance for fishermen, the only feasible solution to this crisis is to close the fishing grounds on Georges Bank to allow depleted stocks to recover. Experience suggests, however, that many fishermen will fish longer hours and in more inclement weather, forgo maintenance, and operate with smaller crews to make ends meet.

At the same time, new groundfish regulations currently being promulgated by the National Marine Fisheries Service to help rebuild stocks will require vigorous enforcement by the Coast Guard. Both Stations Scituate and Menemsha are also responsible for enforcement of laws and treaties, which includes the inspection of catches and equipment. Furthermore, Station Menemsha is responsible for New Bedford, one of the busiest fishing ports on the east coast.

In my view, the potential public safety consequences make a review of the Coast Guard's plans imperative and I would urge my colleagues to support the Traficant amendment.

Mr. WOLF. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment and, speaking as a member of the House Subcommittee on Transportation of the Committee on Appropriations, which has jurisdiction over the Coast Guard, I would like to bring a couple of points to the body's attention.

First, the Commandant of the Coast Guard knows his budget is being reduced as it is for every other part of the Federal Government. In a response, not necessarily anybody other than the Commandant has analyzed in depth the need for maintaining all of the service's small boat stations.

What the Commandant found is that the service does not need all of the stations they have today. That is because of demographic changes and better operating procedures and the procurement of faster boats and helicopters. New technology enables us today to search a wider territory and get on scene in the required time without having a boat station right around the corner.

I understand that no Member wants to lose a Coast Guard station in their district or in their State. I also understand that some States are harder hit by the Coast Guard plan than others. However, Members should know before voting on this amendment, this is not a budget-driven measure. It is done because it is sufficient.

The General Accounting Office has reviewed the Coast Guard's processes for reviewing its needs for boat stations. They said it provides, and I quote, "a reasonable basis for determining the appropriate number of stations and the appropriate resources of the stations."

In fact, when GAO came up before the committee, we asked them about this, as we also did when we asked the Coast Guard. This was the same GAO, I would remind the Members, who 5 years ago refused to endorse the closure of any stations because the Coast Guard had not done its homework. This time they have.

According to the Coast Guard they can perform the safe level of life saving with fewer stations and with the budget being reduced and then being more efficient.

I also should let Members know that funds are not included in the fiscal year 1996 budget for these stations. They are low-activity stations, and that is why they are on the Coast Guard list. If we prevent these stations from being closed, Mr. Chairman, we will have to cut $6 million from other parts of the Coast Guard's operating budget to pay for them, parts of the Coast Guard's operating budget that they do not want to see cut. This will have a much greater impact on safety, in my opinion.

And in closing, Mr. Chairman, let me say, as the gentleman from Massachusetts said, this amendment is opposed by the Department of Transportation and by the Coast Guard. There are no funds in the fiscal year 1996 budget to implement it without harming other programs.

I urge the body to vote the amendment down.

Mr. DEFAZIO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we just heard that people with the green eyeshades downtown here in Washington, DC, reviewed the Coast Guard process and they found that it was meritorious. People with the green eyeshades in downtown Washington, DC, have never tried to cross a bar entrance in Oregon with an outgoing tide and a strong wind. It is pretty tough. In fact, the Commandant of the Coast Guard, in this bulletin of January of this year said, and I quote, this is the Commandant of the Coast Guard, the same gentleman recommending these cuts referring to the Pacific Northwest:

This area has always challenged mariners with its isolated, storm-battered coastline, strenuous harbor entrance. From seasoned fishermen to unwary vacationers, thousands of people annually learn hard lessons due to suddenly changing tides and weather.

This is the same Commandant who wants to close two lifesaving stations in my district. The last Commandant closed those two lifesaving stations in my district, and within 2 months five people drowned, five people who could have been saved.

The GAO and the people with the green eyeshades think you can tread water for 40 minutes. Well, you cannot tread water for 40 minutes, as the gentleman from Massachusetts pointed out, when it is cold in the Atlantic, not in the summertime but in other months of the year. You cannot tread water for 40 minutes while you are waiting for the helicopter in the bar entrances in my district either, not at the Coquille River, not at the Rogue River, not at the other areas scheduled for cuts.

We are talking about one-tenth of 1 percent of the operating budget of the U.S. Coast Guard. If this is an agency that does not have one-tenth of 1 percent of cuts that it can make somewhere else except in lifesaving, then this agency should be running the entire Government of the United States of America, because I cannot say that about any other agency of the U.S. Government. And I do not believe that anybody in this House, particularly Members from that side of the aisle, would make that assertion about any other agency of the Federal Government, one-tenth of 1 percent. Is that too much to save lives?

By the Coast Guard's own estimates, two people will drown this year to save one-tenth of 1 percent of their operating budget.

□ 1615

You might say that is a reasonable cost, about $1 million per person. What if it is your father, your mother, your kid, just a friend, a neighbor? Do you think it was worth that cut?

Do you think it was worth abandoning the principal historic mission of the U.S. Coast Guard on 120 miles of the Oregon coast in the Northern Michigan Peninsula, in New Jersey, in Massachusetts, in other areas? Is it worth abandoning to save one-tenth of 1 percent, or so the admiral will not have to find one-tenth of 1 percent somewhere else in his budget to cut?

I do not believe so, and I do not believe it should be the judgment of this body, because if that is the judgment of this body, then the blood of the people who will drown, and they will drown, the Coast Guard says two will drown, I think maybe 10 or 20 will drown, given the experience in my district 7 years ago, people will die because of this vote.

This is a little more serious than a lot of the other votes cast here. The

green eyeshades downtown do not know anything when it comes to this. The Commandant of the Coast Guard does. He says these are treacherous entrances, but he is going to abandon them and serve them from 120 miles away with a helicopter.

As the distinguished ranking member of the committee worked out, that is a pretty tough thing to do in high winds and low visibility, let alone talking about the water temperatures and survival times, none of which was factored into this great equation that the GAO said was OK. What the GAO said is they did their math right. They did not say that this makes sense for people on the ground or in the water around the United States of America.

This is an ill-intentioned cut, and this body should not let this cut be made, and we should vote for the Traficant amendment.

Mr. GOODLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to thank the members of the House Committee on Transportation, especially the chairman, the gentleman from Pennsylvania [Mr. SHUSTER], and the subcommittee chairman, the gentleman from North Carolina [Mr. COBLE], for including my legislation in this year's Coast Guard reauthorization bill.

Because the Coast Guard is not bound by the same procurement policies as is the Department of Defense, U.S. manufacturers of buoy chain are unable to compete with foreign manufacturers. Historically, the Coast Guard has purchased the majority of buoy chain from the People's Republic of China.

My legislation, as included in the en bloc amendment, would subject the Coast Guard to the same procurement policies as the Department of Defense, therefore restricting the purchase of chain not manufactured in the United States. In addition, all of the components of the buoy chain must be produced or manufactured in the United States.

This legislation will help us maintain an even economic playing field in international trade. American laborers are hardworking and our goods are among the best in the world, but we must ensure American businesses are not undercut by cheap foreign labor costs.

It would be unwise to enact protectionist trade measures which ultimately hurt consumers and producers by reducing competition. However, we must be on equal terms with foreign producers. Countries such as China are able to undercut United States production and underbid United States firms for large contracts.

"Buy American" is sound policy for American jobs, a strong economy and national defense. If we put out chain manufacturers out of business, we may find ourselves without a supply should a conflict arise. I urge my colleagues to support this legislation.

Mr. TORRICELLI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to join the gentleman from Massachusetts [Mr. STUDDS] in congratulating the majority for rising to the support of the Clinton administration, though expressing my regrets that they have chosen this unfortunate moment on such an ill-conceived issue.

To make clear, Mr. Chairman, that I represent no Coast Guard stations, indeed, no beach areas, I seek no stations, and indeed, do not think they should be built in my own district of New Jersey, but I rise to the defense of the capabilities of the Coast Guard, because this issue is more than whether or not there is a Coast Guard station in New Jersey or Massachusetts or Oregon. This goes to the central mission of the Federal Government and its responsibility to our people.

Because there are things that our Government has done, agencies it maintains, expenditures that it makes which are inappropriate, expenditures which should be eliminated and activities which should be curtailed, there are many who would now come to this floor, and indeed, today they have the Clinton administration with them, to end those activities which are central, things which only the Federal Government can do, things upon which the people of our country depend upon the Federal Government to do.

For 200 years people, from mariners to the boating public to fishermen across America, have come to rely for their safety and for rescue at moments of peril upon the Coast Guard. We are now presented with a plan to close 23 of those stations, some of them that have operated for generations, saved hundreds of people at moments of peril, to save one-tenth of 1 percent of the Coast Guard budget.

In an incredible calculation, the Coast Guard can even demonstrate the cities, the oceans, the rivers, the places, and the numbers of lives that will be lost. And for what? Six million dollars, $6 million that we justifiably seek to reduce in areas where the Federal Government's activities are inappropriate and should be curtailed, or should be ended. But instead, we return to a central function of the Federal Government, maintaining safety on the seas and in our waterways, and in doing so, risk enormous danger for our citizens.

Most ironic is that while we reduce these Coast Guard activities in these 23 stations, we ask for greater surveillance to ensure that our fishing stocks are not depleted, we increase responsibility for drug interdiction, to ensure that narcotics are not reaching our coasts, we ask for higher environmental standards to make sure that international shipping does not dump their cargoes or their waste or their oil into our waters. We mount their responsibilities, we increase the standards, we want the American people to believe that they are safe in moments of leisure or work, but we take away their very resources.

Mr. Chairman, I have not been bashful when it came to moments to vote to cut Government spending or end its missions, but there is a time in which Members of this institution must understand those items of safety and security which are central to the functions of the Federal Government, missions that if we do not do, no one else will do, missions if they are not completed will take the lives of our people.

The people of our country do not generally ask a lot of this Federal Government. Usually they ask simply that it do less. This is one instance where for 200 years, as certainly as people have come to expect if their car or their truck breaks down along a highway, a patrolman will come to their rescue, so, too, through these generations people have come to expect that if they are lost at sea, if their boat is in peril, they will see a Coast Guard ship come to their rescue. That expectation need not change, not for $6 million, not for such a small saving, not when there are so many other opportunities.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I, too, rise in support of the amendment of the gentleman from Ohio [Mr. TRAFICANT]. Let me first acknowledge that for the several Congresses we have just come through I have had the extraordinary privilege of chairing the Coast Guard Subcommittee of the former Committee on Merchant Marine and Fisheries, and so I know the awesome task and the difficult job that my good friend, the gentleman from North Carolina, Mr. HOWARD COBLE, has now in shepherding this bill and dealing with these very complex and controversial issues, particularly at a time of deep budget strain and stress.

I take my hat off to no one in voting to make budget cuts around here. I do a lot more of that than many of the Members do, and we have a lot more of that coming, but part of the process by which we make budget cuts, and we reach toward that incredibly difficult goal of a balanced budget by the year 2002, is a process called prioritizing.

It is a process by which in the various budgets and the various moneys that we collect from the American public and spend back for their benefit, we hope, that we list and indeed fund first those things which are most critical to the function of a given agency, to the function of a given department of our Government.

If there is one function that is most central to the operation of the U.S.

Coast Guard, it is the function of search and rescue. If there is one function above all else that I would rank as the No. 1 priority of the U.S. Coast Guard, it is to be the guardians of the sea.

We, as previous speakers have pointed out, lump enormous responsibilities upon the Coast Guard. Every year we seem to find something new for them to do. Every year, as we peel back some responsibility on some other agency, we give it to the U.S. Coast Guard. They have become, as someone pointed out, environmental agents for the Nation now. They are now part of the fisheries enforcement apparatus of America. They are in many cases called upon, as I said, to do things we had not envisioned the Coast Guard doing when we first appointed and placed in service the men and women of this incredible branch of the U.S. Government.

With fewer men and women serving than those who serve in the New York Metropolitan Police Department, we carry out these enormous functions for our country.

However, what are we doing today? What are we doing today in debating seriously a Coast Guard attempt to shut down its most important function first, instead of maybe dealing with all the other things it does that perhaps we ought to be talking about curtaining or somehow cutting down? What are we doing discussing closing the small boat stations of America that provide the ready access to relief and search and rescue in cases where American boaters are put at risk, and sometimes their lives are at stake?

There is no greater honor bestowed upon a Coast Guard man or women than the honor of being a lifesaver. There is nothing that Coast Guard men and women speak more proudly of than the number of lives they save each year, and they save a ton of lives each year. They do a tremendous job for us. Why would we even be considering, in whatever budget cuts or whatever curtailments of expenditures we want to make here, stopping the most important function of the U.S. Coast Guard; in fact, imperiling lives on some kind of an arbitrary formula that does not take into account very dangerous entrances and exits and storm conditions, temperatures of water; getting a formula that closes Coast Guard stations based upon some arithmetic calculation made here in Washington, DC?

I challenge Members, please, let us support this amendment. Let us make sure that in this and every budget we do what we are supposed to do, prioritize. The function, indeed, of saving lives ought to be No. 1 within the Coast Guard. We ought to make it No. 1 in this Chamber.

We ought to tell the American public we are prepared to make tough cuts, but we are also prepared to do the most important thing Government is supposed to do, and that is protect lives, protect liberty, and protect property in America.

Mr. MINETA. Mr. Chairman, I support the amendment offered by the distinguished ranking Democrat on the Coast Guard and Maritime Transportation Subcommittee, Mr. TRAFICANT. Closing 23 small search and rescue stations, as the Coast Guard has proposed, would save only a relatively small amount of money. However, it would remove a vital marine safety presence from the affected coastal communities.

I believe the Coast Guard has done a good job in how it has gone about reorganizing and rationalizing its small boat station staffing. Most of that will be realized under the Traficant amendment. And the Coast Guard may well be able to respond to emergencies adequately with other resources. My concern is that if these stations are closed, there would be a dimunition of safety, simply because the safety professionals from the Coast Guard would no longer be in the community.

The Coast Guard would no longer be there to offer safety advice or take an enforcement action against a boater doing something stupid. People admire and look up to the Coast Guard. That role model for good safety practices would be removed, and I believe that would hurt safety in the long run.

I urge adoption of the Traficant amendment.

Mr. HOEKSTRA. Mr. Chairman, I support Mr. TRAFICANT's amendment because I feel that it is necessary that before the Coast Guard closes a station, they should develop and implement a transition plan in consultation with the affected communities. I have expressed this desire to the Coast Guard and while they are supportive of the idea, they have yet to take the necessary steps to ensure the transition will be a smooth one for the communities. This amendment sets a 1-year moratorium on closings. During this time, I would hope that the Coast Guard would work with the affected communities to develop a plan that will ensure the safety of the boaters and residents of the area.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SHUSTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The vote will be for 17 minutes.

The vote was taken by electronic device, and there were—ayes 146, noes 272, not voting 16, as follows:

[Roll No. 308]

AYES—146

Abercrombie
Ackerman
Andrews
Baker (LA)
Baldacci
Barcia
Beilenson
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Camp
Cardin
Clayton
Clement
Clyburn
Collins (IL)
Conyers
Coyne
de la Garza
DeFazio
DeLauro
Dixon
Doyle
Ehlers
Engel
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Forbes
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gillmor
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Hoekstra
Holden
Hoyer
Jackson-Lee
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennelly
Kildee
Kleczka
Klink
Lantos
Laughlin
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Manton
Markey
Martinez
Mascara
Matsui
McDermott
McHale
McKinney
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Murtha
Nadler
Ney
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Petri
Rahall
Rangel
Reed
Reynolds
Rivers
Rose
Roth
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schumer
Scott
Sensenbrenner
Serrano
Skaggs
Slaughter
Smith (NJ)
Stark
Stockman
Stokes
Studds
Stupak
Tauzin
Thompson
Thornton
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Walsh
Ward
Waters
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)

NOES—272

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Doggett
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Johnston
Jones
Kasich
Kelly
Kennedy (RI)
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
Longley
Lucas
Luther
Manzullo
Martini
McCarthy

McCollum	Pomeroy	Souder
McCrery	Porter	Spence
McDade	Portman	Spratt
McHugh	Poshard	Stearns
McInnis	Pryce	Stenholm
McIntosh	Quillen	Stump
McKeon	Quinn	Talent
McNulty	Radanovich	Tanner
Meehan	Ramstad	Tate
Metcalf	Regula	Taylor (NC)
Meyers	Richardson	Tejeda
Mica	Riggs	Thomas
Miller (FL)	Roberts	Thornberry
Minge	Roemer	Thurman
Molinari	Rohrabacher	Tiahrt
Mollohan	Ros-Lehtinen	Torkildsen
Montgomery	Roukema	Torres
Moorhead	Royce	Upton
Moran	Salmon	Volkmer
Morella	Sanford	Vucanovich
Myers	Saxton	Waldholtz
Myrick	Scarborough	Walker
Neal	Schaefer	Wamp
Nethercutt	Schiff	Watt (NC)
Neumann	Schroeder	Watts (OK)
Norwood	Seastrand	Waxman
Nussle	Shadegg	Weldon (FL)
Ortiz	Shaw	Weldon (PA)
Orton	Shays	Weller
Oxley	Shuster	White
Packard	Sisisky	Whitfield
Parker	Skeen	Wicker
Paxon	Skelton	Williams
Payne (VA)	Smith (MI)	Wolf
Peterson (MN)	Smith (TX)	Young (FL)
Pickett	Smith (WA)	Zeliff
Pombo	Solomon	

NOT VOTING—16

Berman	Ford	Rogers
Boehlert	Gonzalez	Taylor (MS)
Brown (CA)	Jefferson	Wilson
Collins (MI)	Maloney	Zimmer
Dingell	Moakley	
Fattah	Peterson (FL)	

□ 1651

Mr. DEUTSCH, Mrs. THURMAN, and Messrs. MEEHAN, NEAL of Massachusetts, and BARRETT of Wisconsin changed their vote from "aye" to "no."

Messrs. PETRI, WALSH, and SANDERS changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. DEUTSCH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as we are taking up the Coast Guard authorization bill we are also taking it up on a day that is truly a dark day in the Coast Guard's history and in America's history. This is a day that the U.S. Coast Guard has joined forces with one of the evil regimes in the world and in world history, the Castro government. The U.S. Coast Guard, who has had such a glorious history over hundreds of years, today escorted people for the first time in American history back to a Communist dictatorship. It truly is a dark day not just in the Coast Guard's history but in America's history.

It is a policy which has never been done before and hopefully will never be done again. There are many of us in this Chamber and throughout this country who are urging the President to stop this policy. Coast Guard vessels which have been used to save lives for hundreds and hundreds of years, in fact within the last year have saved hundreds of lives, thousands of lives, were used today to bring 13 people back to what we do not know, what might be death, what might be torture. It is totally naive by this administration to believe that those people will not be suffering for their consequences. It defies the logic of history, it defies what we do know. It defies recent history where this Government has continually pointed to the Castro regime as one of the worst human rights abusers in the world, in fact in the history of the world, and yet that is what our Government's resources and our Coast Guard was involved in today.

Now is not the time to particularly reduce Coast Guard authorization for that action. But our hope and I believe again the majority of the Members in this Chamber and a majority of people throughout this country is that this policy will change and will change in short order.

Mr. COBLE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to respond very briefly to the gentleman from Florida. I am not going to take my 5 minutes, but I feel obliged to at least respond to what he said. I cannot disagree with most of what he said, but since we are now debating the authorization bill for the Coast Guard, I think I need to make it clear to my colleagues that we should not kill the messenger in this case.

The Coast Guard after all is the appropriate agency for implementing the President's policy. Whether or not we agree with the President's policy, that may well be another ball game, but I do not think we can be justified in pointing accusatory fingers to the Coast Guard for taking its part in repatriating those Cubans back to Cuba.

I am advised that those Cubans who were picked up by the Coast Guard from a cruise ship have been aboard a Coast Guard cutter since that day, which I think was last Thursday, and the repatriation process is going on now.

I just want to insert my oars in the water, Mr. Chairman, on behalf of the Coast Guard. I do not disagree with what the gentleman from Florida said, but I think it needs to be made clear that the Coast Guard is merely implementing the President's policy.

AMENDMENT OFFERED BY MR. ROTH

Mr. ROTH. Mr. Chairman, I offer an amendment.

Mr. DEFAZIO. Mr. Chairman, I had risen previously and I am a member of the committee. What is the procedure here. I have an amendment at the desk.

The CHAIRMAN. The Chair has recognized the gentleman from Wisconsin already, and as a committee member, the gentleman from Oregon will be recognized next.

Mr. COBLE. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from North Carolina reserves a point of order on the amendment.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. ROTH: At the end of title IV (page 43, after line 13), add the following new section (and amend the table of contents accordingly):

SEC. . LIMITATION ON FEES AND CHARGES WITH RESPECT WITH RESPECT TO FERRIES.

The Secretary of the department in which the Coast Guard is operating may not assess or collect any fee or charge with respect to a ferry. Not withstanding any other provision of this Act, the Secretary is authorized to reduce expenditures in an amount equal to the fees or charges which are not collected or assessed as a result of this section.

Mr. ROTH. Mr. Chairman, we have too many laws in our country, too many taxes that do not make sense, and that is the purpose of this amendment. Ferry boats provide not only essential transportation but for many purposes they are the only form of public transportation to many places.

□ 1700

Mr. Chairman, we are debating an issue here today that is affecting the lives of many people in our country, and that is why I think it is important for us to give due deliberation to these amendments.

Ferry boats are really the lifeline to many communities. Now, under U.S. law, the Coast Guard is allowed to exempt a ferry boat from paying taxes if it is determined to be of a public interest.

In my home State of Wisconsin, ferries are considered public, so public that the public service commission regulates them.

The only way to get to Washington Island, for example, in my district, which is off of the coast of the beautiful Door County area in Wisconsin, you have to go by ferry. This island is inhabited by some 650 residents year around, many more in the summer. The only way to get to the island is by ferry boat.

These boats are the lifeline to the community. They take care of the ambulance service, mail service, groceries, fuel and heat.

Now, citizens rely on ferries all over the United States. So this is not only affecting Wisconsin, this is affecting many, many areas in your States also.

During one of the many destructive floods on the Mississippi, for example, many families and towns relied on the ferries to get them to the hospital and to safe shelter. When San Francisco, for example, the Golden Gate Bridge, for example, was damaged by an earthquake, the bay area relied on ferry boats.

If these new destructive taxes go into effect, as scheduled on May 1, one ferry boat operator, for example, on the Washington Island line will be penalized by some $5,175, that is over $5,000.

When this amendment goes into effect, what it will do is return some

fairness, and that is all I am asking. I am asking that the Congress consider this as a public service.

Let us not tax these people to death. Let us not choke off this vital lifeline from Door County to Washington Island.

As I say, this is not the only area in the country, but there are many areas like this, and I ask the Members to approve this amendment.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from North Carolina [Mr. COBLE] insist on his point of order?

Mr. COBLE. Mr. Chairman, I do.

The CHAIRMAN. The gentleman will state his point of order.

Mr. COBLE. First of all, Mr. Chairman, I want to say to the distinguished gentleman from Wisconsin, that much of what he said I am not in disagreement with, but I do not think this is the proper forum, for this reason: I think the amendment offered by the gentleman from Wisconsin [Mr. ROTH] violates section 302(f) of the Budget Act by providing negative budget authority for the fiscal year 1995.

Mr. ROTH. Mr. Chairman, may I be heard on that?

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Chairman, I realize the gentleman from North Carolina [Mr. COBLE] is probably one of the most gifted lawyers in the House.

I wanted to point out that whenever we cut taxes, it is never in order.

Let me say something: When you read this amendment, and the appropriate statute, you find that the ferry is defined as a public service. Then the tax does not apply.

Also, I want to point out that the second argument is that the amendment gives the Secretary the authority to reduce expenditures in the amount equal to the tax not collected.

Therefore, this amendment is in order.

The CHAIRMAN (Mr. DICKEY). The Chair is prepared to rule. Based on the last argument from the gentleman from Wisconsin, that the record new budget authority would be offset, the Chair holds that the amendment is in order.

Mr. ROTH. Well, I thank the Chair very much, and I ask for an affirmative vote.

The CHAIRMAN. That ruling is based on the last sentence of the amendment.

Are there other Members who wish to be heard on the amendment?

If not, the question is on the amendment offered by the gentleman from Wisconsin [Mr. ROTH].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DEFAZIO

Mr. DEFAZIO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DEFAZIO: At the end of title I, add the following new section:

SEC. . LIMITATION OF USE OF AMOUNTS TO CLOSE MULTIMISSION SMALL BOAT STATIONS.

Amounts appropriated under the authority of this Act may not be used to close any multimission small boat station unless the Secretary of Transportation determines that the closing will have less negative impact on maritime safety than the elimination of Coast Guard administrative aircraft.

Mr. DEFAZIO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. DEFAZIO. Mr. Chairman, during the Traficant amendment, the issue was raised that we should not ask the Coast Guard to go back to the well; they could not find the few million dollars necessary to keep those 23 small boat lifesaving stations open. As I pointed out, it is one-tenth of 1 percent of the budget.

But since we did not want to mandate that the Coast Guard return to their budget and apply a magnifying glass, I decided, if the Traficant amendment failed, to offer one of my own and help them out.

I referred to a report of the Government, of the Department of Transportation and the Office of the Inspector General, and in regard to the transportation activities of the U.S. Coast Guard, in particular, my amendment goes to one part of those transportation activities; that is, the private jet of the Commandant of the Coast Guard of the United States.

For the last year for which they have figures, the private jet utilized by the Commandant of the Coast Guard of the United States and others cost the Coast Guard $3,363,263, more money than is necessary to keep those 23 small boat life-saving stations open.

So the decision before this Congress is: Should we maintain a private jet which has been utilized by the Secretary of the Department of Transportation? He also has private jets in other parts of his budget and can also utilize the private jets at Andrews Air Force Base, and the Commandant of the Coast Guard, who used it about half the time, vice commandant, area commanders, other Coast Guard personnel, and surprise, surprise, Members of the U.S. Congress utilized the private jet of the Commandant, of the Coast Guard for an estimated $323,385 last year.

So is it better that we spend $323,385 ferrying Members of Congress around in the Commandant's private jet, or we save people who are drowning off the coast of Michigan and the Great Lakes and off the coast of Massachusetts and New Jersey?

I think that in these days where we are asking people to cut to the bone, and in these days when Congress is cutting back on its privileges, how can it justify a private jet which is used for Members of Congress, other people, and about half the time for the Commandant of the Coast Guard?

I, as one Member of Congress, would be quite willing to pony up a bunch of my frequent flier miles so the commandant would never have to fly in coach. He could always fly first class. Now, I am sure it is not going to be the same as a private jet. If there was an emergency and he needed a private jet, he could go to Andrews Air Force Base, where they maintain about 40 private jets for bigwigs in the military, and I am certain they would let him use one.

So why do we have private jets in the Coast Guard, private jets in the Highway Department, private jets in other agencies of the Federal Government, and then a whole bunch of private jets in the military? If we are going to keep private jets to ferry around Members of Congress and other bigwigs, let us get more efficient, put them all in one place. Let us operate them all out of Andrews Air Force Base.

This amendment is very simple. It would say the Secretary of Transportation would have to decide what is more important to the lifesaving mission of the Coast Guard: a private jet for the Commandant of the Coast Guard of the United States, others, including Members of Congress, or the 23 small boat lifesaving stations?

I think that many Members would join me in determining that in times where we have to cut back, we should make the cuts in the areas where it hurts least, and I think cutting private jets for Members of Congress and the Commandant of the Coast Guard would be, in this case, by most Americans considered to be a better cut than cutting 23 small boat lifesaving stations.

I do not believe that a person treading cold water off Nantucket Island or in the northern part of the Great Lakes or off the Oregon coast should have to wait 40 minutes to 1 hour for a Coast Guard rescue. I would rather the brass in the Coast Guard and Members of Congress waited 40 minutes for a commercial jet at National Airport.

Again, I would be happy to contribute some of my mileage upgrades so none of those people will have to fly in coach.

Mr. COBLE. Mr. Chairman, I rise in opposition to the amendment.

I am not sure I follow the amendment offered by the gentleman from Oregon. Maybe it is very cleverly drafted, or, in any event, I am not with it.

But I am going to have to oppose this. Much of this is what we discussed on the last amendment regarding the fact, folks, that I think the Coast Guard needs to have some flexibility as it conducts its self-assessment, streamlining program.

Now, some of my Democrat friends earlier were, tongue-in-cheek, and I did not object to this, were admonishing

me for signing off on the administration's proposal.

Well, the Secretary of Transportation, whom I do not know well, and perhaps my friends on the other side may well know him better than I, but he had no problem at all with extending to the Commandant of the Coast Guard the flexibility to determine what stations are to be downsized, and as far as the jet, that obviously is a part of the Coast Guard air fleet.

I urge the defeat of the amendment submitted by the gentleman from Oregon.

Mr. DEFAZIO. Mr. Chairman, will the gentleman yield?

Mr. COBLE. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Chairman, the amendment does not mandate that the Secretary of Transportation delete the private jet for the Commandant of the Coast Guard and Members of Congress. It merely says that the Secretary of Transportation must determine what is more important to the maritime safety of this Nation, private jet for the Commandant of the Coast Guard, Members of Congress and others, or 23 small boat lifesaving stations.

I think that we are just sending the issue back to Secretary Pena for another look, because I think perhaps, hopefully, his mind was not clouded by his two private jet trips the Commandant provided last year for $55,000, and hopefully he would look at this objectively and determine we do not need that private jet. It is a luxury jet. It is a personal aircraft. It is not a member of the fleet. It is not used for strategic or military purposes.

Mr. PALLONE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just want to commend my colleague from Oregon for proposing this amendment.

As the gentleman from North Carolina [Mr. COBLE] said, in terms of the background of it, it is very similar to the previous amendment, but I do want to commend the gentleman from Oregon [Mr. DEFAZIO], because he has, in effect, identified a source of funding in the Coast Guard to pay for us keeping open these small boat stations.

As was mentioned by some of the speakers in the debate on the Traficant amendment, this is really a question of priority. We all know we have a limited amount of funds and that we have to prioritize where we spend those funds. But the gentleman from Oregon [Mr. DEFAZIO] is saying the priority should be on saving lives and keeping open those Coast Guard stations which over the years have generated support not only with Coast Guard and Federal money but other auxiliary moneys and volunteer efforts to continue the search and rescue operations and the other things that the Coast Guard is involved with.

It certainly makes sense, in my opinion, to eliminate a private jet, clearly something that is frivolous and not needed. There have to be other ways the Commandant can go about traveling from one place to another and save the money by striking that item from the budget.

Now, I know the amendment does not go so far as to actually mandate that be done. I personally would not have a problem with that, but what he is saying is he is setting forth the Coast Guard has to make a decision and decide which is the higher priority.

I think there are very few of us that think that eliminating the jet and keeping these stations open is not a higher priority. I support the amendment, and I commend the gentleman from Oregon for bringing this option to the floor of the House.

Ms. FURSE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, my colleague from Oregon knows full well what kind of service the Coast Guard provides to our fishermen on the coast of Oregon. We are in a very dangerous water.

The small boat stations are extraordinarily important to not just fishermen but also to the people who are on their own boats on the coast.

It shocks me, Mr. Chairman, to find out that there is this private jet available, and the cost saving of the amendment offered by the gentleman from Oregon [Mr. DEFAZIO] is extraordinarily sensible.

We have to, in this Congress, be honest when we say we believe in cost cutting. We have to say what we are going to cut and what we are not going to cut. It is no good saying we are going to be fiscally responsible and cut budgets if, in fact, we are cutting things that are so vital to our own citizens.

Mr. Chairman, I cannot tell you how important those Coast Guard stations are to the people of Oregon and the people of Washington, and it is a great favor for me to serve with the gentleman from Oregon [Mr. DEFAZIO], who understands that, too.

Let us cut this jet. Let us make sure the Secretary of Transportation knows what transportation is important to the country and to the people of this great Nation.

I really support and encourage my colleagues to support this amendment.

□ 1715

Mr. TRAFICANT. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, I do not have a Coast Guard mini boat station in my district, and I did not really have a dog in the fight as far as losing any jobs, if that is the argument being taken, and I supported the efforts the gentleman from Oregon [Mr. DEFAZIO] and the gentleman from New Jersey [Mr. PALLONE] and others because, quite frankly, I thought they were right. I support this amendment, and I want to commend the gentleman from Oregon [Mr. DEFAZIO].

The last time the Congress of the United States allowed for closings of small boat stations, the gentleman from Oregon [Mr. DEFAZIO] lost five lives of his constituency. Now I do not think the amendment is going to pass. I say to the gentleman, "I am going to support your amendment, but I believe the Congress of the United States today has done something in concert with actions that have been much too often taken in this hall. Congress continues to pass the authority of governance to the White House, and the Congress of the United States in many cases is not being conferred with. Mr. DEFAZIO, I think you have made a valiant effort. You have certainly brought forward the issue, and nobody has done it better than you have, and you and Mr. PALLONE deserve a tremendous amount of credit for it. I'm going to support your amendment; I hope it passes."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon [Mr. DEFAZIO].

The amendment was rejected.

AMENDMENT OFFERED BY MR. HOEKSTRA

Mr. HOEKSTRA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOEKSTRA: Page 7, strike lines 12 and 13 and insert the following:

SEC. 104. ENSURING MARITIME SAFETY AFTER CLOSURE OF SMALL BOAT STATION OR REDUCTION TO SEASONAL STATUS.

Page 7, line 14, before "None of the funds" insert the following: "(a) MARITIME SAFETY DETERMINATION.—".

Page 7, after line 18, insert the following:

(b) TRANSITION PLAN REQUIRED.—None of the funds appropriated under the authority of this Act may be used to close or reduce to seasonal status a small boat station, unless the Secretary of Transportation, in cooperation with the community affected by the closure or reduction, has developed and implemented a transition plan to ensure that the maritime safety needs of the community will continue to be met.

Mr. HOEKSTRA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. HOEKSTRA. Mr. Chairman, representing a district that you are well aware of; I understand you have a summer residence in west Michigan; you appreciate the beauty of the west Michigan shoreline. We are also very aware of the critical role that the Coast Guard plays in ensuring the safety of boaters and residents in my district. I do believe that it is necessary for the Coast Guard to streamline their operations, to be both efficient and cost effective, and also to represent the changing nature of their mission.

However, I do not believe this should come at the cost of safety.

As a Representative of a district that lines the coast of west Michigan, I am well aware of the essential role the Coast Guard plays in ensuring the safety of boaters and residents in my district. While I believe that it is necessary for the Coast Guard to streamline their operations to be both efficient and cost effective, I do not believe that this should come at the cost of safety. H.R. 1361 already states that the Coast Guard cannot close a station until the Secretary of Transportation can certify that the action will not have a detrimental impact on public safety.

My amendment would add to this provision, stating that before the Coast Guard can close a small boat unit, they will have to work in cooperation and consultation with the affected communities in developing a transition plan that ensures that the safety needs of that community are being met.

By pulling in the community, the Coast Guard will hear the inputs and proposals from the people that are affected by their decisions and a healthy dialog can take place about possible alternative solutions. The Coast Guard has already informally agreed to this procedure but has failed to take action on it. My amendment will make communication with the communities a requirement before a closing can occur. Through this dialog, communities can work with the Coast Guard so that both parties will be comfortable with the end result.

Mr. COBLE. Mr. Chairman, will the gentleman yield?

Mr. HOEKSTRA. I yield to the gentleman from North Carolina.

Mr. COBLE. I apologize to the gentleman for interrupting, but I think I am correct that the gentleman from Ohio [Mr. TRAFICANT], his staff and my staff have signed off on this amendment of the gentleman from Michigan [Mr. HOEKSTRA], and we will accept the amendment.

Mr. TRAFICANT. Mr. Chairman, will the gentleman yield?

Mr. HOEKSTRA. I yield to the gentleman from Ohio.

Mr. TRAFICANT. We have no opposition to the amendment, however, the amendment is going to make everybody feel good. However, we have no opposition.

Mr. CASTLE. Mr. Chairman, I rise in support of the Hoekstra-Castle amendment.

The Coast Guard has proposed closing 23 bases and reducing 13 bases to seasonal subunit status.

Many bases are outdated or inefficient. The intent of the amendment is not to oppose base restructuring—but to elevate community participation in the planning process.

In Delaware, the Coast Guard has proposed closing the station at Roosevelt inlet and reducing the station at Indian River to seasonal duty.

As you may know, the Commandant of the Coast Guard recently indicated they intend to prepare transition plans for communities affected by base closure. This amendment supports and expands on this promise.

The Hoekstra-Castle amendment requires the Coast Guard to:

First, work in cooperation with communities affected by base closures or base reduction to seasonal duties.

Local communities should be active participants in the policy making process.

Currently, Coast Guard plans do not necessarily include any further consultation with local communities.

Second, develop a transition plan to ensure safety needs are met.

Currently, transition plans will not be prepared for bases reduced to seasonal duties. The amendment requires transition plans for both base closures and reductions to seasonal subunit status.

A written plan will better identify the roles, responsibilities, and requirements necessary for a safe and smooth transition.

It is important to note that this amendment does not increase costs.

The Congressional Budget Office has indicated that the amendment will not change the scoring of the bill.

The base restructuring initiative will still save $6 million.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. HOEKSTRA].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. NADLER: At the end of title IV (page 43, after line 13), add the following new section (and amend the table of contents accordingly):

SEC. . TRANSITION FOR CIVILIAN PERSONNEL UNEMPLOYED DUE TO CLOSURE OR REALIGNMENT OF COAST GUARD INSTALLATIONS.

(a) ELIGIBILITY FOR RETIREMENT.—A civilian employee of the Coast Guard assigned to the Coast Guard installation located at Governor's Island, New York, who becomes unemployed as a result of a closure or realignment of that installation and who would have been eligible for retirement within 5 years after becoming unemployed shall be eligible for full retirement benefits.

(b) ELIGIBILITY FOR REEMPLOYMENT.—For purposes of seeking new employment, the authorized geographic area of a civilian employee of the Coast Guard assigned to the Coast Guard installation located at Governor's Island, New York, who becomes unemployed is deemed to be all United States Coast Guard installations located in the United States.

Mr. NADLER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. COBLE. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from North Carolina [Mr. COBLE] reserves a point of order on the amendment.

The gentleman from New York [Mr. NADLER] is recognized for 5 minutes in support of his amendment.

Mr. NADLER. Mr. Chairman, this amendment does two things with respect to the Coast Guard base on Governors Island. The Coast Guard base on Governors Island has been there since the Revolutionary War and is the largest Coast Guard base anywhere in the United States.

The amendment, as I said, does two things. It permits civilian employees who work at the Governors Island base in my district to compete for available jobs at bases anywhere in the country should their jobs be eliminated because of closure or relocation of the Governors Island base, which closure would eliminate approximately 600 Federal civilian positions. These hardworking people under current law would not be allowed to follow their work if it were relocated elsewhere in the country because their authorized geographical area within which they are entitled to follow the work is limited to New York, and there are no Federal Coast Guard jobs left in New York, and if the Governors Island base is relocated to, for example, Virginia or Florida, under current regulations these civilian employees would not be allowed to pursue those new positions. So the first thing the amendment does is permit them to do so.

The second thing the amendment would do would be to permit civilian employees currently working at the Governors Island base who are within 5 years of retirement to become eligible for full retirement benefits if they are displaced as a result of the base closure. This amendment would affect, this provision, affects, approximately 43 people who are within 5 years of retirement and would not otherwise be eligible for retirement benefits, and I would be pleased to support colleagues in offering the same protections with civil employees who work at other Coast Guard bases that may be closed or realigned. These people have loyally served the Coast Guard and have loyally served our country for over a decade and should not be cast aside when the Government goes on doing its business. If the base closes, they will not have the opportunity to work at all to earn full time retirement benefits because there are no Federal jobs in the area. The civilian men and women at the Governors Island installation have worked hard, they have played by the rules, they should be treated fairly, and that is what this amendment in both its provisions does, and, therefore, I ask for the enactment of this amendment.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from North Carolina [Mr. COBLE] persist in his point of order?

Mr. COBLE. I do, Mr. Chairman.

The CHAIRMAN. The gentleman will state his point of order.

Mr. COBLE. It is my belief, Mr. Chairman, that the amendment from the distinguished gentleman from New York [Mr. NADLER] violates section

401(b)(1) of the Budget Act of 1974. It provides new entitlement authority for the current fiscal year.

The CHAIRMAN. Does the gentleman from New York [Mr. NADLER] wish to be heard?

Mr. NADLER. I await the ruling of the Chair.

The CHAIRMAN (Mr. DICKEY). The Chair is ready to rule.

The gentleman from North Carolina makes a point of order under section 401–B of the Congressional Budget Act that the amendment offered by the gentleman from New York provides new entitlement authority effective during fiscal year 1995 on a bill reported to the House in calendar year 1995.

The Chair finds that amendment offered by the gentleman from New York provides new entitlement authority in the form of public retirement benefits. The Chair also finds that the new entitlement authority would be effective on the date of enactment of the bill. Finally, the Chair is constrained to contemplate immediate enactment of the bill.

Accordingly, the Chair holds that the amendment of the gentleman from New York fails to comply with section 401–B of the Budget Act. Accordingly, the point of order is sustained.

Are there any other amendments?

AMENDMENT OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment Offered by Mr. NADLER: At the end of title IV (page 43, after line 13), add the following new section (and amend the table of contents accordingly):

SEC. . PROCEDURES AND REQUIREMENTS FOR CLOSURE OR REALIGNMENT OF COAST GUARD INSTALLATIONS.

The Secretary of the department in which the Coast Guard is operating may not close or realign any Coast Guard installation except in accordance with procedures set forth in Public Law 101–510.

Mr. NADLER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. NADLER. Mr. Chairman, this amendment provides that the Secretary may not close or realign any Coast Guard installation except in accordance with the procedures set forth in Public Law 101–510, which is to say except in accordance with the procedures utilized by the Base Closure Commission. This amendment would ensure that decisions regarding which installation of the Coast Guard may be closed in the future would be fair and impartial by requiring they be made according to the procedures that we have established for the Defense base closure and realignment by the Defense Base Closure and Realignment Act. We have established an independent commission to determine military base closures. This has achieved its purpose of providing a fair process that preserves the national interests and safety while affording fairness to affected regions. The same procedure is equally relevant and necessary if we are going to embark upon a course of closing Coast Guard installations to ensure a good Federal policy and fairness to different regions.

Mr. Chairman, as we streamline Government, we must maintain maritime safety, and we should use fair and impartial procedures to determine which Coast Guard bases are appropriate to close or realign, and I believe that the existing Base Closure and Realignment Commission could undertake this additional duty without a greater additional cost. So I submit this amendment, and I ask its enactment.

Mr. COBLE. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New York [Mr. NADLER].

Mr. Chairman, this amendment offered by the gentleman from New York [Mr. NADLER] would not allow the Coast Guard to close or realign any Coast Guard installation except in accordance with the procedure of the Base Closing Act, and I say to the gentleman, "Mr. Nadler, I may be mistaken, but I don't believe the Base Closing Act extends its jurisdiction to Coast Guard facilities, No. 1, and, No. 2, I want to reiterate again, I favor giving the Coast Guard the flexibility to deal with search and rescue station closures, to reallocate resources appropriately, and I think that what the gentleman from New York is doing now is to, perhaps, attempt to do indirectly what has been failed earlier today."

I therefore, Mr. Chairman, oppose the amendment.

Mr. TRAFICANT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I commend the gentleman for his efforts, but I reluctantly, too, have to oppose this amendment.

Let me say this amendment would, in fact, place jurisdiction subject to this committee into a whole other legislative jurisdictional authority and would complicate severely the business at hand by our committee to provide such jurisdiction over the Coast Guard.

I am willing to work with the gentleman on the problems that he has, but I believe with this, and I have to agree with the chairman, it would not be in the best interests of the Congress and this committee, and, with that I reluctantly——

Mr. NADLER. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from New York.

Mr. NADLER. Mr. Chairman, I appreciate the sentiment expressed by the gentleman from Ohio [Mr. TRAFICANT] in his willingness to work with me in seeking to attain the aim of fairness and adequate consideration of closure of major facilities, and I must say that I did not intend this amendment, Mr. COBLE, to apply to small boat stations. I had in mind major facilities such as the Coast Guard station on Governors Island and other such major facilities which are really analogous to major military bases and, I think, should get analogous treatment, and I certainly would not want to tamper with the committee's jurisdiction, the jurisdiction of the committee on which I sit.

So I would look forward to working with the gentleman from North Carolina [Mr. COBLE] and the gentleman from Ohio [Mr. TRAFICANT] to work out this question to afford a fairer way of determining which major installations should be closed, if any, in a fair and impartial manner and with the assurances that they would be willing to work on this.

Mr. Chairman, I withdraw my amendment.

The CHAIRMAN. Without objection, the amendment offered by the gentleman from New York [Mr. NADLER] is withdrawn.

There was no objection.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. TAUZIN

Mr. TAUZIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TAUZIN: At the end of title IV (page 43, after line 13), add the following new section (and amend the table of contents accordingly):

SEC. . AMOUNT OF FEE FOR INSPECTION OR EXAMINATION OF SMALL PASSENGER VESSELS.

(a) AMOUNT OF FEE.—Section 2110 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(k) The amount of any fee under this title for inspection or examination of a small passenger vessel may not exceed—

"(1) in the case of a vessel under 65 feet in length, $300; or

"(2) in the case of a vessel 65 or more feet in length, $600.".

(b) INCREASE IN FEE.—The Secretary of the Department in which the Coast Guard is operating shall increase the amount of the fee charged by the Coast Guard for inpection or examination of large, luxury foreign-flag cruise ships under title 46, United States Code, in an amount adequate to offset any reduction in the total amount received by the United States in the form of such fee as a result of the amendment made by subsection (a).

Mr. TAUZIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

□ 1730

POINT OF ORDER

Mr. COBLE. Mr. Chairman, I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. COBLE. Mr. Chairman, I believe the gentleman from Louisiana has offered an amendment that violates rule XXI, clause 5(b), because the increase of fees to foreign cruise vessels is not related to the cost of providing the service of the Coast Guard. It is not related to the cost of providng the service of Coast Guard inspections, and this, therefore, Mr. Chairman, is no longer a fee but a tax.

The CHAIRMAN. Does the gentleman from Louisiana wish to be heard on the point of order?

Mr. TAUZIN. Mr. Chairman, I wish to be heard on the point of order.

Mr. Chairman, the amendment provides for capping the fees that are assessed for inspecting small vessels at $300 and $600, more closely related to the actual cost of inspecting these small vessels, and requiring the Coast Guard instead to assess, whenever the money is required to cap, these fees on the larger foreign cruise ships.

The problem is, of course, a budget one. We cannot put a cap on the fees on the low end unless we provide for collection of those same amounts on the high end of the scale.

The problem is that there is a tax in this bill. The tax is on the small boat owners. Mr. Chairman, I want to point out two things to you: The first is that under the current fee schedule small boat owners are being ripped apart. In many cases the cost of inspection bears no relationship whatsoever to the time spent by the Coast Guard in inspecting those vessels.

Let me illustrate for you. In Louisiana, Mr. and Mrs. Torres operate a small swamp tour boat, 25 feet in length. It is a small boat. They take passengers out to look at alligators. Twenty-five in length.

The Coast Guard says that they are charging $87 an hour to inspect the vessels. But the Torreses, who went through an inspection that took less than an hour, it should not have taken more than that, were billed for $545 of expenses for that inspection under this fee schedule.

In Galliano, LA, Mr. Jimmy Martin has three boats 85 feet in length. One of those boats was inspected for a total of one hour. He was not charged $87; he was charged $1,135. A similar case with Mr. Earl Griffin of Larose, LA, one of three boats inspected, each one 110 feet in length; the inspection took a little over 2 hours, $1,135.

If there is a tax in this bill, it is a horrible confiscatory tax on small boat owners. But that is not the only problem. The other problem is that recently the Coast Guard initiated a program called streamlined inspections. Now, under that program, if you have a great safety record, if your record in the boat business is so spotless, you are allowed to self-inspect and to self-certify to the Coast Guard that you meet all these criteria. That is a new program initiated to save people money, to save the Coast Guard the trouble and time of inspection, to just inspect the boats that need inspection, in effect.

Guess what? The Coast Guard is charging those boat owners the same price they charge other boat owners who they have to go out and inspect. They are calling it a cost of overseeing the self-inspection program.

This is a mess, Mr. Chairman. The Coast Guard user fee is using people all right. It is using them to death. And I suggest this amendment is vital and needs to get passed.

The gentleman says we are raising a tax by reallocating these user fees. We are not raising a tax. All we are doing is stopping this awful confiscatory tax on the smaller boat owners. What this amendment says is that the inspection fees ought to be capped at something reasonably related to the real cost and the time of inspection: $300 for a boat under 65 feet, $600 for a boat over 65 fee. That makes sense. For the Coast Guard to assess a $1,135 fee for less than an hour's worth of inspection, to assess a fee on those who self-inspected under a good-faith streamlined policy provision we adopted last year, is ridiculous.

Mr. Chairman, we ought to pass this amendment. You ought to rule against this point of order if for no other reason than the amendment makes such good sense.

The CHAIRMAN. Does any other Member wish to be heard on the point of order?

Mr. TRAFICANT. Mr. Chairman, I understand the position taken by the chairman of the subcommittee, and because of the tax implications I believe there probably exists technical points that speak to sustaining this point of order.

But I would like to make this statement in lieu of that, and I believe that the gentleman from Louisiana [Mr. TAUZIN] is a very valuable Member of this Congress. I believe he struck on a point here that deserves the concerns of our committee. I would like to ask the chairman if in fact this is stricken by a point of order because of those technicalities, the Budget Reconciliation Act of 1990 did allow for an opportunity to exist that does fit into this strategy that is offered by this legislation, perhaps we could visit that issue and see if we can mitigate some of those problems, because I think Mr. TAUZIN makes an awful lot of sense.

The CHAIRMAN. Does any other Member wish to be heard on the point of order?

Mr. COBLE. Mr. Chairman, I will be very brief. I think the gentleman from Ohio [Mr. TRAFICANT] raises a good point. I think the gentleman and the gentleman from Louisiana [Mr. TAUZIN] and I can visit this and perhaps bring the appropriate Coast Guard officials to the table. If what the gentleman from Louisiana [Mr. TAUZIN] says is accurate, and I have no reason to doubt it, some redress is in order.

The CHAIRMAN. Does any other Member wish to be heard on the point of order?

Mr. DEFAZIO. Mr. Chairman, I am a bit puzzled as to how we can rule that the Coast Guard, in levying a confiscatory tax—that is, a boat operator in the southern part of my district last year was assessed one fee for five boats, and this year was assessed, because the Coast Guard person had to travel there, he did not think that was unreasonable, this year he was assessed five fees for the five boats as though five separate trips had been made and those were done in one trip. I am a bit puzzled how it can be that we are confronted with a confiscatory tax, which has been unilaterally imposed by the Coast Guard, and yet in this case when we are attempting—but it is being justified as a user fee—when we are attempting to adjust the user fee under the gentleman's amendment, we are determining it is a tax and we are out of order.

The CHAIRMAN. Does any other Member wish to be heard on the point of order?

Mr. HOYER. Mr. Chairman, I rise in strong support of the amendment offered by the distinguished gentleman from Louisiana [Mr. TAUZIN]. I would hope that my friend from North Carolina would reflect upon his raising of this point of order.

I have for a long time been expressing my own concerns about the proposed user fees for inspection and examination of commercial vessels. The final rule was issued by the Department of Transportation on March 18. Despite the fact that the department spent 3½ years on this rulemaking, I do not believe that it has adequately addressed the concerns of the small businesses. In February 1992 as the department began the rulemaking process, I, and others, expressed concerns to the Subcommittee on Coast Guard and Navigation about user fee proposals that were disproportionately high for small vessel operators.

The gentleman from Louisiana [Mr. TAUZIN], from his own constituency in Louisiana, has mentioned fees that went over $1,000 for the inspection of small vessels. Small business cannot tolerate that.

Over the past few years this has continued to be a priority for me and I know for the committee. It certainly has been a priority, Mr. Chairman, for many of the charter boat operators in my own State of Maryland and my district. My district, as the gentleman knows, is bordered by the Chesapeake Bay and the Potomac River, two of the great waterways of our country, and

there are many small vessels in southern Maryland that are owned and operated by small businesses. Some are family operations, as the gentleman from North Carolina [Mr. COBLE] knows, that have passed down through the generations.

Mr. Chairman, it makes sense to limit the amount that these small businesses and family-operated operations would pay for their inspections. We are not against inspections, but we want to have a reasonable fee to effect them.

On May 2, I joined with the gentleman from Louisiana [Mr. TAUZIN], the gentleman from Maryland [Mr. GILCHREST], and the gentleman from New Jersey [Mr. LOBIONDO] in reiterating our concern about this issue. In a letter to the gentleman from North Carolina [Mr. COBLE], we noted the Coast Guard has indicated its fee for inspection is about $87 an hour. Mr. TAUZIN has referenced how quickly that $87 becomes $587 and then $1,087. Yet small vessel operators are being asked to pay hundreds of dollars for inspections that take less than 1 hour.

I regret the committee did not address this issue. The chairman happens to be a very close friend of mine, and I have great respect for him. I know he cares about this issue. I know that he feels constrained under the rules to raise this point of order, but, Mr. Chairman, if you have to press the point of order, and I would hope you might reconsider, but if you cannot reconsider, I certainly would hope very seriously that you would take the recommendation of my friend from Ohio [Mr. TRAFICANT], and that we pursue this vigorously, so that in the very near future, on one bill or another, we can fix this.

We talk about small businesses, we talk about decreasing regulation, we talk about cutting taxes. Here is a specific example of where we are driving small businesses out of business, family-owned sole proprietorships out of business, because they cannot pay it. This is almost confiscatory.

Mr. Chairman, I want to join with Representative TAUZIN in expressing my concern about the proposed user fees for inspection and examination of commercial vessels.

The final rule was issued by the Department of Transportation on March 18. Despite the fact that the department spent 3½ years on this rulemaking, I do not believe that it has adequately addressed the concerns of small businesses.

In February 1992, as the department began the rulemaking process, I expressed concern to the Subcommittee on Coast Guard and Navigation about user fee proposals that were disproportionately high for small vessel operators.

Over the past few years, this has continued to be a priority for me and many of the charter boat operators in my district. Maryland's Fifth Congressional District is bordered by two of our Nation's great waterways—the Chesapeake Bay and the Potomac River.

I regret that the committee did not address this issue in the reauthorization bill. I support the concept of asking those who rely on the Coast Guard to help pay for its services and I remain strongly committed to the Coast Guard's safety inspection program. However, Mr. Chairman, I do not believe that we can ask small vessel operators to pay more than their share.

Mr. TAUZIN's amendment places a cap on fees to ensure that they are not excessive. I commend him for bringing this issue to the floor and I hope that all Members will recognize the importance of protecting charter boat and other small vessel operators.

On May 2, I joined with Representatives TAUZIN, GILCHREST, and LOBIONDO in reiterating our concern about this issue. In a letter to Chairman COBLE, we noted that the Coast Guard has indicated that its fee for inspections is about $87 per hour. Yet small vessel operators are being asked to pay hundreds of dollars for inspections that take less than an hour.

There are many small vessels in southern Maryland that are owned and operated by small businesses. Some are family operations that have passed down through the generations.

Mr. Chairman, it makes sense to limit the amount that these small businesses would pay for their inspections.

The CHAIRMAN. Does the gentleman from North Carolina [Mr. COBLE] wish to be heard further on the point of order?

Mr. COBLE. Mr. Chairman, I may be twisting it procedurally, but let me plow along.

Mr. Chairman, what I would say to my friend, the distinguished gentleman from Maryland [Mr. HOYER] is this: I feel obliged to insist upon my point of order. But I commend my friend, the gentleman from Youngstown, OH [Mr. TRAFICANT], and my friend from the Bayou, the gentleman from Louisiana [Mr. TAUZIN], did not hear me when I said this earlier, but I said in response to what the gentleman from Ohio [Mr. TRAFICANT] said, if what you indicate is true, and I have no reason to doubt it, redress is needed. This needs to be corralled.

I would say to the gentleman from Maryland [Mr. HOYER], assuming I got a favorable ruling from the Chair, we will make that happen as far as getting with the gentleman from Louisiana [Mr. TAUZIN], the gentleman from Ohio [Mr. TRAFICANT], and I, and hopefully pursue a course that will be beneficial.

Mr. HOYER. If the gentleman will yield, I thank him for his consideration. I know all of us would. I thank the chairman for his consideration. I would hope that we did not have the point of order. Again, if we feel we have to do that, I am pleased we will pursue it in another forum.

The CHAIRMAN (Mr. DICKEY). The Chair is prepared to rule.

The gentleman from North Carolina makes a point of order against the amendment offered by the gentleman from Louisiana on the ground that it carries a tax measure in a bill reported by a committee—the Committee on Transportation and Infrastructure—not having jurisdiction to report tax measures, in violation of clause 5(b) of rule XXI.

Current law authorizes the collection of certain user fees to cover the costs to the Coast Guard of various vessel inspections. The amendment offered by the gentleman from Louisiana proposes to limit some of those fees and, as an offset, to increase another such fee. In doing so, the amendment destroys the character of the increased levy as a user fee.

By increasing the fee charged by the Coast Guard for inspecting large, luxury, foreign-flag cruise ships by whatever amount is necessary to offset specified reductions in the fees charged for inspecting other vessels, the amendment attenuates the relationship between the amount of the increased fee and the cost of the particular government activity for which it is assessed.

Under the precedents recorded in section 846b of the House Rules and Manual, a fee that is calculated in an amount that is not merely commensurate with the cost of the governmental activities that the class of assessed parties make necessary, but instead is collected as a proxy for general revenue financing of general governmental activity of broader benefit, may constitute a tax or tariff within the meaning of clause 5(b) of rule XXI.

The Chair finds that the proposed increase in the fee charged for inspecting cruise ships overcollects for the costs of the governmental activities occasioned by the parties on whom it is assessed to such a degree that it is properly characterized as a tax or tariff under the rule.

Accordingly, the point of order is sustained.

□ 1745

Mr. TAUZIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I particularly want to address these comments to my good friend, the gentleman from North Carolina [Mr. COBLE], with whom I have worked many, many years on Coast Guard matters and for whom I have the deepest personal high regards.

I wanted to first of all commend him for recognizing the serious problem and for his commitment to work with me and others to see if we cannot address

it in this or some other forum. This bill is not finished. It goes to the Senate. It goes through a conference, and there may be an opportunity somewhere along the way for us to fix this mess. It may be that we have to do it in some other bill.

I want to commend the gentleman for working with me. I would encourage him to hold a hearing so we can hear from people around the country about the real effects of this fee schedule.

Mr. COBLE. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from North Carolina.

Mr. COBLE. Mr. Chairman, I say to the gentleman from Louisiana, I thank him for that. I can pretty well assure the gentleman that the gentleman from Ohio [Mr. TRAFICANT] and I and perhaps others on the subcommittee and full committee will meet with the gentleman. And thinking aloud, I say to the gentleman from Louisiana, a hearing might not be a bad course to pursue. In fact, I think it would probably be a good course to pursue.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman. While I brought up the case of my friend in Kraemer, LA who does the swamp tours, I want to remind Members that not all the alligators in America live in the swamps of Louisiana. This is a bad piece of regulation, and I think we have got some alligators to deal with until we wrestle it to the ground.

With the gentleman's help, I think we can do it. I thank him for his commitment today on the floor of the House.

Mr. COBLE. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. Are there further amendments to the bill?

The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. LATOURETTE) having assumed the chair, Mr. DICKEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1361) to authorize appropriations for fiscal year 1996 for the Coast Guard, and for other purposes, pursuant to House Resolution 139, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. COBLE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 406, nays 12, not voting 16, as follows:

[Roll No. 309]

YEAS—406

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (FL)
Mineta
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Rangel
Reed
Regula
Reynolds
Richardson
Riggs
Rivers
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Rush
Sabo
Salmon
Sanders
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff

NAYS—12

Christensen
Duncan
Ensign
Foley
Hancock
Johnson, Sam
Klug
Pallone
Ramstad
Royce
Sanford
Sensenbrenner

NOT VOTING—16

Bilbray
Brown (CA)
Chapman
Collins (MI)
DeLauro
Durbin
Gunderson
Jefferson
Miller (CA)
Moakley
Peterson (FL)
Pickett
Rogers
Scarborough
Studds
Zimmer

□ 1809

Mr. HANCOCK changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. DURBIN. Mr. Speaker, in relation to the rollcall vote No. 309 on the Coast Guard Reauthorization Act, I was in a meeting in the Capitol here where the lights and bells that notify Members of the vote malfunctioned and we were unaware that the vote was taking place. Had I been here, I would have voted in the affirmative on rollcall vote 309.

PERSONAL EXPLANATION

Ms. DELAURO. Mr. Speaker, on rollcall 309 I was recorded as not voting. I was in a room in the Capitol where the voting notification system malfunctioned and there was no indication that a vote was taking place. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Mr. MILLER of California. Mr. Speaker, I make the same request as my two colleagues. I was in the same meeting with them, and I missed the vote on rollcall 309.

PERSONAL EXPLANATION

Mr. BILBRAY. Mr. Speaker, I was unavoidably detained for rollcall 309, which was the final passage of H.R. 1361, the fiscal year 1996 Coast Guard Authorization Act. Had I been present I would have voted "aye."

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1361, THE COAST GUARD AUTHORIZATION ACT OF 1996

Mr. COBLE. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to make technical corrections in the engrossment of the bill, H.R. 1361, including corrections in spelling, punctuation, section numbering, and cross referencing.

The SPEAKER pro tempore (Mr. LATOURETTE). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 87

Mr. SALMON. Mr. Speaker, I request unanimous consent to withdraw my name as a cosponsor of House Joint Resolution 87.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the pending business is the question of the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SALMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 17-minute vote.

The vote was taken by electronic device, and there were—yeas 364, nays 40, answered "present" 2, not voting 28, as follows:

[Roll No. 310]

AYES—364

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Calvert
Camp
Cardin
Castle
Chabot
Chambliss
Christensen
Chrysler
Clayton
Clement
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Combest
Condit
Conyers
Cooley
Cox
Coyne
Cramer
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fields (LA)
Fields (TX)
Filner
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Lantos
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Meek
Menendez
Metcalf
Mfume
Mica
Miller (CA)
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Obey
Olver
Ortiz
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Petri
Pickett
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Reynolds
Richardson
Riggs
Rivers
Roberts
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Schaefer
Schiff
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wolf
Woolsey
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff

NOES—40

Abercrombie
Barcia
Bonior
Clay
Costello
Crane
DeFazio
Dicks
Durbin
Fawell
Fazio
Flake
Foglietta
Furse
Gibbons
Green
Gutknecht
Hastings (FL)
Hefley
Hinchey
Jacobs
LaFalce
Lewis (GA)
McKinney
Meyers
Mineta
Oberstar
Orton
Owens
Pombo
Roemer
Schroeder
Slaughter
Taylor (MS)
Thompson
Velazquez
Vento
Visclosky
Volkmer
Wise

ANSWERED "PRESENT"—2

Graham
Harman

NOT VOTING—28

Ballenger
Brown (CA)
Callahan
Canady
Chapman
Chenoweth
Clinger
Coburn
Collins (MI)
Dreier
Edwards
Gunderson
Jefferson
Kennedy (MA)
Largent
Miller (FL)
Moakley
Nussle
Peterson (FL)
Pomeroy
Rogers
Saxton
Scarborough
Stokes
Studds
Taylor (NC)
Yates
Zimmer

□ 1828

So the Journal was approved.

The result of the vote was announced as above recorded.

□ 1830

WRESTLING WITH FEDERAL BUREAUCRATS

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTERT. Mr. Speaker, as we wrestle with a way to save Medicare, I rise today to urge my colleagues to help me save college wrestling and other sports that have fallen victim to an intrusive Federal bureaucracy.

In my home State of Illinois, four of the major State-funded universities have either dropped or threatened to drop wrestling as a varsity sport.

These schools have been forced to consider these cuts because of a misinterpretation of title IX. The Office of Civil Rights in the Department of Education has demanded that schools drop men sports, such as wrestling, soccer, and swimming, in order to achieve numerical proportionality with women sports.

This is another example of what happens when good intentions turn into unintended consequences.

Mr. Speaker, the purpose of title IX is not to limit opportunity. The purpose is to create even greater opportunity for all of our young athletes.

As a former wrestling coach, I urge my colleagues to consider commonsense changes to title IX. Let us not allow Federal bureaucrats to pin down the hopes and dreams of millions of America's athletes.

COMMUNICATION FROM THE HONORABLE FRANK TEJEDA, MEMBER OF CONGRESS

The SPEAKER pro tempore (Mr. LATOURETTE) laid before the House the following communication from the Honorable FRANK TEJEDA, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 11, 1995.

Hon. NEWT GINGRICH,
Speaker of the House,
U.S. House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I write to notify you formally pursuant to rule L (50) of the Rules of the House that a member of my staff has been served with a subpoena issued by the District Court of the State of Texas. After consultation with the General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

FRANK TEJEDA,
Member of Congress.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House the following Members are recognized for 5 minutes each.

TRIBUTE TO PETER AVILLANOZA—VICTIM OF OKLAHOMA CITY BOMBING

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Hawaii [Mrs. MINK] is recognized for 5 minutes.

Mrs. MINK of Hawaii. Mr. Speaker, today I want to remember a native son of Hawaii, Peter Avillanoza, who recently went to Oklahoma City to begin a new mission, as director of equal opportunity for the Department of Housing and Urban Development. He moved to Oklahoma City only a few months ago. He was 56 years old when he died in the senseless bombing of the Oklahoma City Federal Building.

Peter Avillanoza cared passionately about the people he served. He was a pioneer. Peter was assigned by HUD to work in Honolulu to help people comply with fair housing laws. He had been working in HUD's Orange County, CA office. He didn't come in with a big regulatory stick and levy penalties. Instead, he prevented violations from occurring in the first place. For 2 years, he reached out into the community to encourage consumers and industry to buy into the concept of equal housing opportunity for all. He made sure everyone—residents, landlords, realtors, financiers and public officials—knew their rights and their responsibilities, before the law was implemented. Today, as just one measure of his success, real estate industry in Hawaii requires all its professionals to be instructed about fair housing law before granting them certificates to practice.

Peter Avillanoza was born and educated in Hawaii. After graduating from Kaimuki High School in 1956, Peter Avillanoza joined the Army, got married and, after finishing his tour, used the GI bill to get master's degrees in business and criminology. While going to school, he worked as a Honolulu police officer and in the fire department.

Peter Avillanoza loved music, played several instruments and composed songs, Hawaiian music being one of his favorites. Friends and family recall the day he began singing gospel music. That happened just last August, when, at an outdoor religious revival, Peter walked up to the stage and made his peace with God.

Peter Avillanoza leaves behind a great legacy: his wife Darlene Dohi-Avillanoza, 10 children, 14 grandchildren, and 10 brothers and sisters. He raised his children with descipline, fairness, and love. And he stayed connected to them. No matter where he was, he called his children every week, thereby becoming the keeper of family news.

After the bombing, relatives rushed to Oklahoma City, struggling to find out any details they could. After 10 days of heartbreaking uncertainty, rescuers found his body on Saturday, April 29.

Yesterday in Honolulu, hundreds of friends, family and colleagues gathered to lay him to rest. Their memories of Peter Avillanoza, his love and his dedication will give them the strength to endure his loss.

And on behalf of the people of Hawaii, I wish to acknowledge the precious life of Peter Avillanoza and note the deep personal loss suffered by his family.

There will be no consolation for this family. The sadness they feel must be felt by all Americans. Only then, can we take the necessary steps to make sure that his life was not taken in vain. Hate and violence must be expunged from our culture, and replaced with the love and compassion exemplified in the life of Peter Avillanoza.

REPATRIATION OF CUBAN REFUGEES TO CASTRO'S CUBA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. MENENDEZ] is recognized for 5 minutes.

Mr. MENENDEZ. Mr. Speaker, I rise today to express condemnation of the secret meetings that were held between the Department of State and the Castro dictatorship, and specifically between Under Secretary of State for Political Affairs, Peter Tarnoff and Communist Cuban official Ricardo Alarcon, which resulted today, a dark day in American history, in 18 Cuban refugees forcibly being repatriated to the Castro dictatorship.

Mr. Speaker, I want the Committee on International Relations, of which I am a member, to hold hearings and receive a full accounting of who specifically authorized such a process, and all details relevant to that process. During March I was assured by senior administration officials that no other options prior to those that had been publicly debated and discussed had been presented to the administration. And we had the head of the Cuban desk appear in my district talking to people from within the community, and yet, despite all of those statements made in public and private, this type of clandestine action occurred, and it belies private and public assurances made to me and others and therefore betrays trust.

I would like to know what was the specific role of the State Department in this latest process which was concluded in the joint statement of May 2 with the Castro dictatorship. What was the specific role of the National Security Council, and what individuals from the National Security Council were involved? I would also like to know if there are any other actual, understood, or implied agreements with the Castro dictatorship that have been made or are in the process of being made.

No doubt our Government should be keenly aware of the physical and psychiatric abuse and attacks and other

forms of harassment and intimidation on dissidents to this day by Castro security forces. The State Department has documented it over the years in the "Country Reports on Human Rights Practices," including the report for 1994, and the United Nations Human Rights Commission in Geneva, Switzerland, has annually condemned Cuba for its gross violations of human rights. We salute such condemnation.

We also are aware of the deliberate sinking of the tugboat *13th of March* which this House of Representatives unanimously condemned which resulted in the deaths of 40 people, including over 20 children. In congressional testimony the Secretary of State has stated that the sinking demonstrated the brutal nature of the Castro regime. How does the U.S. Government intend to ensure the rights of individual dissidents, of human rights activists, of former political prisoners, and other objectors to the Castro dictatorship with legitimate claims to political asylum if they are picked up at sea and returned automatically to Cuban officials? Will there be any form of INS personnel on board, or where will they be taken to process their political asylum cases? Those questions remain unanswered.

Under Secretary Tarnoff suggests the Cuban dictatorship can be trusted. Yet it is my understanding that a group of 20 Cuban nationals who recently were deported by the Government of Belize to Cuba have been detained in Cuba by Castro's security forces. How can you ensure that Cubans whom the United States repatriates will be treated differently and that they will not suffer retribution? Can you be certain they will be able to keep their jobs, ration cards, apartments, and any personal effects that they put at risk upon leaving? What further ability will U.S. staff have to monitor the increasing flow to the U.S. Interest Section? I do not believe we have that capacity. And what is the State Department's position and this administration's position regarding Cuban law which was reinstated after the September 9, 1994 accords which forbids illegal exit from the country? It is my understanding that under that Cuban law, people who flee the country are considered as having created a crime punishable as treason. If the law is in effect, how is it possible to believe that repatriated Cubans will not suffer under said law?

Finally, we stated, this administration has stated and the Secretary of State has stated, that we want to foster change in Cuba. But if change is ever to come to Cuba, the human rights activists, the dissidents, and political prisoners who are willing to risk their lives under a brutal dictatorship must know that political asylum is available to them in the United States, and I do not believe the State Department has the necessary safeguards to ensure that those who fight for democratic change can acquire political asylum if their lives are in danger.

That is the reality of this policy that is forthcoming. The fact of the matter is that we could have sought the family reunification we seek to do with the people in Guantanamo, saved the taxpayers a million dollars a year, and not have negotiated with the Castro dictatorship in violating basic tenets of human rights, one, that we are a signatory to, the Universal Declaration of Human Rights, which is to ensure that people have the right to freely leave their country.

□ 1845

And in our case, in our own immigration law, to ensure that those who truly have a case for political asylum can purport it. The fact of the matter is this policy simply does not create that possibility, and in fact it dooms those who are political dissidents, human rights activists, the people who could make change in Cuba to knowing that the United States has closed their door on them.

It is a sad day in our history.

THE CLEAN WATER ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I rise to discuss the Clean Water Act and the reauthorization that the House will begin to consider tomorrow and for the remainder of this week.

The Clean Water Act, as we know it, in my opinion, and the resources it protects are in jeopardy pursuant to this reauthorization that we are about to consider tomorrow.

In the committee process, waivers and exemptions have been expanded while bill-strengthening amendments repeatedly met with defeat, and the result of this legislation which we begin with tomorrow, H.R. 961, in my opinion, will be deterioration of over 20 years of clean water efforts, efforts that have successfully moved us in the direction of fishable, swimmable waters.

With H.R. 961, esoteric costs and benefits will rule the day at the expense of human health and safety and protection of invaluable natural resources. If H.R. 961, Mr. Speaker, as it now exists, is passed it will be more difficult, in my opinion, to explain to my constituents and others why they cannot fish in local streams, why they are losing business due to beach closings and other reductions in recreation and tourism, and why their property values have decreased or why their drinking water is not usable.

I would hope over the next few days, as the number of amendments are proposed on the House floor that would seek to strengthen the Clean Water Act and reauthorization and bring back, if not improve, the existing law, that we would see many of our colleagues join in targeting a number of detrimental provisions of H.R. 961, of which I would like to list a few.

One is the existing waivers for combined sewer overflows and industrial pretreatment. Another is ocean discharge in place of full secondary treatment. Another is the loss of wetlands protection, the abolition of the coastal zone nonpoint source program, the erosion of the Great Lakes initiative, the elimination of the EPA from dredged material disposal decisions, insufficient enforcement and lack of citizen rights provisions.

Mr. Speaker, if I could just read some sections of an article that appeared in the New York Times on April 2 which outlines some of the problems with H.R. 961. It says, and I am reading from sections, that the Clean Water Act of 1972, the existing bill, has done much to make America's water fishable and swimmable. Experts in both parties regard it as the most successful of the environmental mandates passed in Congress since Earth Day 1970. However, the new provision we are about to consider tomorrow in H.R. 961 blasts so many holes in this law it is hard to know where to begin. Basically, they would demolish the underlying strategy of the original act. The 1972 law conceded it was impossible to measure the dollar benefits of clean water against the costs of cleaning it up. So, in fact, if industry was instructed to use the best available technology to control pollution, even though that may not be the perfect answer, it has worked.

The new law, by contrast, would postpone any further improvement in water quality unless it could be provided the benefits in health, swimmable, fish stocks are worth the cost. That means monetizing the value of a cleaner environment, a nearly impossible process.

The bill that we are going to consider this week would relax national water quality standards, provide certain industries with further exemptions from whatever laws remain on the books, and make voluntary a program that now requires States and cities to control storm water pollution. Not least, it would reverse a 25-year effort to preserve diminishing wetlands. Scientists now estimate there are 100 million acres of wetlands remaining in the United States, doing what the wetlands do so well, filtering pollutants an nourishing organisms essential to the food chain.

By drastically narrowing the definition of what a wetland is, the bill would make millions of acres available to developers and the oil and gas industry.

In brief, the bill we are about to consider would make it much easier for polluters to pollute.

Mr. Speaker, I have to decry this legislation because I know for the last 7 or 8 years or so, since I have been in Congress, at the Jersey shore we have seen a steady increase in water quality. Beaches that in 1988, when I was first elected, were closed and were not available for tourism and were basically making almost impossible for the Jersey shore to come back economically, those beaches are now open, the water quality is improved, my constituents are looking forward to a great summer beginning the end of this month. But they can not believe that this House or this Congress would seek to gut, if you will, the very legislation that has made that possible.

I hope that many of my colleagues over the next few days will join with me in passing some strengthening amendments so that the Clean Water Act will continue to be viable into the next century.

FIGHTING THE WAR ON TERRORISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, on April 19 a tragedy occurred which rocked the Nation. For the second time in recent years, terrorists struck a target in the United States and, at the same time, dealt a blow to our national sense of security. As everyone now knows, a terrorist, or group of terrorists, exploded a car bomb in front of the Federal office building in Oklahoma City, killing hundreds of adults and children and leaving scores injured.

We, as a Nation, now realize that it could happen to any of us, anywhere, and none of us are immune—not even our children.

In the painful days which have followed, citizens began to take stock of the situation and Congress will consider its legislative options to address this. How can we prevent this kind of disaster from ever happening again? The most truthful answer is that we can't completely prevent these kinds of tragedies, but we can take appropriate steps to reduce the number and severity of them.

As the magnitude of the horror in Oklahoma City was fully felt, all Americans began to realize that the terrorist bombing had profoundly changed all our lives, not just those of us who have lost loved ones in the nightmare attack.

We experienced a tragic lesson that day. Terrorism is not just something to be feared from foreign nationalists; it can be a horror from within our country as well. There are obvious and dramatic lessons to be learned by the American people in the wake of this disaster. We need to examine the balance of power between the authority of the state versus the rights of the individual.

In the House, we are considering several measures. The State-Sponsored Terrorism Responsibility Act would hold state sponsors of terrorism responsible for their actions and allow American victims to have a means of redress. This bill will amend the Foreign Sovereign Immunities Act to provide specific jurisdiction for lawsuits against countries that support or condone terrorism, torture or genocide.

International terrorism poses a grave threat to the interests and security of the United States both at home and abroad. Outlaw states continue to serve as sponsors and promoters of this reprehensible activity by providing a safe haven, terrorist training and weapons. This legislation will make those states responsible for their actions and the actions of those they support in their terroristic efforts.

Other bills in the House would place new restrictions on the granting of visas to aliens linked to terrorism activities and would remove restrictions on a database that helps identify aliens with ties to terrorists seeking admission to the United States.

The House measure would also repeal the 1990 law that forbids consular officials from denying visas based solely on an alien's membership in a known terrorist organization and would establish deportation proceedings against aliens living in the United States and engaged in terrorist activities.

It would further restrict the use, purchase, sale and transfer of nuclear materials, plastic explosives and toxic gases and would encourage broader disclosure by consumer reporting agencies to the FBI for counterintelligence and counterterrorism investigations.

Finally, the House is considering legislation which would give the FBI greater access to hotel/motel records for the purpose of identifying subjects of terrorism investigations.

Each bill before Congress deserves careful consideration and I hope we will be able to incorporate the best ideas of each into a bipartisan antiterrorism package with sufficient teeth to help us put an end to the senseless criminal violence we have seen in Oklahoma City, at the World Trade Center, on the Achille Lauro and in the skies over Lockerbie, Scotland.

And for the families of those who were killed in Oklahoma City we offer our prayers and condolences. We will do everything within our power to ensure that those who committed the cowardly acts of violence will be brought to justice and punished. It won't bring back those who lost their lives, but it will send a strong signal that our Government will no longer tolerate such acts against the freedom-loving people of this great Nation.

A DARK DAY IN AMERICAN HISTORY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. DEUTSCH] is recognized for 5 minutes.

Mr. DEUTSCH. Mr. Speaker, at about 12 o'clock this afternoon, a United States Coast Guard vessel brought 13 Cubans who had left Cuba in a raft back to a military base inside of Cuba. That Coast Guard vessel was escorted by two Cuban naval warships in this act.

It is a first time. Today is truly, unfortunately, a dark day in American history, a dark day for the Coast Guard, a day which hopefully will be a very short day and short time period in American history.

But if we do not act, it will be a day that in years to come people will look back, I am sure, with remorse and regret, the first time in American history that the U.S Government has repatriated people to a Communist dictatorship.

It is a symptomatic problem of a Cuban policy by this administration that has been schizophrenic, at best. We were told during the Guantanamo exodus that it was impossible to blockade the island. Yet the administration, in fact, has blockaded the island with the help of the Cuban Government and Cuban Navy in a one-way blockade, preventing people from leaving.

The island could have been blockaded several months ago, in fact, even up to a year ago, to prevent a migration which did occur of tens of thousands of people.

Our country has become a partner with Castro in repression of his people at this point in time. The 13 people that have been returned to Cuba were not sent back to Canada, were not sent back to Mexico, were sent back to a country which this Government has continuously called, and by accurate, independent accounts from Amnesty International, press accounts, the most repressive government in this hemisphere, a terrorist government, a government in terms of world history that stands out as one of the worst abusers of human rights in the history of this planet.

The Attorney General, in announcing this change in policy, said that those who returned to Cuba were to be guaranteed no reprisals. I asked the Attorney General this evening why then the secrecy in the return, why then the delay in the actions? These people were picked up in a boat on Friday. Today is Tuesday.

It defies logic, based on the history of the country of terrorist incidents that occur in Cuba almost on a daily basis that we know about, obviously scores

that we do not know about, that there will not be reprisals. It defies logic.

You do not have to be the Secretary of State of the United States, you do not have to have gotten a Ph.D. in international relations to understand the nature of the Cuban Government.

And again, I asked the Attorney General why into a military base, why not into Havana Harbor where there would have been at least some foreign press to record the incident, some stringers from local papers in south Florida to record the incident?

There is a real question as well in terms of the process of determining political asylum of those 123 people while they were on the vessel. The administration has given myself as well as other Members of Congress who have inquired totally conflicting reports in terms of the status hearings of those people.

This administration and, in fact, this Congress is faced with a choice. We cannot have it both ways. We all profess that our desire is to bring down the Castro dictatorship, which we must bring down, a relic of decades past, an evil empire 90 miles from our shore. And yet in order to do that, we have the resources at our disposal to do it. Yet we have chosen not to.

□ 1900

HAVE WE LEARNED NOTHING FROM OKLAHOMA CITY?

The SPEAKER pro tempore (Mr. LATOURETTE). Under a previous order of the House, the gentleman from West Virginia [Mr. RAHALL] is recognized for 5 minutes.

Mr. RAHALL. Mr. Speaker, I rise in outrage to take exception to words attributed to a constituent of a Member of this House, as reported in the April 26, 1995 edition of The South Whidbey Record published in 2nd District of the State of Washington, that a revered, senior Member of the U.S. Senate should be killed, and that the person killing him should be given a medal during a Town hall meeting which I assume was called at taxpayers' expense.

I take even greater exception to the fact that a Member of this body did not disavow or dissociate himself from, his constituent for calling for the murder of a sitting Member of the U.S. Senate, Senator ROBERT C. BYRD of West Virginia.

I take great exception to a Member of this House, who not only did not censure or otherwise refute his constituent's call for murder, but allegedly went on to state, and I quote:

"He should be tarred and feathered and run out of the country."

Peter Coogan, staff reporter for the aforementioned newspaper in south Whidbey Island, WA, who opens his article with the words: "To Kill a U.S. Senator or merely to tar and feather him," reports that a Member of this body, whom he claims was elected based on a campaign that attacked the Federal Government, allegedly made the statement at a town meeting in response to his constituent's call for the "killing" of Senator ROBERT BYRD.

Mr. Speaker, these are dangerous times for unguarded, irresponsible speech, and we have every reason and every right to expect a Member of this body to strongly disavow such speech and to advise any constituent that murder is not an option in this country.

Am I in a total state of stunned disbelief that a Member of the House of Representatives let this kind of statement about killing a U.S. Senator go unchallenged when such rhetoric may have led to the killing of more than 160 innocent people in Oklahoma City's Federal building? Yes, I am.

Have we learned nothing from that evil act that shook a nation to its core?

Should I be surprised at such rhetoric being used in just days after Oklahoma City, when the GOP's national committee planned to have as its honored guest a convicted felon-turned-radio-talk-show-host at a gala party fundraiser only days before the last body was brought out of that bombed out Federal building? A talk-show host who advised his listeners to shoot for the head of Federal agents, as the best way of killing them, and who bragged about using profiles of our President for target practice? Why be surprised?

Mr. Speaker, I request that the newspaper article to which I have reference be printed in the RECORD immediately following my remarks.

Mr. Speaker, the newspaper article to which I referred is as follows:

[From the South Whidbey Record, Apr. 26, 1995]

METCALF SAYS BYRD SHOULD BE TARRED, FEATHERED

(By Peter Coogan)

To kill a U.S. Senator, or merely to tar and feather him.

The question sparked some light-hearted banter between U.S. Rep. Jack Metcalf and one of his constituents at a Congressional Town Hall Meeting in Oak Harbor Saturday.

It came up when Metcalf tried to explain why, as a rule, he votes against large, heavily amended "omnibus" spending bills, even if they contain some good ideas.

As an example of past abuse, he said a senator had hidden the cost of a Coast Guard facility for an East Coast state in the emergency relief spending for victims of the California earthquake. He asked the crowd to guess which eastern state.

"West Virginia," said Angelo Kolvas of Oak Harbor.

Yes, Metcalf said. The culprit was former Senate Appropriations Committee Chairman Robert Byrd, D-West Virginia, who "steals money all over America."

Metcalf started to suggest some punishment for Byrd, saying "he should be——"

Kolvas interrupted with "somebody should kill him and give them a medal."

Metcalf said: "He should be actually tar and feathered and run out of the country. I mean, I'm serious. He steals money because he's chairman of the Senate Appropriations Committee, or one of the committees, and he's always the one on the conference committee, in the middle of the night. He's stuffing pork in there for West Virginia, brutally."

Kolvas suggested that other congresspeople are guilty of the same thing.

"This gentleman is right," Metcalf said. "It is the fault of Congress, but Senator Byrd still should be tarred and feathered."

Telephoned later, Kolvas said, "I am not a vindictive person but if that guy would die today, that wouldn't bother me a damn bit."

He added, "I really don't think anybody should kill Byrd. That was a little strong."

RETURNING FISCAL SANITY TO OUR BUDGET PROCESS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Maryland [Mr. EHRLICH] is recognized for 60 minutes as the designee of the majority leader.

Mr. EHRLICH. I rise, Mr. Speaker, to engage my colleague from California in the 5th installment of our series of colloquys. The gentleman from California [Mr. RADANOVICH] and I have in the past now 120 days, I believe approximately, talked about the Contract With America, and the themes behind the Contract With America, and the regulatory reform, and legal reform, welfare reform, and a lot of the initiatives that we campaigned on that formed the Contract With America, and, Mr. Speaker, I have been thinking about that a lot these last days as now this great House turns its attention to Medicare, and the Federal budget, and doing what a lot of us were sent here to do, which is to return a sense of fiscal sanity to this country and to the budget process of this House. And, Mr. Speaker, as I thought about all this, and I thought about a lot of the rhetoric being heard around this town these days, I again thought about the common themes that seem to occur or recur every time we discuss an important issue in this House, and the premise, whenever comes to an economic issue, Mr. Speaker, seems to be all tax cuts cost the United States Treasury in direct proportion to the tax cuts. Tax cuts are mutually exclusive of the budget cuts. There is no multiplier effect when tax cuts put more money into the pockets of individuals and business.

Premise number two seems to be that we ignore the accepted economic realities and real life experiences of tax increases on the one hand and tax decreases on the other, and, Mr. Speaker, I thought of all this in the context of Medicare and what this majority is now planning to do with respect to Medicare, because there is certainly a lot of talk these days, a lot of heat, and smoke and mirrors on this floor and around this town, and Mr. Speaker, in order to create a context for this debate I thought to myself what example

could I think of in the recent past where good politics and bad economics came together.

And Mr. Speaker before I get to that, I would like just to tell the House an example of what I am talking about. Today's message from the House Democrat leadership:

GOP makes its choice. Seniors cough up $900 a year to pay for the wealthy's tax cut. House Republicans returned from the party conference last week united by a plan to cut Medicare to pay for the $345 billion tax cut for the wealthy. Under the pretense they will be, quote unquote, fixing Medicare. Republicans have identified Medicare cuts as the cash cow for their tax give away to the wealthy.

As I was thinking about this, Mr. Speaker, I thought about the debate we had in this House before the gentleman from California [Mr. RADANOVICH] and I came here. I know I was in the State legislature. That was the great debate concerning the luxury tax, and Mr. RADANOVICH will talk about the luxury tax in its place in the middle of this debate in a minute, but I see the gentleman brought some famous tax quotes with him today, and I ask why you brought those quotes.

Mr. RADANOVICH. I say to the gentleman, "Thank you, Mr. EHRILICH. A couple of past quotes from two different periods, one in 1990, then one in 1995, one representing the majority held by the other party, this 1995 representing the majority that now currently exists, the Republican majority in the House.

It is the same old game. Republicans are out to cut taxes, and strictly for the rich, for their sole benefit, and I think that nothing seems to change.

The gentleman may have a quote here.

Mr. EHRLICH. This bill is fair, it raises more money, again on a progressive basis, from those who can afford to pay and who have paid least during the decade of the 1980s. That is the quote from a Member of this House, the context of the debate during the luxury tax; correct?

Mr. RADANOVICH. Right, and the same quote being is this sacrifice balanced and fair. And indeed it is. Fifty percent of the revenue burden falls on the wealthiest income earners in this country, and that is the way it should be.

Mr. EHRLICH. Now the people of this country will remember the great luxury tax. It placed a 10-percent surcharge on a portion of a purchase price over $100,000 on private boats and yachts. Congress established similar taxes on furs, jewelry, cars and airplanes.

Now, this in my view, Mr. RADANOVICH, is the best example I can think of where good class warfare politics meets economics 101, and you know what? Politics always loses because combined with the recession, Mr. Speaker, the tax nearly killed an entire industry in this country. The tax adversely effected every segment of the industry, manufacturers, retailers, and blue collar workers, and is that not the ultimate irony, Mr. RADANOVICH, that tax warfare ends up hurting blue collar workers because blue collar workers have the jobs that build the items that are now overtaxed that put them out of business?

Mr. RADANOVICH. And history provided that example as a result of the yacht tax in the last 2 years; is that not right?

Mr. EHRLICH. We have seen that every year. In fact it is very interesting for me to go back, check, have my staff to go back and check the revenue projections from the luxury tax, because obviously it is a static score; right? You tax something, you get more of it.

Wrong. The new 10 percent luxury tax on boats, cars, furs, et cetera, was to raise $25 million, Mr. Speaker, in its first year, 1991, and almost $1.5 billion over 5 years, from 1991 to 1996. And you know what it did? Sales of boats under $100,000 purchase price dropped 12.2 percent. Sales of boats over $100,000 dropped 52.7 percent. The sales of volume of boats under $100,000 of value dropped 28 percent, to $129 million. Sales of boats over $100,000 dropped 71 percent, to $73 million. According to the National Marine Manufacturers Association at the time of repeal, big boat sales were down 70 percent from peak levels in 1988.

And here is the ultimate irony as we have discussed. At the time of the repeal, Mr. Speaker, the National Marine Manufacturers Association estimated that the luxury tax created a net loss of 30,000 American jobs and destroyed dozens of companies in the process. Other estimates were higher, up to $45,000. And I would direct a question to my colleague from California: What does this teach us?

Mr. RADANOVICH. The big lesson is that, if you want to raise revenue, you have to got to cut taxes. You cannot raise revenue by raising taxes, and I think that is the big lesson we have learned over the last 4 years, and I think that is what this new majority is trying to implement in their tax cuts.

Now there is two arguments when the Democrats accuse the Republicans of gutting Medicare to benefit the wealthiest Americans. There is two arguments here. One is that the basic argument is that, if you cut taxes, if you regulate people less, and you tax them less, they are going to be more productive, and I think that is one basic question. The other basic question on Medicare is the fact that on its own Medicare will go bankrupt in 5 to 7 years.

Mr. EHRLICH. And who says that? Who makes that statement?

Mr. RADANOVICH. All you have to do is look at the books, and you will know that is what is going to happen with Medicare, so regardless of—balancing the budget is not an issue with Medicare. It is fixing the system and doing what is necessary in order to make that system not only work for the people that are currently drawing benefits, but it also worked for people, you and I, and those that are 18 and 20 years old, when they come into the time of their life when they need that service as well.

So there are two basic issues there that are not commingled, and the fact if we wanted to, if the Republicans wanted to benefit the rich, what they do is cut taxes and cut regulations. Then that would not only benefit the rich, but the middle class and the poor. Because the Democratic assumption that cutting taxes, for example, capital gains, would be a benefit to the rich is an insult to the poor because, not only would it make more capital available for venture capital and expansion to the rich, but also the middle class and the poor, and it is almost an insult to the poor to say they could not take advantage of that.

Mr. EHRLICH. Does anyone doubt that the capital gains tax cut will increase revenue flowing into the Treasury? Tax cuts work. The Reagan tax cuts of the 80's, the greedy 80's we hear about so much, increased revenue into the Federal Treasury. The problem during that decade was, as we know, spending went out of control, and I see the 1995 quote from a Member of this, of this body, and this is my favorite I have to say. It combines a lot of different themes that we have talked about. The hard fact is that voodoo economics, trickle down economics too, which this package happens to be, referring to the tax package and the Contract With America, is nothing more or less than a raid on the poor, a slap to the rich and a benefit to those who have no need of tax expense, sweat it out the hides of those who have the least.

Mr. RADANOVICH. Not so.

Mr. EHRLICH. Why?

Mr. RADANOVICH. It just is not true, and I think, if you pose the argument that if a person is taxed less and regulated less, then they will be more productive, is an argument that both sides of this aisle will buy.

□ 1915

But if you go to the next stage of the argument and say OK, how do they begin to regulate and tax less to the benefit of the American people, this side of the aisle says all right, let's go. Let's work this plan out.

That side of the aisle says no. But there is no logic behind why they are saying no, because that side of the aisle will also agree to the fact that if we are taxed less and regulated less, we will be more productive. But their logic starts there. God knows why.

Mr. EHRLICH. Maybe the answer is in the 1996 elections. I simply do not know. But is it not interesting how these quotes are so similar? A proposal that obviously failed miserably in 1990, they used the same rhetoric against the tax cuts contained in the Contract With America, and now, most disturbing to me and I think to you, is now the offshoot of class warfare. You see class warfare here, and the American people recognize class warfare when they see it. That is all they see.

I know the gentleman wants to discuss it. I know the gentleman wants to comment on my point, which is now that with Medicare in the budget, we not only have class warfare, we have the offshoot, generational warfare. "Let's turn the generations and not just the classes against each other." That is the most unfortunate aspect of this national debate occurring today.

Mr. RADANOVICH. I would say the bottom line motive behind that approach from the other side of the aisle is to retain more control in Washington, because the big debate in Washington is not necessarily balancing the budget, although that is very important; it is who is going to have control. Is it going to remain here in Washington, DC, or is it going to get down to the most local level possible, via the States down to local governments and closest to the American people in their own homes? That is really the threat.

That is why you see baseless arguments like this. You see people on the other side of the aisle class warfare baiting, only for one reason, and that is to keep control in this House, in the other body, in this town, in Washington, DC. It is called centralized government. It is where you have a lot of control over a lot of people.

Some people like that. Those of us newly elected to Washington do not want that. We want the American people to have the control, and that is what we are trying to do here in Washington.

Mr. EHRLICH. Is it not refreshing with our class, the new leadership, the Speaker, we have people here who are willing to challenge assumptions that really have been accepted by many Americans, many well-meaning Americans, for the last 40 years. We are willing to challenge those exceptions. And we have one person in Washington right now, the Speaker of the House and the leadership, willing to go to the American people and say, look, we have got a problem. And the Speaker has gone out of his way to ask the President to help in a nonpartisan way.

We have people who are willing to challenge assumptions and make a political gut check, cast tough votes, because we both know, we just got back from break in our districts, if we do not cast tough votes, if we do not follow through on our promises, honeymoons are short in American politics today. We will not be here for long.

We are both freshman. This is not a bad job. We kind of like it. I like representing the people of the second district of Maryland, I have to tell you.

Mr. RADANOVICH. I will say, us being new Members, we could remain here a long time, if it were not for two things, and not do the business of our district. In the past I think it used to be elected representatives would come to Washington. They would say one thing in their district, they would do the other thing here in Washington. For a long time the tolerant American people gave their elected representatives the benefit of the doubt that they were doing the right thing in Washington.

Well, two things changed that. One is C-SPAN and the other is talk radio. I do not think anybody can afford to come to this body anymore and say one thing in their district and not do the same thing here, because there will be a lot to pay on election day. So that motivation and that way of operating is now unmasked.

If this gentleman and this gentleman want to stay in this House for very long at all and serve the needs of their district, they better do what they say in their district here on the floor of the House. I think C-SPAN and talk radio are the big changes that made that possible.

Mr. EHRLICH. I agree. When we have a tough vote, the phones and faxes go off immediately. The American people are tuned into what is happening on this floor and they know facts.

I think the best news I brought back from our 3-week break in my district was the fact that this kind of stuff no longer goes over with the American people. They see it for what it is. It can work at times. It certainly worked a few years ago in the course of the Presidential race. But dividing people, labor-management, poor-rich-middle class-lower middle class, young and old, is no longer the answer, not politically, and it has never been the answer economically, at least in my district.

I would direct a question to the gentleman. In my district the people said look, BOB, we know we are not going to agree with you on every vote. But we like the fact you had an agenda, you ran on that agenda, you passed that agenda, and now you are willing to do the tough things that we sent you to Washington to do.

Mr. RADANOVICH. I think that people in my district sent me to Washington to make the tough decisions. If I listen and do what I think is right according to the philosophy that they knew what I believed in when they elected me, then I have their support. If I betray any of that, I do not have their support. That is the way this game works. That is just the way it is.

I would like to comment on a couple of things, one being Medicare, and the other one also being the tax cuts. If the Democrats, people on the other side of the aisle, are willing to sit down and have a debate, rather than resorting to what we call class warfare baiting, which it is nothing more than class warfare baiting to keep a strong centralized government in Washington, then let's agree on two things. Let's agree that the Medicare system, number one, is going bankrupt, and let's work together to solve that, be it cuts, additional money, anything else, let's solve that problem.

The second problem that needs to be solved is let's together realize if people are taxed less and regulated less, they are going to be more productive, and let's build a tax cut structure that will allow that to happen in this country. If you really want a cooperative effort in this House, you will agree on those two things and proceed from there.

We do not need this stuff. The American people do not buy it, we do not buy it, it is not true. There is no class warfare baiting here. The Republicans are not here for the rich. I do not know how many Republicans are rich anyway. I am not a rich Republican. But it just does not work.

This was an article, editorial, in the Washington Times today, "Not Rising to Class Warfare Battle." And that is exactly what Republicans are doing. They are not rising to the class warfare battle.

Mr. EHRLICH. I am not going to embarrass the gentleman. We have a famous quiz at the bottom. I will not embarrass the gentleman by asking which year and which bill these quotes were directed toward. The fact is you see the quotes. "Cheesy tax cut promises only make Americans cynical about government."

Can you imagine that, putting more money back in your pocket so you can grow, so you can take a risk, begin a business and hire people? That makes you cynical about government?

I think tax fairness is an idea that all Americans understand and endorse irrespective of income level and party affiliation.

Fairness. That is an interesting concept. Fairness and equity. My idea of fairness and equity and who is rich and who is not may not comport with yours. Is not that correct?

Mr. RADANOVICH. I believe so, yes. I think that this is a smack in the face of every individual American in this country that wants to do good and be prosperous, and be personally responsible for their own actions. I think that first quote is right there. And you know, it does boil down to different viewpoints of how we treat individuals in this country and how this side of the aisle looks at the individual and says you have that responsibility, go for it, and the other side of the aisle looks and says you cannot do these things, we need to do it for you. There is a big difference between those two outlooks.

Mr. EHRLICH. Absolutely. I agree. There is my final observation here. I hope that what we saw in 1990 with respect to the luxury tax, what we saw 2 months ago with respect to welfare and tax reform, are theories and strategies of the past, because one of the more frustrating parts of our job is when we go back home and meet with groups and they repeat rhetoric they hear on C-SPAN and talk radio, and read in the newspapers, and that rhetoric conflicts with facts.

I know in the course of the welfare debate, in the course of school lunches, for instance, in the course of now the Medicare and the budget debate, we all want to debate ideas and numbers. We have legitimate differences with the other side. Reasonable people can disagree about our budget proposal and Medicare. And I know I join with the gentleman asking just one simple thing, that when the debate begins tomorrow, or tonight actually, that the other side uses real numbers, facts. I am glad to debate facts. I do not like debating rhetoric.

Mr. RADANOVICH. And do not use class warfare baiting. It is not fair to say someone is for the poor any more than anyone else is. We are all here to do good for everybody. Nor generational warfare.

Mr. EHRLICH. I thank the gentleman from California. It is good to see him. I am sure we will revisit this issue, and maybe when we come back to this floor in a week or two or three, we will be able to report to the American people that we had a real good debate about the budget and about Medicare, and it never broke out into generational warfare. And the President actually was relevant, became part of the process as well. I would love to report that to the people of the Second District, and I would look forward to joining the gentleman again at that time.

Mr. RADANOVICH. You bet.

KEEP EDUCATION IN THE BUDGET

The SPEAKER pro tempore (Mr. LATOURETTE). Under the Speaker's announced policy of January 4, 1995, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, we are about to move into the most important phase of the legislative process, and that is the budget. The Committee on the Budget I understand will be deliberating this week and by this time next week we will have on the floor of the House the budget for fiscal year 1996, the proposed budget of the House committee.

The announcement is that one of the proposals in that budget coming to the floor will be a recommendation, a proposal to eliminate the Department of Education.

The attack on education is one of the most baffling elements of the approach by the present majority of the House of Representatives to the Federal Government and its priorities. The attack on education comes at a time when we are in a global competition with other industrialized nations for the markets of the world, and that competition is likely to get worse. Everybody has conceded that education is a vital component of whatever effort this Nation puts forward in order to be economically competitive, now and in the future.

We have had a continuum of concern expressed about education since President Reagan appointed a commission, and that commission came back with a report entitled "A Nation at Risk." "A Nation at Risk" was a report that alarmed many leaders in America. President Reagan never appropriated any money of any kind to follow through on the recommendations of the report, but he did endorse the findings of the report and called to the attention of the American people the fact that it was a very serious problem, we had a very serious problem.

President Bush came along and began to try to take steps to implement some Federal policies with respect to education which would provide greater guidance to the localities and the States. Education is primarily a state function. The Federal Government provides leadership and guidance that is very vital and important, but when it comes to expenditures for education, it is the States and the localities that provide most of the funds for education.

I think about 7 to 8 percent of the total education budget may be federally financed. Out of more than $360 billion spent on education from kindergarten to postgraduate, only about 7 or 8 percent of that was Federal funding. It went down during the Reagan administration to as low as 6 percent, and began to come back up under the Clinton administration, moving toward 8 percent. So although we provide only a small amount of the funding, the Federal guidance, the Federal sense of direction, has been considered very important, since the report "A Nation at Risk" was released.

"A Nation at Risk" showed the industrialized nations have some kind of centralized guidance with respect to their education systems. Many of the industrialized nations, of course, go much further than we would ever want to go in terms of they not only guide education, they administer it and set the policies and dominate education.

In France, Great Britain, you have most of Europe with centralized education policymaking. Traditionally, in this country it has always been education is a state and local matter, and the freedom of local school boards to operate has always been a cherished one. Nobody wants to change that.

□ 1930

But there are extremes. I think the European model of centralized, highly centralized education or the Japanese model of highly centralized ministers of education dictating to all parts of the country what happens in schools is one extreme. The other extreme is for the Federal Government to take no meaningful role at all. At one time our Government had no meaningful role. There was a long, long debate as to how much our Government should become involved in education. We became involved in high education, universities and college education long before the Federal Government ever became involved in public education, elementary and secondary education. There was a long, long debate.

It was during the Great Society years that President Lyndon Johnson moved us into support for elementary and secondary education, and that came in the form of attempting to come to the aid of the poorest school districts in America. The poorest districts needed help. And the original elementary and secondary education legislation was targeted to the poorest districts, and to a great degree that is still the case. Most of our aid is theoretically targeted to the poorest school districts and the poorest children in America.

There was a long debate before the Federal Government took this step. The creation of the Department of Education took a long, long time also, a great deal of discussion and debate. And finally, the Department of Education was created by President Jimmy Carter. After the Department of Education was created by Jimmy Carter, of course, he lost the election and Ronald Reagan became the President. And he was ambivalent about the Department of Education. Some days he wanted to eliminate it; some days he was willing to support it.

There were always these forces at work which because they were schizophrenic did nothing to enhance the work of the Department of Education. The Department fell into some extremist patterns on the one hand and was not very useful during those years when it existed under a cloud.

It survived, however. And it existed for the 4 years of the Bush administration and it still exists. Now we are told that for budgetary reasons, in order to streamline the Government, downsize the Government, save money, meet the requirements of this artificially created emergency, the emergency is the need to have a balanced budget by the year 2002, that emergency is an artificial one created primarily to have an excuse, rationale, rationalization for eliminating social programs.

The safety net programs are going to be eliminated and we are going to do that under the rubric of having to do it in order to balance the budget. And the Department of Education now falls

into that category. It is one of those programs that has been labeled expendable. We have labeled the whole Department, the whole function as being expendable. We can eliminate it.

I think this is another example of what I have called before a barbaric act. It is a barbaric act. It is like sacking a segment of our civilization. It is like Attila the Hun with torches going through a civilized city and destroying everything that he does not understand or does not want to exist because he has the power to do it. Because the majority of Republicans have the power to do it, they are going to move through the budget to wipe out a department which exists as a result of a long series of discussions and debates.

In 2 years, we are going to wipe out what took 20 years; it took 20 years to finally get to this point. In a 2-year period, while they are in the majority, the Republicans in the House are proposing to just wipe out this Department of Education in an era and a time when education is recognized as being critical to our competitiveness in the global marketplace. No other nation in the world would dare contemplate eliminating its Department of Education or its governmental, Federal Government function of education.

Japan would never contemplate that. Germany would never contemplate that. Great Britain, France, they would consider us to be quite foolish indeed, and they would consider it quite a serious matter to watch the United States Congress wiping out the Department of Education at a time like this. A Department of Education which is already the weakest, the most feeble Federal department among the industrialized nations. It does not command a great segment of the Federal budget already. It is one of the smallest departments in the Federal Government.

When you take away the large amount of the budget that goes toward higher education loans, then it is a very tiny department in budgetary terms. It is the department that has suffered the greatest number of cuts in personnel over the last 10, 12 years. It has always been kept on a very tight leash and not been able to perform properly. Now we are going to eliminate it, wipe it out altogether.

It is a barbaric act. It is an act committed by people who do not feel that the Federal Government should be involved in providing education guidance and coordination for the whole Nation. There are some people who feel that the primary and maybe only role of the Federal Government is defense and everything else is not the proper role for the Federal Government. That is nonsense. That has nothing to do with the oath that we take when we are sworn in to Congress.

The Constitution of the United States starts with the Preamble. It talks about promoting the general welfare; promoting the general welfare is as important as defense. How do you define defense? It really does not talk so much about defense as security. The security of the country is of great concern and should be a priority concern of the Nation. But how do we define security in 1995?

Does security mean military preparedness only? That all we need is a powerful Army, Navy, Air Force, Marines, et cetera? All we need is fantastic superweapons? Is that going to guarantee the security of the United States in the world to come, the year 2000 and the next century? Is that the definition of what we need for security? Or is it more complicated than that?

In addition to military strength, do we need also to be strong in terms of our brainpower? Is brainpower probably the most important element of security? It is brainpower that produced these fantastic modern weapons. It is brainpower that allowed us to outwit our foes in World War Ii on every front. Brainpower cracked the Japanese code and brainpower cracked the German code, in addition to the creation of weapons to counteract the tremendous superweapons that were developed by the German military machine.

In the final analysis, we cannot predict the nature of warfare in terms of strictly violent and military terms in the future. Whatever they are, we know they are going to be different, and whatever weapons are going to be required will be developed by people who have a tremendous amount of brainpower. Brainpower does not mean individuals. It means teams of people; it means a whole culture, a culture of people who understand how to apply science and technology where they want to apply it.

It may be that there will not be any hot wars in the future, no violent wars of any significance challenging the security of the United States. It is very likely that we will not have any violent wars which are a threat to the security of the United States in the next 100 years, very likely. What we do know, as a fact, is that the challenge to the security of the United States is there already and will increase in terms of the challenge to our economy, whether we can hold our own in the world in terms of economic competition as an industrialized nation, which depends on exports and high technology in order to keep its high standard of living. Will we be able to compete with our good friends the Germans and the Japanese and the British and the French? We will not be able to compete if we throw overboard any Federal involvement in education.

It is a barbaric act. It is a dangerous act. It is an act contrary to the Constitution that we have sworn to uphold. We are not promoting the general welfare. We are not helping this country at all when we do such reckless and barbaric things as destroy the Department of Education.

I think it is important to talk in some detail about what is in this Department of Education and what we are about to throw overboard. What Attila the Hun, the spirit of Attila the Hun that rides through the budget proposals, what that spirit is ready to burn down, what they are ready to destroy with the scorched earth policy and the blitzkrieg that is sweeping over the Washington scene in terms of what is not considered to be good for the American people and what is considered good.

I hope that, I know that most Republicans and Democrats are responding and aware of the same public opinion polls. I know both Republicans and Democrats are aware of the same focus groups and what the focus groups are showing. The American people, again, in the public opinion polls that we get and in the focus groups, they are again showing that they are collectively far wiser than the people in Washington. They are collectively far wiser than the leadership of both parties. Whereas I am accusing the Republicans of behaving in a barbaric way toward education, the Democrats, on the other hand, have certainly not made a forceful statement in support of education.

We have done some great things with education in the past year. The first year, the first 2 years of the Clinton administration, President Clinton moved in a continuum from the work that had been done by President Bush. It was a good example, although there were disagreements and things that were not supported by the new administration, they took much of the Bush program on education as reflected in America 2000. President Bush had had a conference of Governors, and President Clinton was one of the Governors who was in attendance at that conference that was held in Virginia where they came up with the six goals for American education. All that was endorsed by President Clinton. All of that was taken forward by the Clinton administration from the Bush administration.

So you had a kind of continuum, even though there were disagreements from Reagan to Bush to Clinton. Now all that is going to be thrown aside, all that agreement means nothing.

In the rescissions that the Republicans have made on education already, the rescission bill that was passed in the House which cut $17.4 billion—I am not sure whether it was point 4 or point 5—more than $17 billion was cut out of this year's budget. In those rescissions, education was a primary target.

The first target, of course, the most devastating cuts were aimed at the Department of Housing and Urban Development. Low-income housing, low-income housing, we have not solved the problem of homelessness. We have not

solved the problem of providing decent low-income housing for poor people. Nevertheless in that rescission package more than $7 billion of the $17 billion was taken away from low-income housing programs in the Department of Housing and Urban Development.

The second biggest budget hit, the cuts were at the Department of Education. Almost $2 billion was taken out of the Department of Education. So it was a preview of coming attractions. What we are hearing now and seeing now developing in the budget that is going to be prepared for a whole year, the budget year 1996, is reflective of what was started, of course, in the rescission budget.

I wanted to just read from a very well-written letter by Secretary Riley. I will not read the whole letter, but I would like to enter it into the RECORD.

I will enter into the RECORD a letter by Secretary Riley regarding the proposed rescissions to investments in education. On February 23, 1995, Mr. Riley sent this letter out. I just think it summarizes what we are up against here. I would like the American people to follow along carefully.

As I said before, what the polls and the focus groups have shown is that the American people are wiser than the leadership here. They have indicated education is one of their highest priorities. Education, in terms of the American public at this point in history wanting to see Federal support, education is still one of those high priorities. They do not want to see the budget cuts that are being proposed by the Republicans. The Republican majority knows this as well as I do.

The fact that they have gone ahead and they are proceeding to do it means that they have contempt for the wisdom of the American people. They think you can put a spin, you can interpret the will of the people in a way which confuses them and you can get away with it.

□ 1945

I think they are wrong. I think there is a basic, deep-seated fundamental desire of the American people to see that as much opportunity is provided as possible in the area of education for as many people as possible. I think that the middle class, which the majority always pretends to be concerned with, the middle class is hardest hit when you make cuts in education.

We are talking specifically, these days, about the proposed Republican cuts with respect to student loans, the fact that they want to take away the Federal subsidy for the loans so that the interest that the loans accumulate during the time that students are at school is not paid anymore by the Federal Government, but attached onto the bill that the student has to pay when they come out, which means that the education of each student goes up a great deal, because 4 years of interest will be added to that bill. That is being discussed a great deal, and there is a great reaction from the middle class as to having them bear an unnecessary burden that they do not really—should not have to bear.

The public knows that education ought to be a higher priority. My plea is that the public will become more vocal, and that the public, the students, the parents, the middle class out there will talk more and contact their Congressmen or take delegations, and let it be known that you are wiser than the people you have elected, and you do not want the nonsense of the destruction of education as a priority in the coming budget, you will not tolerate it.

Let them know now, before they do a great deal of harm. Before Attila the Hun and the spirit of destruction rides across the Department of Education, let us intervene. Let the public come forward.

Listen to the words of Secretary Reilly, and I quote:

> I am deeply concerned about the severe and shortsighted cuts imposed by the House Appropriations Subcommittee on Labor, HHS, and Education yesterday. The magnitude of these kinds of cuts, at precisely the time that our Nation needs to invest in our future, represents a grave misunderstanding of the direction Americans want for their children and grandchildren. Coming on the heels of the attack on the school lunch program, these actions break faith with America's children.
>
> At a time when every poll shows that crime and school safety are a number one concern of Americans, the committee's actions to eliminate funding for programs for safety and drug prevention programs in schools represent a rejection of what the American public wants. Polls also show that an overwhelming majority of citizens favor increased investment in quality education. The committee's actions to slash bipartisan initiatives to support States and local communities in their work to raise academic standards and improve their local schools is a dismissal of the public interest.

I am continuing to read from the letter of Secretary Reilly on February 23, 1995.

> And the sharp reduction in funding for education technology programs will enable fewer local communities to put state-of-the-art tools of learning in classrooms where they are most needed to prepare our students for the future. This certainly cannot be what the Speaker of the House had in mind when he said "We must bring technology into the classroom, and radically rethink our education system."

Continuing with Secretary Reilly's letter:

> The Republican administration changed the name of the former House Committee on Education and Labor and added the word "opportunity," but the measure of the Congress's commitment to students must be evaluated not by titles, but by actions. Yesterday's actions mean less opportunity for America's students.

The Secretary goes on to list each one of the programs that are being cut by the rescission bill, and those programs, the details become important for the American people. I said before that Goals 2000, Goals 2000 was legislation we passed with the support of Republican Members of the Committee on Education and Labor and of the Congress. It passed overwhelmingly. It got more than 300 votes. Nevertheless, Goals 2000 is now being threatened, not only by the rescission cuts that are being discussed in this letter of Secretary Reilly, but in the new budget they will try to wipe out Goals 2000 completely, and I am told that the committee that I serve on, the Committee on Economic and Educational Opportunities, a bill is being prepared there to repeal Goals 2000.

Remember what I said before: Goals 2000 was a result that flowed from America 2000, which was President Bush's education program, and America 2000 flowed from President Roosevelt's report called "A Nation at Risk," so a continuum of three Presidents, a continuum of 12, 14 years went into the preparation of Goals 2000.

Now Secretary Reilly states that:

> With respect to Goals 2000, a 38 percent reduction in funds for State and local educational improvement would severely curtail the efforts nationwide to develop and implement comprehensive strategies for systematic educational reform. An estimated 4,000 fewer schools would receive the seed money they need to implement reforms based on challenging academic standards. Moreover, the rescission would eliminate all funds for Goals 2000 national programs. This action would end targeted support for educational reform activities in poor communities. Thus it would deprive the Federal Government of the means for evaluating the impact of educational reforms on student achievement, and it would end other national leadership and technical assistance activities.

Let me just talk for a minute about what Goals 2000 does. In simple terms, the heart of Goals 2000 is three sets of standards it establishes. It establishes curriculum standards, a process for developing curriculum standards. Before I go any further, let me just stress that the curriculum standards that are to be established under Goals 2000 are voluntary standards. It is only a model, only examples of how, in each one of the six major areas that are laid out in the six education goals, mathematics, science, history, geography, in all of those areas the standards would be established so that with the collective participation of scholars and teachers and students across the country, you would come up with an idea, a model of some of the things that ought to be taught in that area in order for us to better relate to the world of 1995 and the world of the year 2000.

What is it in this new global economy, what is it in this new global world that we need to know? When I was a kid my mother used to have us reciting the capitals of all the States. That was cute. I learned the capitals of the States. Any knowledge may be useful, but I suspect in this time and age,

it will be far better if you teach your kids how to use the encyclopedia and the library and various books to learn the capitals of the States and the capitals of all the countries in the United Nations, and what they do in these various countries for a living, the economics of it, the trade patterns.

If you want to export business in the future, how far is it from South Africa to Washington, or how far is it from China to New York? What is the cost of producing products and then paying for the transportation?

There are a number of things that are known, that need to be known in the year 2000 by our youngsters, or this year, in order for them to survive and understand a world that is far different from the old world that would be covered by a collective set of scholars, teachers, and students trying to prepare those standards. That is one important thing that Goals 2000 is seeking to do, to develop standards so that everybody across the country will get some idea of what is important to be taught in history, what is important to be taught in geography, what things are most important to teach in mathematics.

The world has an exploding amount of information, information that is increasing geometrically. There is twice as much information available this year as was available last year. With all that information about so many different things, what do you single out to teach the children in the schools? Do you put a great stress on learning facts—and those facts are exploding, more and more of them all the time—or do you put a greater stress on learning skills and principles, so they will know how to approach getting the information they want? Computers, the use of libraries, the use of cable television, and a number of new kinds of instruments that can be utilized for education, where do they come into this whole process? So that is one of the achievements of Goals 2000. That is one of the goals of Goals 2000, objectives of Goals 2000, was to establish these standards.

The second objective was to establish a set of assessments, tests and other means of assessing what do the students know, a national set of standards and assessments, voluntary, again, strictly voluntary. If your school board did not want to get involved, would not want to use them, they would not have to do it. Any State did not have to do it if they did not want to, but they would have available to them a set of assessments, tests based on the standards that have been developed, so from one State to another, among those States and school systems that choose to participate, you could compare relatively how are they doing in this curriculum that has been developed to meet the needs of the modern world; all of it, again, voluntary.

Those are two of the simple goals and objectives of Goals 2000 that they are preparing to wipe out now. One is to develop standards for curriculum, the other, to develop assessment standards, standards for tests and assessments that are going to be made of those standard curricula.

The third ingredient was the most controversial one, because there are many of us who felt if you have a set of national standards for curricula, if you have a set of national assessments for curricula, you also should have a requirement that there be some understanding that there are standards in opportunities to learn; that is, what do you do, what should schools be doing, what should they have available in terms of resources, equipment, books, in order to guarantee that the youngsters, the students, have an opportunity to learn the standard curriculum?

When they learn the standard curriculum and they are going to be tested on the standard curriculum, is it fair to have a national test when you do not have some standards as to what is it that you ought to have available in order for youngsters to learn what is necessary to pass these tests? Should there not be standards which say that if you are going to teach science, you have to have a certain amount of scientific equipment: you have to have laboratories and equipment? You cannot have youngsters competing on tests which are national tests, and some have never stepped inside of a science laboratory. If they go to a science laboratory, there is no equipment in the laboratory.

You cannot have youngsters competing on tests if their library books are as old as some of the library books in my district in New York City. Some of the books go back to 1925 and 1930. They are useless. You cannot have encyclopedias which do not have the countries that have become independent in the last 10 years. You cannot teach geography from those kinds of tools.

The third simple ingredient of Goals 2000 was opportunity to learn standards. That upset more people than any other part of it, because Governors complained that this may mean that "Somebody is going to judge us and say we are inadequate because we are not providing laboratories, we are not providing enough books. We do not want to have a situation where we will have to spend some money in order to meet these standards."

We stressed in every way possible, again, that the standards are voluntary. Nobody is required to do anything unless they want to in all three of these sets of standards: curriculum standards, assessment standards, or opportunity to learn standards. With all of that guarantee and reassurance that it is all voluntary, the Goals 2000 has been attacked by certain very vocal Members of the Republican majority as being what it is not, a mandatory set of standards, imposing curriculum standards on school boards across the country. Some people have called it the National Board of Education, which is a deliberate distortion of its purpose and its mission.

All of this, all of this has led to a frenzy which results in an attempt that is being mounted now to repeal Goals 2000. If you do not repeal it by discussing the authorization, it can be wiped out by just taking the money out of the budget. You eliminate the funding in the budget for Goals 2000. That is one thing that the Secretary objected to.

Another item that he objected to was school-to-work opportunities, $25 million cut, $12.5 million each from the Department of Education and the Department of Labor. School-to-work opportunities was divided between the Department of Labor and the Department of Education. $12.5 million went to the Department of Education, and $12.5 million went to the Department of Labor.

What would it do? It would do what numerous educators, community leaders, and Congressmen have been calling for all the time, make school more relevant to youngsters who are not going to go to college, make school more relevant for those who will have to make the transition from high school into work. The industries, the private sector has complained about the fact that the graduates they get have to be trained. The graduates do not fit in. This was an attempt to meet a requirement and a complaint that industry has had for a long time.

□ 2000

It is a small program. A $25 million cut is a cut of a program which to begin with was very small. Of course this is one of those they are proposing now to eliminate directly. The biggest program in the Department of Education which the Secretary also talks about is the Elementary and Secondary Education Title I. Title I has existed for 30 years now.

Title I was the primary thrust of the Lyndon Johnson Great Society entry into education in the public school sector. We moved from assistance to higher education to a program to assist elementary and secondary education under President Johnson, and Title I was the basic thrust, the Elementary and Secondary Education Act, which goes to schools on the basis of the poverty population of the school. The number of poor children in a particular school decides the amount of funds that that school will get.

In the deliberations about Title I of the Elementary and Secondary Education Act last year, both sides, Republicans and Democrats, supported the

refunding, the reauthorization of title I. Both sides fought for every penny they could get for their States. We finally had a $7 billion program which flows to every school district almost in the country.

There are some school districts that are wealthy and should not be getting money but they have been getting funding through various loopholes that were established, and we tried to eliminate that in the last legislation. So there will be fewer schools that are not deserving getting the money, but the targeting to its original purpose, to help schools with the largest number of poor students, that targeting is still left for a program of almost $7 billion.

That was cut, also, in the rescission which is a preview of coming attractions. If the rescission bill cut it, we are afraid there will be more cuts in the budget that is being prepared now for the fiscal year 1996.

The Eisenhower Professional Development Grants: Everybody agreed that one of the best things the Federal Government could do was provide training, ways in which teachers could get more training. In the local education budgets and State education budgets, they are hard pressed to keep enough money in there just for operations, to keep things going from day to day. So the training money, the equipment money, a lot of other things that are needed, they felt should come from the Federal Government, and there was great agreement that the emphasis would be placed on training and the Federal Government would support training. Now we have cut the Eisenhower Professional Development Grants.

Safe and drug-free schools: Safe schools, an initiative that we also agreed upon by the Republicans and Democrats, overwhelmingly voted on on the floor, more than 300 people voted for it last year, now that is being wiped out completely.

The original rescission bill of the Republican Majority was to zero out the whole program, about $600 million. Zero it out completely. Then they put back, I think, $10 million on the floor as a result of some sentimental appeal for one little program called DARE. But basically the safe and drug-free schools and communities programs would be wiped out if the rescission bill that was passed by the Majority Republicans here in the House were to become law.

Of course we know on all these matters, the deliberations are now moving into a conference committee between the Senate and the House. The Senate does not take the same approach on many of these items that the House has taken.

But the Secretary of Education was trying to point out some of the serious harm caused by these cuts. Education for homeless children and youth, a special program that was put in there in response to local education departments with a large amount of homeless children, that program was wiped out completely, zero. Bilingual education was cut drastically. Vocational education, adult education, State and post-secondary review program, the State student incentive grants, the TRIO programs were cut.

TRIO is one of the most successful programs ever developed by the Government. $11.2 million was reduced from that program, which provides for college preparation for youngsters in poor communities through its Upward Bound programs and its talent search programs on college campuses. They provide for special counseling.

There are a number of things that they have been doing which have been highly successful, and both Republicans and Democrats in the Congress have come to the point where they support these programs. TRIO has gotten increased funding over the years as a result of the approval of both parties. Now suddenly the barbarians are arriving, and TRIO is under the axe also and they have to be cut. The Secretary calls that to our attention.

International education exchange programs. Telecommunications demonstration for mathematics. Telecommunications used for education is one of the high priority items that ought to be on everybody's agenda. You might be able to greatly bring down the cost of education by using distance learning, by using more educational television, more cable television, and projecting the instruction over the airwaves for students to pick up in their own homes. You could greatly reduce the cost of education at the higher education level, you could greatly reduce the cost certainly at the high school level, and you could probably provide a much better quality of education at the same time.

What we discovered in a survey that was done of junior high schools in New York City 2 years ago was that in the junior high schools of two-thirds of the city, two-thirds which serve primarily Hispanic and African-American students, in those two-thirds of the junior high schools none of the teachers who were teaching math and science had majored in math and science in college. None of the teachers who were teaching math and science had majored in it. They could not get qualified math and science teachers which meant that those youngsters in junior high school were certainly greatly handicapped.

If you had that kind of shortage of teachers and you had a well-developed hookup for distance learning, you could have top-quality teachers teaching via videos and via cable television and broadcast educational television, and they could make up for the deficit that you have in terms of qualified teachers. They could do it better, they could do it cheaper.

So telecommunications and education technology were high priorities. We did not appropriate very much money to begin with because they are new, but we did have them in the budget, and we did emphasize in the reauthorization legislation for education that these are very important frontiers. This is the way American education should be going.

Star schools was one of those programs where we provided money for telecommunications in situations where rural schools were spread out and students not able to get to quality schools. You could provide top-flight instruction and, using various television hookups, beam it into those various schools and into the homes of those students, and the Star schools made up for what you could not have been able to acquire even if you spent millions of dollars on the new transportation system.

So what you have is everything that is going to take us into the next century, the 21st century, everything that moves us in a more progressive way toward the year 2000 in education is being cut. The national diffusion network, ready to learn television, educational television, as I just said before.

Then, finally, library construction, library research and demonstrations, everything related to libraries is cut, even though it is only a tiny amount in the budget to begin with. We only have tiny amounts of money in our budget. We have never supported libraries at the Federal Government level in any significant way.

If you add up all the money that has been appropriated in terms of Federal aid to libraries over the history of the Federal Government's aid to libraries, it would not equal the cost of one-half of one nuclear aircraft carrier. It would not equal the cost of one-half of one nuclear aircraft carrier, which costs about $3 billion. If you added up everything that we have ever done for libraries, it would not equal the cost of one-half of an aircraft carrier.

The library community was here on the Hill today. The American Library Association program is presented. They are begging to just keep what they have, the relative pennies that they receive for libraries.

Every community that considers itself a civilized community in America has a library. A library is probably the cheapest form of education. The best value you get for your money comes through public libraries. You get the most education made possible, you get the best resources made possible to the community for the cheapest amount of money. Not to fund libraries and not to support libraries even in a small way is another barbaric act. It is barbarism to not want to fund libraries.

We have said a lot about going into the 21st century and updating our technology for education. We talk a lot

about the information superhighway, and we make statements about wanting to make the information superhighway available to all Americans. We do not make it available to all Americans unless we find ways to let the access it.

Most American homes do not have any computers. Most American homes can never get on the Internet if they have to use their own equipment. One way to guarantee that Americans have access is to have public places where you can make use of the best of modern information technology, and one of those public places should be the public library.

In addition to our schools, which need more equipment and should be funded with the help of the Federal Government to acquire that equipment, our libraries are an access point for everybody. You do not have to be a student enrolled in a school. All you have to be is a member of the public, and if you made the technology available to public libraries, it would guarantee that poverty is not a barrier to being able to enter the information age. Poverty is not a barrier to being able to learn what is necessary to be able to qualify for various employment opportunities that are dependent on some knowledge of how to use modern technology to access information.

So the American Library Association is proposing that we support what they call the Library Services. and Technology Act to supplement the Library Services and Construction Act. When you put all the library programs that they are proposing to fund together, they are talking about spending $1 per person to support these various programs, $1 per person in America. When you have more than 225 million Americans, it would be a very small amount of money to spend for education via libraries, and libraries are available to every citizen.

They are asking that Congress pass the Library Services and Technology Act quickly because it is proposed to consolidate, simplify and update all the other components of the Library Services and Construction Act. It will reduce eight titles to two priorities for libraries. Those two priorities are information access through technology and information empowerment through special services. It would increase the flexibility and accountability in the program. It would emphasize libraries as change agents. Libraries would be enhanced as change agents and self-help institutions through these kinds of Federal-State partnerships.

We have examples in my hometown of Brooklyn of libraries that are being overwhelmed by the number of young people who want to come in. In poor communities where they stayed away from the library in the past, one or two computers established in the library has resulted in long waiting list of youngsters who flood into the place every day and they want to make use of the computers.

It is a whole new ball game in terms of libraries being overwhelmed by students voluntarily coming after school and wanting to be a part of what is going on. It is the computers and the new technology that attracts them. They would never be able to get it anywhere else and, therefore, it is an area where we certainly could guarantee that everybody is a part of the new information age, everybody has access to the information superhighway.

There is one representative of the library community on Vice President GORE's committee to advise on the information superhighway and we hope that they are listened to. We hope that there is more than just rhetoric in terms of including libraries in the process of developing this information superhighway and Federal support for the information superhighway.

What we get from Brooklyn, my own hometown, is a statement from the libraries that none of them are wired sufficiently to really receive updated state of the art technology. They do not have the wiring. In most of the big cities of America, the institutions like schools and libraries do not have the wiring necessary to be hooked up properly. They need a great amount of money to pay for the installation of new wiring, or they need some legislation from the Federal level, because only the Federal Government can do it, which requires telecommunications companies to wire schools, to wire libraries and educational institutions at a discount or maybe for free, as part of their contribution for the benefits they are receiving from the overall participation in the Federal Government's information superhighway activities.

□ 2015

Something has to be done to give priority to the general public and to provide an opportunity for the general public. One of the concrete steps that can be taken is to deal with the problem that most libraries in most schools in the big cities, it is not the same as the suburbs and the rural communities, they have problems too, rural communities and big cities, it is easier to do it, to wire the rural communities, less costly to wire a school. In the big cities to wire the library is very, very costly.

The support began for libraries in the local communities at a time when New York City was undergoing a great budget crisis. The citizens made clear that they did not want their library services cut. In fact, library service was cut drastically, and whereas libraries had been opened 6 days a week, they were down to 4, and the citizens rose up and said, no matter what the costs are, how dire our financial situation is, we do not see great amounts of money being required to keep libraries open. And in the last political campaign for mayor, both candidates made pledges that libraries would remain a priority. That is the same case throughout the Nation. Most citizens feel that they are due decent public libraries. It may be more complicated to get first-class schools and get the funding necessary, but it is a fairly simple matter to provide enough support to help provide decent libraries and have the Federal Government continue to participate in this process.

I hope that the coming budget debate will be conducted with the majority party as well as the minority party having its ears to the public. I hope we listen to the public. I hope we check the polls and we follow the polls in many, many ways, and we follow the focus groups in many, many ways. Let us not try to put a spin on and ignore and distort the information that comes from the public. The American public clearly wants support for education programs. The American public does not want to see the Department of Education eliminated. The American public does not want that kind of barbaric act to be taken in the name of streamlining government.

There is a majority out there that is going to have to be reckoned with, and that majority, whatever questions we may have about it, one thing is clear, they think education is the key to their own individual family's future, and they think education is the key to the future of the Nation. They do not accept the argument that defense is only a military matter, that security is only a military matter. Security they understand is partially a matter of being prepared with the kind of educated population that you need to have and brain power becomes a major part of it. They do not think the Federal Government should only be concerned about security. They think promoting the general welfare as stated in the Constitution is as much a part of the duty and responsibilities of the Federal Government as any other duty and responsibility.

So let us promote the general welfare in 1995 terms. Let us go into the 21st century promoting the general welfare in the most up-to-date, state-of-the-art manner that it can be promoted. That is to provide for a first-class educational effort.

We have spent a tremendous amount of money and resources to update our defenses, our Department of Defense and our military installations. We would never have dreamed 30 years ago or 50 years ago following the end of World War II that we would ever be investing billions and billions of dollars in certain kinds of weapons systems, but we saw it as necessary. Modern technology demanded that we spend more money on very complicated weapons systems. Now the modern challenge is we spend more money on education. Instead of cutting education,

we should be doubling the budget for education. Instead of cutting education, we should be looking at new ways to make certain that our whole environment is saturated with funds for learning. Instead of cutting the budget for education, we should be making it the No. 1 priority.

The American people have already stated that they consider it one of our top priorities. Anyone who fails to listen to that will have to reckon with the American people.

I hope that the caring majority out there, the people out there who are the majority and want to see education as a priority, will have their voices heard, and let it be soon. I hope they will become very visible. I hope they will make it clear to every decisionmaker here in Washington, both in the Congress and the executive branch, that education is a priority of the American people. We would like to see our representatives represent the people and not their own agenda, not their own distorted agenda.

CALL FOR AN INVESTIGATION INTO ACTIVITIES OF THE ENVIRONMENTAL PROTECTION AGENCY

The SPEAKER pro tempore (Mr. LATOURETTE). Under the Speaker's announced policy of January 4, 1995, the gentleman from Louisiana [Mr. TAUZIN] is recognized for 60 minutes as the minority leader's designee.

WEATHER TRAGEDY IN LOUISIANA

Mr. TAUZIN. Mr. Speaker, before I begin tonight, I want to call to the Nation's attention the fact that there are quite a few folks in my home State of Louisiana who are indeed suffering tonight. Yesterday and up until about 1 o'clock this morning we were deluged with about 18 inches of rain in the New Orleans area. That is 18 inches in 1 day for those of you who live in States that may only get as much as 4 inches a year. I see my friend from out West in the audience.

The 18 inches of rainfall has inundated communities all over my district and the districts adjacent to mine, that of BILL JEFFERSON and BOB LIVINGSTON and others out West, and we have situations ongoing right now of tragedy, tornadoes and homes destroyed. People have drowned in their cars as they were trying to get to and from their work and residences.

I just spoke to my mother in Chackbay, and God bless her, she is an awfully wonderful and devout woman, and I think her prayers saved her. I understand a tornado just hopped over our house and just missed her, and I wanted to say a word of thanks to the Good Lord for sparing her and others tonight, and a word of comfort and consolation for families who have losses and who are grieved in this awful flood that is unfortunately still unfolding in many communities in south Louisiana. To all of you who are suffering, please know that my office and other offices up here are working in coordination with the Governor's office in Louisiana to see as rapidly as possible that we get every bit of Federal assistance we can to families who are in need, and that we get a disaster declaration as rapidly as we can in place to help you and your families.

In the meantime, we are all in the Good Lord's care tonight, and we hope and pray your grief and losses are kept to a minimum.

Mr. Speaker, I yield to my good friend from California.

Mr. BILBRAY. I appreciate the gentleman yielding. I would like to echo the concerns about the disaster in Louisiana. As my wife, who is from New Orleans, would point out, it is an always ongoing threat for everyone who lives in different parts of the country, one that the people in Louisiana face, and the threat that you do have those rains. She always sort of scoffs at Californians, and what we call rain she calls a drizzle, and sadly those conditions have turned more severe than normal in Louisiana.

I would like to say for those of us in California who understand tragedy from nature, we appreciate that it comes in different forms, and we are sorry you have to confront a different form at this time.

Mr. TAUZIN. I thank the gentleman for his comments and concerns, and indeed those of you who live in California understand tragedy and natural disaster, and I appreciate the gentleman's comments tonight.

Mr. Speaker, I do this special order tonight not out of a great pleasure, but actually with some real degree of regret and sorrow that it has to be done. Today, at a press conference here in Washington, I announced a call for an investigation into activities of the Environmental Protection Agency in region 6, Dallas, activities which clearly violated the rights of a citizen in my district and his family, activities which may have, in fact, violated Federal criminal statutes, certainly violated the civil rights of that citizen, and are going to result almost certainly in a lawsuit by the citizen against his own Government, and in my opinion should result in a dismissal of the Federal employee responsible for what has occurred.

The case involves a case that I cited on this House floor when we debated the property-rights bill that was passed by this House and sent onto the Senate and now awaits action by that body. When we debated that property-rights bill in the context of one of the amendments offered to gut the bill, I told the story, a true story, of two families in my district who were embroiled in a bitter lawsuit, one against the other, and who were also embroiled in an awful conflict with the EPA and the Corps of Engineers in New Orleans in a wetlands dispute. Now there are many allegations flying back and forth in that lawsuit. But the facts as we know them are these:

The facts are that in 1990 one of the families, the Gautreau family, decided to build a pond on their property in Ascension Parish in my district. In desiring to build this farm pond, they contacted the LSU Agricultural extension personnel who came out and examined the site with them. In that initial examination of the site, those LSU officials suggested to the Gautreaus that they should contact the Corps of Engineers to make sure that they did not need a permit for the construction of the pond.

As a matter of fact, one of the Gautreau brothers, Jeff, did call the Corps of Engineers the next day. Approximately on or about September 1990, I think it was around September 10, he contacted the Corps of Engineers, and according to Mr. Jeff Gautreau, the Corps of Engineers representative, the then Dr. Tom Davidson, told them that if he was going to build a livestock pond on his farm that he really did not need a permit, all he needed to do was send a letter describing what he intended to do and including a sketch of the site, and that his activity would be exempt under the wetlands laws as they then understood them in 1990 and as they applied them from the Corps of Engineers office in New Orleans.

According to Jeff Gautreau, in the chronology of events that he supplied to me, Dr. Davidson told him to do whatever he wanted with the dirt, and the Corps had no jurisdiction over than. In fact, the Corps did send, at the request of Mr. Gautreau, who wrote him a letter the next day, a letter indicating that the pond construction was exempt, and that he could proceed without a Corps of Engineers wetlands permit. No mention was made in that letter that he was in any way restricted as to what to do with that dirt.

Mr. Gautreau proceeded to dig that pond. He proceeded to spread the dirt on his property, and later on constructed a home on that same property.

In 1993 all hell broke loose. In 1993 Mr. Gautreau was interested in selling that home and that property. In the context of selling it, he decided to shape the pond a bit more, and also spread a little more dirt to fill in any little holes in the lawn of the property where the house was. So he began that work, only to be met with a cease-and-desist order from the Corps of Engineers. In the context of those days and that event, Mr. Gautreau ended up selling that home. In those same months, the Corps of Engineers, by a written letter to him in the cease-and-desist order, indicate he could make everything right by simply applying for an

after-the-fact permit, which if the Corps granted it would make everything right. He, in fact, applied for an after-the-fact permit. In that letter from the Corps, Mr. Gautreau was told that while the Corps could take action against him, they had decided that there was no willful violation, and that he should proceed either to restore the site or apply for an after-the-fact permit. Mr. Gautreau applied for that after-the-fact permit. It was never granted. Today, they are in an awful wetlands dispute.

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Today as we meet here in this Chamber tonight, Mr. Gautreau and his purchaser, Mr. Chaconas, are in an awful lawsuit over rescission of that sale. The agents who handled the sale are part of the lawsuit. The insurance companies for the real estate agents are part of the lawsuit. Both parties are currently listed as co-violators of the wetland laws of the United States of America, and the Corps of Engineers and the EPA are still considering an enforcement action that could require the Gautreaus or the Chaconases, whoever owns the land, to take down that home, to destroy it.

In fact, a lane leading to that property and to another property across the street is also built on that property, and while no decision has yet been made, an enforcement option still available to the EPA and the Corps is removal of that lane.

I told the House that day in the debate how in conversations with representatives of the Corps and the EPA, when the parties asked how they might get to their home if the lane were removed, someone said, "Take a helicopter." I pointed out the arrogance of the State agency that would do that sort of thing.

During our break, when we went away to do our hometown meetings, to take a break from the 100-day session, my office began to be contacted by scores of agencies wanting to do a news story on this awful piece of wetlands drama going on in my State. As we began to check into what the news people were interested in, it became clear the focus of the news story was to make a case that we had not told the truth about that story on the House floor in the middle of that debate.

One of the news agencies, NBC, contacted us and asked for an interview. I gave them the interview. I was still in town. In the course of the interview, it became clear what was going on.

There was an attempt to say, "Did you really tell the story the way it really happened? Mr. Chaconas does not believe you told the story right."

I asked the NBC interviewer if he had bothered to talk to the other family, the Gautreaus. He had not at that point. I suggested to him he ought to do that. This was a lawsuit between two parties. They each had different versions of the facts. He ought to at least talk to the other side. He did. He called the attorney for the Gautreaus, and in an hour conversation with the Gautreaus' lawyer, a new fact emerged. NBC was in possession of a document, possession of a document that represented itself to be an enforcement memo from the EPA in Region 6, Dallas, which in fact discussed what they considered to be the willful, criminal violations of the Gautreaus violating the laws of the United States in a criminal way.

NBC was in possession of this confidential memo that was not available to the Gautreau family despite the fact that Mr. Gautreau and his lawyers had filed a Freedom of Information request upon the agency for all documents that should be available to them.

Where did NBC get this document? The Gautreaus' lawyers asked for a copy of it. NBC was kind enough to fax it to the Gautreaus' lawyers. And when it arrived and when it was examined, the little muddy footprint led right back to the scene of the crime. The little muddy footprints in this case are the fax numbers, the fax transmittal numbers that appear on the top of the transmittals.

Next to me is a copy of the NBC facsimile transmission sheet sending this document to the Gautreaus' attorney. The document is next, the transmission fax numbers are right on the header of the document. Those transmission fax numbers tell the story.

This document, pertaining to highly sensitive considerations by the EPA that the work was performed willfully, flagrantly, and justifiably should be treated as a crime, that confidential memo had been faxed by the EPA Region 6, to the Defense Fund of the Sierra Club in New Orleans upon their request. A document denied the Gautreaus had been sent to a lobby organization, a document referring to potential criminal activity on the part of an American family, and the Sierra Club, shame on them, transmitted this confidential data, implying criminal activity on the part of an American to NBC, and heaven knows who else.

This transmittal of this confidential memo by the EPA, denied the parties under the Freedom of Information Act, may constitute a criminal violation of the National Privacy Act. The National Privacy Act, in part, provides that no record contained by an agency that refers to a particular individual and an enforcement action can be shared with anyone without the written consent of the person it talks about, and any agent/employee of the Federal Government who willfully does, in fact, send a document out to individuals other than the person it talks about without their written consent is guilty of a Federal criminal violation and subject to criminal penalties under the statutes.

Certainly, the rights of the Gautreaus have been awfully violated here. They intend to file a lawsuit now against the Federal Government, the EPA, for the damage they have done their reputation, the damage it may have done their lawsuit, the damage it may do to them eventually if, in fact, they are ordered to tear down a house they may be ordered to repurchase from the Chaconases in a lawsuit.

This illegal transmission also contains the following language: "Restoration should include removal of the House and fill. How to handle removal of the house, restoration work, while Chaconas still owns the property is under debate." In short, it tells the story of EPA, Region 6, contemplating enforcement action to order the destruction of that house, but obviously reluctant to do so as long as the Chaconases own it.

The next sentence, at the bottom, says the Chaconas' suit against the Gautreaus is scheduled for April 5, 1995. In fact, that suit has been continued until June.

This little muddy footprint facsimile transmission is, in fact, evidence that officials within the EPA are working hand in glove with environmental lobby groups in Washington, in an obvious attempt to influence the debate on the property rights, the Clean Water bill which comes up just tomorrow in this House, and those environmental organizations are working hand in glove with friends of theirs in the media to attempt to influence this debate, and in this case sharing with them a confidential memo implying criminal guilt on a party in America that should never have been in their hands in the first place, protected under the Privacy Act that we thought protected us all in this country.

This is a transmittal from the EPA on the next day to the Sierra Club, again in New Orleans, "Thought I'd send a copy of the Corps of Engineers' delineation. Let me know if you need anything else." You can see how cooperative they are.

When the parties requested a Freedom of Information from the EPA, a whole list of documents that were not shared with them is contained on the transmittal to the Gautreaus, but you can see how cooperative the EPA is with the Sierra Club in not only answering their request illegally, but in sending more documents the next day just because they thought they ought to have them.

This is part of the chronology of events that was shared with me and my office when both the Chaconases and the Gautreaus appealed to us for assistance in this matter way back last year, early in the year. In this chronology of events, you can see that Mr. Jeff Gautreau pointed out and was questioned further by Dr. Davidson, and the Corps of Engineers stated Roger could

do whatever he wanted with the dirt from the pond, as the corps had no authority and could not tell him what to do with the dirt. That is what Mr. Gautreau says he was told by the Corps of Engineers when he applied for the right to build that pond and, in fact, to do what he did on his property.

What followed his written request was the following letter from the Department of the Army Corps of Engineers:

DEAR MR. GAUTREAU: This is in response to your letter of approximately, September 12, 1990, in which you indicate your intention to dig a farm pond to provide water for your livestock in Ascension Parish, Louisiana. We have reviewed your project as proposed and have determined the farm pond work is exempt from the U.S. Army Corps of Engineers' jurisdiction as authorized in 33 CFF 323.4, 83 of our regulations, dated November 13, 1986.

That is the wetlands regulations, 404 permits.

I enclose the photocopy of this regulation for your convenience. Should you have further questions regarding the matter, please contact Dr. Tom Davidson,

again at that number and that address. This letter telling the Gautreaus they were exempt and could proceed with the pond contains no restriction on the use of that dirt, and yet in 1993 the Department of the Army Corps of Engineers sends this letter to Mr. Gautreau, this letter saying—

You are in violation of the Clean Water Act. You are in violation of 404 wetlands laws. You cannot move dirt around that property. That is a wetland, and in fact you have got two choices. You may apply for an after-the-fact permit, or you can, in fact, restore the site to its existing conditions before the unauthorized work.

In the letter the corps says, "Removal of the existing unauthorized work," which later came to be interpreted as not only the construction of fill around the house but also the house itself—

May be necessary if the permit is denied after we complete a public interest review of the application. You can also see in the letter that this work could have subjected you to judicial proceedings. However, after a careful review of the investigative findings and the nature of the work involved, I have decided against such action at this time.

Things change. Things changed mightily. And as this lawsuit proceeds and as the parties await the determination of the judge as to who should own the house, we continue our debate on the property rights laws of America and the wetlands reform bill that will be before us tomorrow.

Could this have been prevented? Could this have been prevented? I think so. If we only had a law on the books that said parties have a right to contest the finding by the Corps of Engineers that their property is wetlands, that the Corps of Engineers were required to inspect the site before they sent a letter saying. "We have no problems when you are doing something on your property," if the Corps of Engineers would have posted publicly in some public place a notice that they think a violation has occurred so that owners might not sell their property and buyers might not buy without knowing what is going on so they can avoid lawsuits like this, and finally, if the corps does want to take somebody's property and destroy their home because they think it is a wetland, then, by golly, somebody ought to be willing to pay an American the price of his property when the Government takes it from him. That is what this fight tomorrow is going to be all about.

Now, NBC was not the only news agency that was apparently invited to do a story on the Chaconas-Gautreau case. CNN was one of the other agencies, CNN Headline News, to be precise. Unlike NBC, they did their little story while we were away. I did not get a chance to get interviewed on that story. We were away at home.

But in that story, CNN proceeded to show this horrible wetlands case, to interview Mr. Chaconas. They did not contact the lawyers, as the Gautreaus suggested, to clear an interview with the Gautreaus. They only interviewed Mr. Chaconas. Then they proceeded to do a hit piece. Why do I call it a hit piece? Because it was just what we expected.

Before they did this piece on Headline News, hour after hour, every day all day, rather, on the day they ran the story, my office sent them all the documents I have shown you and more documents which indicated that we had responded when the Chaconases and the Gautreaus asked us for help, that we received letters of thanks from the parties thanking us, that we received letters from Mr. Chaconas supporting our efforts on property rights, that we received a copy of the letter Mr. Chaconas sent to the EPA demanding payment for taking property in violation of the fifth amendment of the Constitution.

We also sent them documents that contained information unequivocally that indicated the corps and the EPA had, as an enforcement option, as I demonstrated to you earlier, the removal of the House and the rug. Those were clearly options EPA had on its desk and, by the way, continues to potentially have on its desk.

And yet I wanted to show you this CNN piece tonight. I was not allowed to bring a monitor. I would have loved to have run the piece for you to show you what they did. In the piece, they asked the question, "What about the congressman's claim," speaking of me, "that the Federal regulators might force the Chaconases to tear the House down?" The CNN reporter asked that, and immediately they turned to Ron Ventola, an employee of the Corps of Engineers in New Orleans, LA, who, by the way, signed that letter, who signed the letter indicating that the property, the pond, was exempt under the wetlands laws, Mr. Ron Ventola.

□ 2045

Mr. Ron Ventola appears on CNN in this piece and, he says, "Oh, no, no one from this agency told them they would have to tear down their house or remove the road," leaving the clear impression that we had told a falsehood in the House in the debate on property rights. That was the purpose of the CNN piece apparently. CNN knew this was a lie. CNN had documents that we sent to them indicating that the Corps and the EPA indeed has discussed tearing this man's house down. In fact, in fact, the Corps of Engineers had a copy of Mr. Chaconas' letter to the EPA dated September 22 which reads in part:

The house is situated in the wetland, and the three alternatives the EPA is considering, a demolition, moving or elevating the structure.

And yet the Corps reported on CNN, no, no one from this agency told them they would have to tear down their house or remove the road. What a lie told on national television hour after hour and repeated hour after hour in an attempt by those in this environmental community working with those liberal friends in the environmental sector of CNN Headline News to make it look like those of us who believe in property rights who are fighting this battle do not tell our stories right. What a shame. What a despicable piece of journalism from an awfully good and credible news agency.

What a credit NBC earned for sharing this scandal to us, for giving us a chance to expose it to the American public.

I wanted to show you also Mr. Chaconas' request to the EPA dated September 22, 1994. Here is his words to the EPA on that date:

We received the wetlands determination from the Corps. The Federal Government has thus taken control of a majority of our property in the residence. We consider this a taking of our private property for the public good and demand fair and just compensation from the EPA. Consider this as my formal request.

Does that sound like a gentleman who would testify in the Senate against the property rights bill? Does that sound like a gentleman who would go to a House committee and attempt to testify against the property rights bill allegating all the facts that he thought were correct in his lawsuit? A gentleman who made a formal demand on EPA for payment for taking his property? A gentleman who wrote us, in fact, on June 27 that property rights are very important, and my wife and I continue to support your efforts. The point is that buyers and existing land owners are slipping through the cracks because of Federal Government agencies, EPA and the Corps, are really doing a poor job of enforcement. June 27.

Same letter, June 27 again:

Please commend Mr. Constien who is my district director. His efforts have served to diminish my role as a coviolator. EPA did assure me, as long as I cooperated with them and allowed access to the property for corrective measures, they would not seek damages from me. Well who would they seek damages from?

You get the picture? Cooperate with us or else.

Well, the Chaconases apparently have started to cooperate with the EPA and the Sierra Club. Here again on June 28. I listened to Mike Reagan's show on 11:50 a.m., WJBO, on Monday afternoon, caught the taped show you guest-hosted for Mr. Reagan. I was quite impressed. It was at this time we caught the reference to our case that you had mentioned on the air. You are doing a good job in Washington, my birth place. Everybody down here is talking about it.

Does this sound like a man going to the Senate and attack this Congressman for misrepresenting his case? What happened? Who poisoned Mr. Chaconas' mind? What made him come out against property rights when he was demanding payment for the taking of his property of the September 22 letter? Who suggested to him that his Congressman was no longer on his side?

Well, in that memo, in that first memo, we get a hint, we get a hint. How to handle removal of a house or restoration work while the Chaconases still own the property is still under debate. We get a hint of what happened. Cooperate or else. We will enforce the demolition order against the Gautreaus, but maybe not against the Chaconases. Cooperate with us.

Now I am sure Mr. Chaconas would not ever admit that he was coerced into changing his mind so dramatically, that he came to Washington, just on his own, that he did not have the help of the Sierra Club, that he did not have the cooperative arm of the EPA, whom I have just shown has violated Federal privacy laws in this case, in Dallas Region 6. I am sure he would say that. I do not blame him frankly. He is trying to protect his home, and the gun of regulation is pointed at his head. We could demolish your home. Cooperate with us, and we will not penalize you. Maybe the Gautreaus, but not you.

What a story. What a disgusting story of a person's own government treating him that way. What a rotten mess. What an example for us as we tomorrow take up the wetlands reform bill of the Clean Water Act, as we try once and for all to reign in those Federal agents and agencies who dare to treat people that way, who violate the Gautreau's privacy rights, who inflict these after-the-fact determinations of wetlands on people and threaten them with demolition of their home and who, in my opinion, end up coercing people to change their opinion on an issue and to cooperate with them or else face the disaster of destruction of their property. What a mess. What an awful mess.

Tomorrow we get a chance to change it. Tomorrow we begin the debate on the Clean Water Act which contains those regulations, those 404 wetlands laws that are so often abused, so often are used to coerce people in my State and all over America, so often end up taking property away from people without just compensation. But worse than that, in this case putting one neighbor in a lawsuit against his neighbor, making it almost impossible then for them to live next to one another, putting them now in a lawsuit against their own government, and perhaps, if the Justice Department and Carol Browner do their job, perhaps costing some people their job in Dallas.

And I have called upon Carol Browner to clean up that mess, and, if she cannot clean up that mess in her agency, maybe she ought to think about cleaning out her desk. But we in America ought to say enough is enough, and Federal agencies ought not be our master. The government ought to be our servant again in this country, and then when the government becomes such a master that it can so willingly violate our rights, as they did the Gautreaus' in this case, that it can create such a mess as it has in Ascension Parish, Louisiana, and when it can work so hand and glove with lobbyists here in Washington, DC bent on influencing this issue, who then work hand and glove with their liberal friends and some of the media to distort the facts and propagandize their case again reform, then something needs to change. Tomorrow we get a chance to change that. I hope, I pray we do not miss that chance. We need to pass reforms of the wetlands laws, and we need to make sure that property compensation is a part of that law, and if the President dares to veto it, as he threatened to do without even reading the bill, I hope we have the guts in this Congress to override his veto and to give the Americans the protection they deserve under the Constitution, protection against employees of this Government who would take advantage of them the way these employees have.

I am going to file a new bill, by the way, to make it a Federal crime to do what they have done to the Gautreaus and to do it and make it a Federal crime to do what they have done to the Chaconases. No regulatory agency ought to ever have the power to curse somebody with the threat of enforcement action, and no Federal agent ought to keep his job when he violates the privacy rights of Americans and cooperates with lobby groups with sensitive memos detailing protential criminal activity. That has gone too far, and we ought to end it in this body. Tomorrow we strike a blow for land owners and citizens all over this country, and, if this Congress has the will and the fortitude to override the expected veto whenever it comes, perhaps we can remake a relationship in this country between the Government and its people again, where there is credibility, and trust, and fairness, and where we do not have to be suing our Government, and ordering investigations and criminal charges brought against Government officials who ought to know better, who ought to do better than Ron Ventola did in the New Orleans office and lying on television and who ought to do better than those EPA officials did in Dallas.

I yield to the gentleman from Florida [Mr. MICA].

Mr. MICA. First of all I want to take just a moment to express my appreciation to the gentleman from Louisiana [Mr. TAUZIN] for bringing this matter to the attention of the House. For too long the Agency, EPA, has really reigned out of control, and I come here tonight, I know the hour is late, before the House, but I want to commend you again on bringing this matter to the attention of both the House and the Congress, another example of misdeed, of malfeasance, of misfeasance in office, which has been conducted by the Environmental Protection Agency.

I come here also to commend you in a bipartisan effort. I am on the other side of the aisle and thank you for your leadership in questions relating to wetlands, to revision of some of the laws such as the Clean Water legislation which the House will be taking up tomorrow, and again for bringing before the Congress and the American people the question of how this agency is functioning out of control.

Mr. Speaker and gentleman from Louisiana, I had the opportunity to sit as a member of the subcommittee in the House Committee on Government Operations during the last session of Congress. I came as a new member. I came as someone from business with a business background.

Quite frankly I sat in absolute stunned fashion to listen day after day in hearing after hearing of how an agency which is so well-intended—in fact it is a Republican initiative that created the Environmental Protection Agency. Everyone wants to protect the environment. Everyone wants to look out for the environment. Everyone wants to preserve wetlands and our natural areas for this generation and future generations. But to sit as a member of that committee and consistently hear the abuse, the misuse, the misdirection of billions of taxpayer dollars, I was just stunned and appalled, and that is why I got involved in this issue. That is why during the last Congress, as a new Member of this Congress, I was able to get support from both sides of the aisle when the question of elevating EPA from a department to a Cabinet level position

came before the House, and we defeated that measure, not because people do not want to protect the environment, not because people are not concerned about the environment, not because people have any interests in lowering the standards for environmental protection in this country, but because of exactly the reason the gentleman from Louisiana is on the floor tonight, because this agency is out of control, and you have brought to the House again another example that should be investigated, and I, too, demand an investigation and will do everything in my power to see that the majority acts on your request because again this agency is out of control. This agency is so inept, so out of control, again I brought this matter before the attention of the House, and let me cite to you what they did to me.

Here, just several months ago, they sent a fax to my office inviting me to a briefing on wetlands. They sent the fax, and the cover sheet is addressed to two individuals. Both were my opponents in the election. In fact their list predated the qualifying date for election in the State of Florida. So they used a list that was even out of date and then they gave me this lame excuse as a response.

□ 2100

But here they have the time to send me a fax addressed to my opponents with my name on it, to my congressional office, months after the election. If this is not an example of abuse of office, and, if nothing else, ineptness in office.

Now, you bring tonight an example to the floor of what this agency is doing in your instance. Here is a little example of what they are doing in my particular situation. I called for an investigation back in the spring of this year, in February, I believe it was, of this year, and this is the lame excuse that I got.

This is an agency that is out of control. And when they have time to intimidate people, to act in a manner in which the gentleman has brought before the House tonight, they deserve investigation. And I intend as a Member of the majority side of the House to see that in fact this agency investigates the matter you brought before the House.

Let me also point out that I, too, had great hopes. Carol Browner, Administrator Browner, came from my State, the State of Florida. It was my hope she had seen some of the problems with this agency from serving in a capacity at the State level that protected the environment in the State of Florida, and would come here and try to make changes in this agency, make some sense out of it. But it is the situation where the inmates are running the asylum.

Mr. TAUZIN. My friend will love this. This is a letter I just received this last couple of months from attorneys writing to the office of the General Counsel, National Oceanic and Atmospheric Administration, one of the environmental agencies working hand-in-globe with EPA. It is regarding settlement discussions of the turtle/shrimp litigation. You have shared my problems in Florida with this and requiring more and more regulations upon the shrimpers in my State because of the Endangered Species Act. Listen to this paragraph.

> Finally, on a public policy note, my clients are becoming deeply distressed about how the agency appears to be more responsive to, and to some extent acting in collusion with, representatives of the environmental community with respect to the shrimp/turtle controversy. Although Andy Kemmerer and Rollie Schmitten appear anxious to hear industry's concerns, we still sense the agency is responding to what appears to be a "shadow government" formed by certain environmental groups.

The link I talked about tonight, this illegal transmission of confidential data to one of the environmental groups, is part and parcel of what this is all about, an agency out of control, acting on its own, working with lobbyists here to accomplish their agenda.

Mr. MICA. If the gentleman will yield back, again the gentleman cities an example that needs and demands and requires investigation, and I support the gentleman in that, and now this side of the aisle will support you in that.

I brought another matter, it is not a major matter of life and death, but a matter that concerned me. Chairman MCINTOSH, DAVID MCINTOSH, who heads the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs, is in the process now of also investigating the use of taxpayer money to lobby the Congress on issues, which is totally illegal.

So there are a number of these very pressing examples of misuse of this office that need to be investigated by this Congress. Again, I join you tonight and make a commitment to you tonight that we will pursue these matters. And I will tell you, first of all, we have to get the attention in revising this legislation, and we will have that opportunity to look at clean water and some of the other issues that are before the House.

But if we cannot get the agency's attention with these investigations, we will get the agency's attention through the budgetary process and through the appropriations process. Because there are many Members, like the gentleman from Louisiana and other Members of this Congress, who have absolutely had it, right up to here, with this agency. It is out of control, it needs to be brought into control, and we can do a much better job in protecting the environment of this country.

I consider myself an environmentalist. I consider myself as someone who is concerned about the future of the environment that we live in. I want to leave to my children and my grandchildren a better world, a better United States, a better environment. But we cannot do it when an agency is out of control, it is misdirected, and the funds that it is getting are expended in ways in which they were not intended by this Congress.

So we have to rein that in. We have to investigate what is going on there. And we can do a better job and we are demanded to do a better job because we have limited resources. We have literally run out of the taxpayer dollar in the Congress of the United States, and we have to find a better way to do a better job with less money.

So we are demanding that. I join the gentleman in asking my colleagues in the Congress and the House on both sides to look at these matters, to bring this agency into control, and to do a better job in protecting the environment. I am so pleased to join you.

Before I conclude, I just want to again quote, and we have had questions raised about EPA and its being brought out under control. During some of the debate you have an opportunity to sit and read different documents, and I had an opportunity to sit here and read during one of our last debates the Declaration of Independence.

When you look back at the reasons that this country was formed, they are very enlightening. They were very enlightening 200 years ago, and they should be enlightening to all the Members. But I have to repeat this, and I made this comment from the Declaration. This cites one of the reasons for the founding of this country, and it talks about here the King of England, and you can substitute the King with the Federal bureaucracy and EPA.

It says:

> He has erected a multitude of new offices and sent hither swarms of officers to harass our people and eat out their substance.

The same thing that happened 200 years ago is happening today with this agency and other agencies that are out of control.

Again, I commend the gentleman from Louisiana for bringing this matter to the attention of the House in such detail. I commend you on documenting every point here and showing how again this agency has misused the position of trust given to this agency by the Congress and by the American people, and it demands our attention and our investigation.

Mr. TAUZIN. I thank the gentleman from Florida [Mr. MICA] who has been a leader in the fight as I said to rein in this agency. I appreciate your offers of help. We are going to need a lot of help in that regard.

Mr. MCINTOSH. If the gentleman will yield, I thank the distinguished gentleman from Louisiana, a leading defender in the rights of private property owners, for yielding to me. I want

to add my support to your investigation into this newest allegation of the abuse of power at EPA. Our Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs, we often call it the subcommittee to cut red tape, has been investigating EPA activity, and that activity closely mirrors what you have encountered at the agency.

Let me stop to say I also want to commend you for your efforts on behalf of property owners who have encountered regulatory overreach in the wetlands area.

I have got several constituents in my district who have encountered similar problems. One gentleman, Bob Floyd, owns a farm in my hometown of Muncie, and he had been farming this land for 50 years. One day his neighbor accidently destroys the drainage tile which is necessary to irrigate his land, and suddenly a mud puddle developed on one corner of the field. In swooped EPA and said he could no longer farm the land because this might be an endangered wetland.

It is that type of overreach and abuse of the program that have led to many of our problems. But today we are looking at and you have raised a very serious question on the standard of ethics and the propriety of the agency's activities in defending their actions. The activity that we are investigating in the subcommittee appears to violate several Federal statutes, including provisions of the Anti-Lobbying Act and the Federal conspiracy statute.

Our subcommittee has shown that EPA has been using taxpayer funds to create and send out illegal lobbying material to over 100 grassroots lobbying organizations. Most of that material was dishonest propaganda. All of this was designed to incite these outside organizations to attack Members of Congress who supported regulatory reform in the last period of Congress during the 100 days.

Our evidence suggests a high degree of coordination and cooperation between EPA and these outside lobbying groups to convey the agency's somewhat hysterical message against any type of real meaningful regulatory reform. Sometimes I was reminded in the debate of Chicken Little, who cried over and over again the sky is falling, the sky is falling, and we all know what our effort is, is to protect the environment, but to do it in a better way that does not overregulate the American people.

Well, top EPA officials, many of whom came from various environmental advocacy groups engaged in this lobbying, do not seem to understand that their responsibility is now one to the American people. It is a responsibility that comes with their office, and they can no longer act as lobbyists or partisan political operatives. They have a fiduciary duty to the American people to use taxpayer money in accordance with the law. One of the laws requires that agencies not engage in this type of outside lobbying activity, and it is very clear that they have intended to orchestrate that sort of a program with these outside lobbying groups.

You know, when the first contacted EPA about this lobbying activity, we expected the agency to cooperate with our probe. We assumed that it had been something that perhaps had not been reviewed by the highest levels in the government. But instead, the top political appointees have stonewalled the investigation, they have continued to engage in very similar, highly questionable conduct, and Administrator Browner, herself, has shown contempt for our investigation and for the Congress in her public speeches and comments to the press, all the while denying that anyone at EPA could possibly have done anything wrong, because they are at EPA acting in what they see as the interests of the agency. Yet the very act that you have exposed as violating the Privacy Act is part of a troubling pattern of evidence that indicates that these top agency officials may have violated other Federal statutes and Federal appropriations laws.

We have evidence that EPA conduct you have been exposing may be part of a larger plan to use taxpayer dollars to spread disinformation about the Contract with America and the reforms that we were trying to pass. In a way, they politicized the agency and have taken it beyond its legitimate purpose. This does not serve the goal of preserving the environment, but undermines the credibility of the agency in the eyes of the American people. I want to commend you for your personal courage and welcome your call for an investigation into this troubling activity. I very much appreciate the distinguished gentleman from Louisiana for yielding to me on this important matter of Government ethics, and want to commend him in that endeavor.

Mr. TAUZIN. I want to thank the chairman of the committee, not only for his efforts in uncovering more and more of the evidence that leads inescapably to some of the conclusions you and I and others are coming to. The agency is out of control. It is literally engaging in political activities it was never designed to engage in and in violation of citizens' rights, but also for accepting the challenge as other committees have already done, by the way. The INI Subcommittee of the Committee on Energy and Commerce has already started an investigation of this matter. We have enough investigators out there. We might just uncover enough to put a stop to some of this stuff.

I want to thank the gentleman for all of his efforts in regulatory reform and for the courage many Members of the House have shared with him in passing legislation that the Senate I hope will take up soon and pass for us and give it to the President, and hopefully the American people and we soon can end some of those abuses as rapidly as we can.

Mr. McINTOSH. If the gentleman will yield again, I wanted to commend the gentleman for also showing this is a bipartisan effort, that the standards of high ethical conduct and obeying the law are something that Democrats and Republicans want all public servants to obey in this country, and I appreciate his courage and effort to point that out, that that fiduciary duty and the standards of obeying the law and implementing the laws, is something that we can share as Members of both political parties in endeavoring to make sure that the Government does what is right and what is best for the American people. So I commend the gentleman in that effort, and am pleased to be associated with the gentleman's effort.

Mr. TAUZIN. Mr. Chairman, I also wanted to point out I am not sure that everyone in America understands that it does take some real courage on the part of this House to take on some of these people. The Sierra Club is livid right now. They are livid that we uncovered this.

I wrote a letter to Mr. Peter Dykster of CNN Headline News complaining about the despicable piece of journalism he performed on behalf, I think, of the environmental community. And guess what? The Sierra Club wrote me a letter today distributed all over the Hill. The Sierra Club has received a copy of the letter you sent Mr. Peter Dykster of CNN News dated April 13. They got the letter already.

□ 2115

They are good old buddies. They are working hand and glove. The letter establishes again this connection, this connection that weaves through some of these liberals in the media who are prepared to do anything to propagandize this effort.

These environmental groups are working with taxpayer funds in some cases; in some other cases, in direct collusion with EPA officials that do not mind violating the law to help them out to spread their disinformation. And the fabric, this weave of collusion and interaction is beginning to be exposed.

I am not a conspiracy theorist, but I see what I see, and I read what I read. And when an agency of the Government is willing to violate a citizen's rights to help a lobby group who then runs to the media with something as confidential as that and gets livid when we expose it, I think you understand what is going on.

They will attack. The Sierra Club will attack you, will attack every

Member of this body who dares to take them on. But it is time we take them on. They are wrong. And the agencies of Government are wrong when they work with them in order to take away the rights of Americans.

We are in this fight to win, not for you and I, but for the sake of those landowners and Americans who thought they could depend upon the Constitution who now need a law to protect them as rapidly as we can pass them.

Mr. MCINTOSH. The gentleman is exactly on point. The American people expect us to have a higher standard and to have the courage to stand up for these groups. They are tired of seeing Government abuse its power, and they find it a refreshing change that we have now got Members of Congress on both sides of the aisle who are going to make an issue of that and stand up for what is right. And the consequences may be difficult for us in a political way, but we know in our hearts that we are doing what the American people want and what is right.

I am reminded of another farmer in Indiana, Mr. Bart Dye, who came to our subcommittee hearing. We had a field hearing in my hometown, Indianapolis, over the recess about the problems of regulations. And he summed up his testimony by saying, "I fought in World War II to protect the freedoms that we held dear in our hearts. I didn't expect the country to turn on me as I am now entering the twilight days of my life."

So it is for people like Mr. Dye who we have to stand up for those freedoms, and I thank the gentleman being willing to do that.

Mr. TAUZIN. I thank the gentleman so much for his statement.

Let me assure you, it does not just happen to farmers and to little landowners like Mr. Gautreau. They do not care who they pick on.

I just got a fax tonight from the Second Circuit Court of Appeals judge in Shreveport, LA. I was in Shreveport last weekend. He told me about this and promised to send me a fax on it and authorized me to tell the story tonight.

This is a court of appeals judge who bought 460 acres in Tangipahoa Parish across the lake from New Orleans. The tract is about 1¼ miles frontage on Louisiana Highway 22 between Ponchatoula and Madisonville. It has been owned by the family for 80 years, primarily used as timber land. In 1993, he spent $10,000 to map an aerial survey, do soil studies, and to submit all those studies to the Corps of Engineers.

On December 14, 1993, the Corps of Engineers, in a two-page document signed by, guess who, Dr. Thom Davidson of Gautreau-Chaconas fame, Dr. Thom Davidson, which document was identified with a survey that was attached, declared over 90 percent of the 460 acres nonwet. Only 41 acres out of the 460 was determined to be wet, subject to the jurisdiction of the Corps of Engineers under the Clean Water Act. He has that document signed by Thom Davidson.

Well, spring of 1994 comes along.

I entered into a venture with a partner "to test the real estate market" by beginning a residential development on 58 acres of a larger tract. Not one part of the 58 acres was wetland. Absolutely none.

Here comes the horror part.

He is away in Europe for the 50th anniversary of D-day in June 1994,

* * * when several of the bearded wonders of the U.S. Army came out and told my partner to get off his bulldozer and stop his work, as he was violating wetlands. Since then, the Army has reevaluated the 58 acres and has declared over half of it to be wetlands. We have been stopped since last June, 11 months ago, while attempting the so-called permitting process. The cost, expenses and damages resulting from this invasion have yet to be determined. If folks in Washington, D.C. do not understand why so many people in this country are angry, then they really do not get it.

This is not a militia man. This is not an angry man with a gun on talk radio. This is a Second Circuit Court of Appeals judge who, 4 years after the corps wrote him a letter saying the land is not wetlands, shows up with a cease and desist order and has now got him all tangled up in a wetlands dispute, much like the Gautreaus and the Chaconases who, 3 years after the home was built, showed up to say, We now think it is a wetland in spite of the fact that we sent you a letter earlier saying this property was exempt. Now you are in trouble.

That is the kind of mess Americans are going through. Farmers, little homeowners, court of appeals judges. Who have they missed?

MORE ON PROPERTY RIGHTS

The SPEAKER pro tempore (Mr. LATOURETTE). Under a previous order of the House, the gentleman from Indiana [Mr. MCINTOSH] is recognized for 5 minutes.

Mr. MCINTOSH. Mr. Speaker, the gentleman asked a rhetorical question, is there anyone who is perhaps left unaffected by this? I think the answer is no. I am reminded of another group of people that were gravely affected in my district and that is the workers in my district.

There is a town in the second district of Indiana, Anderson, which for years has been a very strong auto manufacturing town. GM has had numerous plants there.

At one point I believe they employed quite a large percent of the population in that town, almost 50 percent. As they have been downsizing some of their operations, the town of Anderson has been seeking to gain new employers. And one of the development projects that they sought to bring into their town was the new plant by the Nestlé Corp. that would diversify some of the jobs in that area, create hundreds of new jobs for people in the town of Anderson.

As they looked at the site, Nestlé was considering Anderson and another town out of the district in Indiana, a couple other sites, and were about ready to locate this new facility there when they discovered that there might be a wetlands problem in the land that they were looking at to build this new plant. The land had been farmland for generations, was not something that you would think of as an environmentally sensitive area. But because of the threat that the government might come in under the wetlands law and deny them the permit to build this plant, the Nestlé Co. says, we are going to look elsewhere and located the facility somewhere else. Thank goodness we were lucky they chose another place in the United States. Sometimes we are not so fortunate and we are sending jobs overseas.

So the working man and woman in this country suffer when these regulations cause jobs to be relocated so that they cannot be built in our communities, another example of people who are affected by this abuse of the regulatory powers.

Again, let me commend the gentleman from Louisiana for his courage and effort in this area. I wholeheartedly support that.

Mr. TAUZIN. I thank the gentleman, if the gentleman will yield. I want to thank him and again particularly express my appreciation for accepting the challenge to help us in this investigation, to get to the bottom of this, put a stop to it, then eventually to change some laws in this country so that the fifth amendment of the Constitution is not just some piece of paper, that it is a real and enforceable right for Americans who are being deprived of their property without just compensation through these regulatory overkills.

I look forward to working with the gentleman, thank him for joining me tonight. And I think we both owe a debt of thanks to the Chair for being so patient with us this evening.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Miss COLLINS of Michigan (at the request of Mr. GEPHARDT), for today, on account of illness in the family.

Mr. ROGERS (at the request of Mr. ARMEY), for today and the balance of the week, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. DELAURO) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Mr. FRANK of Massachusetts, for 5 minutes, today.

Ms. JACKSON-LEE, for 5 minutes, today.

Mrs. MINK of Hawaii, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. MENENDEZ, for 5 minutes, today.

Mr. DEUTSCH, for 5 minutes, today.

Mr. RAHALL, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

(The following Members (at the request of Mr. EHRLICH) to revise and extend their remarks and include extraneous material:)

Mr. GRAHAM, for 5 minutes, on May 9, 10, 11, and 12.

Mr. DORNAN, for 5 minutes, on May 10.

Mr. KINGSTON, for 5 minutes, today.

Mr. FOX of Pennsylvania, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. MCINTOSH, for 5 minutes, today.

EXTENSION OF REMARKS.

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Ms. DELAURO) and to include extraneous matter:)

Mr. OBEY.
Mr. WARD.
Mr. HAMILTON in three instances.
Mr. KILDEE in two instances.
Mr. BECERRA.
Mr. RANGEL.
Ms. PELOSI in two instances.
Mr. ACKERMAN in two instances.
Mr. ENGEL.
Mr. DEFAZIO.
Mr. FOGLIETTA.
Mr. UNDERWOOD.
Mrs. MALONEY in two instances.
Mr. HALL of Ohio.
Mr. STOKES.
Mr. LANTOS.
Mr. JACOBS in two instances.
Mr. KENNEDY of Massachusetts.
Mr. DELLUMS.
Mr. REED.
Mr. FARR.
Mr. STARK.
Mr. JOHNSON of South Dakota.
Mr. CONDIT.
Mr. DINGELL.
Mr. HILLIARD.
Mr. BROWN of Ohio.
Mr. RICHARDSON.
Mr. OBERSTAR.
Mr. BERMAN.
Mr. LAFALCE.
Mr. TORRES.

(The following Members (at the request of Mr. EHRLICH) and to include extraneous matter:)

Mr. BAKER of California.
Mr. ROGERS.
Mr. SMITH of New Jersey.
Mr. WELLER.
Mr. DAVIS.
Mr. MARTINI.
Mr. NEY.
Mr. FORBES.
Mr. CASTLE.
Mr. SAXTON.
Mr. FLANAGAN.
Mr. PACKARD.
Mr. EWING.
Mr. GILMAN.
Mr. STUMP.
Mr. COOLEY.
Mr. TATE.
Mr. LEACH.
Mr. EMERSON.
Mr. BREWSTER.

(The following Members (at the request of Mr. MCINTOSH) and to include extraneous matter:)

Mrs. KENNELLY.
Mr. MONTGOMERY.
Ms. FURSE.
Mr. BACHUS.
Mr. LAUGHLIN.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 103. An act entitled the "Lost Creek Land Exchange Act of 1955"; to the Committee on Resources.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

On May 8, 1995:

H.R. 421. An act to amend the Alaska Native Claims Settlement Act to provide for the purchase of common stock of Cook Inlet region, and for other purposes.

H.R. 517. An act to amend title V of Public Law 96-550, designating the Charo Culture Archeological Protection Sites, and for other purposes.

H.R. 1380. An act to provide a moratorium on certain class action lawsuits relating to the Truth in Lending Act.

ADJOURNMENT

Mr. MCINTOSH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 24 minutes p.m.), the House adjourned until tomorrow, Wednesday, May 10, 1995, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

824. A letter from the director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of May 1, 1995, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 104-69); to the Committee on Appropriations and ordered to be printed.

825. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to South Korea, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

826. A letter from the Counsel to the President, The White House, transmitting notification that the White House is delivering to the House Committee on Banking and Financial Services classified documents that are responsive to the request for documents contained in House Resolution 80 and described in paragraphs (1) through (28) of that resolution; to the Committee on Banking and Financial Services.

827. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for the provision of defense hardware and services to Canada (Transmittal No. DTC-19-95), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

828. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for the provision of defense hardware and services to the People's Republic of China (Transmittal No. DTC-8-95), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

829. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for the provision of defense hardware and services to Greece (Transmittal No. DTC-18-95), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

830. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for the provision of defense hardware and services to Argentina (Transmittal No. DTC-20-95), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

831. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with the Czech Republic (Transmittal No. DTC-21-95), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

832. A communication from the President of the United States, transmitting his declaration of a national emergency with respect to Iran, pursuant to 50 U.S.C. 1703(b) and 50 U.S.C. 1631 (H. Doc. No. 104-70); to the Committee on International Relations and ordered to be printed.

833. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions by Timothy Michael Carney, of Washington, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of the Sudan, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on International Relations.

834. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of

State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

835. A letter from the Navy Exchange Service Command, Department of the Navy, transmitting the annual pension plan report for the plan year ending December 31, 1992, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Reform and Oversight.

836. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend title 49, United States Code (Transportation), to eliminate the requirement for preemployment alcohol testing in the mass transit, railroad, motor carrier, and aviation industries, and for other purposes; to the Committee on Transportation and Infrastructure.

837. A letter from the U.S. Trade Representative, transmitting a report on recent developments regarding implementation of section 301 of the Trade Act of 1974, covering the period January through December 1994 and reflects the effectiveness of this trade remedy in eliminating or reducing foreign unfair trade practices, pursuant to 19 U.S.C. 2419; to the Committee on Ways and Means.

838. A letter from the Chairman, U.S. International Trade Commission, transmitting a draft of proposed legislation to provide authorization of appropriations for the U.S. International Trade Commission for fiscal year 1977, pursuant to 31 U.S.C. 1110; to the Committee on Ways and Means.

839. A letter from the President, U.S. Institute of Peace, transmitting first, the report of the audit of the Institute's accounts for Fiscal Year 1994; and second, the Institute's report entitled "Building Peace—The First Decade and Beyond," pursuant to 22 U.S.C. 4607(h); jointly, to the Committees on Economic and Educational Opportunities and International Relations.

840. A letter from the Secretary, Department of Energy, transmitting the Department's Annual Report to the Congress on activities of the Department of Energy in response to recommendations and other interactions with the Defense Nuclear Facilities Safety Board, pursuant to 42 U.S.C. 2286e(b); jointly, to the Committees on Commerce and National Security.

841. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend title 23, United States Code, to provide for the designation of the National Highway System, the establishment of certain financing improvements, the creation of State infrastructure banks, and for other purposes; jointly, to the Committees on Transportation and Infrastructure and Banking and Financial Services.

842. A letter from the Administrator, Small Business Administration, transmitting the annual report on minority small business and capital ownership development for fiscal year 1994, pursuant to Public Law 100-656, section 408 (102 Stat. 3877); jointly, to the Committees on Small Business and Government Reform and Oversight.

843. A letter from the Secretary of Energy, transmitting a draft of proposed legislation to authorize privatization of the Naval Petroleum Reserves, and for other purposes; jointly, to the Committees on Commerce, National Security, the Budget, and Resources.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SHUSTER: Committee on Transportation and Infrastructure, House Concurrent Resolution 64. Resolution authorizing the 1995 Special Olympics Torch Relay to be run through the Capitol Grounds (Rept. 104-113). Referred to the House Calendar.

Mr. QUILLEN: Committee on Rules. House Resolution 140. Resolution providing for consideration of the bill (H.R. 961) to amend the Federal Water Pollution Control Act (Rept. 104-114). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1266. A bill to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes; with an amendment (Rept. 104-115). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. TORRES:

H.R. 1578. A bill to amend the Indian Gaming Regulatory Act to provide adequate and certain remedies for sovereign tribal governments; to the Committee on Resources, and in addition to the Committees on the Judiciary, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BROWN of Ohio:

H.R. 1579. A bill to require providers of home infusion therapy services to be licensed and to limit physician referrals for home infusion therapy services in which the physician has a financial interest; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Alaska (for himself, Mr. CALVERT, Mr. ORTON, Mrs. VUCANOVICH, Mr. CREMEANS, Mr. HAYWORTH, Mr. STUMP, Mr. SKEEN, Mr. CRAPO, Mr. EMERSON, and Mr. SHADEGG):

H.R. 1580. A bill to amend the general mining laws to provide a reasonable royalty from mineral activities on Federal lands, to specify reclamation requirements for mineral activities on Federal lands, to create a State program for the reclamation of abandoned hard rock mining sites on Federal lands, and for other purposes; to the Committee on Resources.

By Mr. COOLEY:

H.R. 1581. A bill to require the Secretary of Agriculture to convey certain lands under the jurisdiction of the Department of Agriculture to the city of Sumpter, OR; to the Committee on Resources.

By Mr. CUNNINGHAM (for himself, Mr. BILBRAY, Mr. HUNTER, and Mr. PACKARD):

H.R. 1582. A bill to amend the Clean Air Act to provide for the reclassification of downwind nonattainment areas, and for other purposes; to the Committee on Commerce.

By Mr. ENGLISH of Pennsylvania:

H.R. 1583. A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage; to the Committee on Economic and Educational Opportunities.

By Mr. FRANK of Massachusetts:

H.R. 1584. A bill to provide that Federal and State courts and agencies may not require that legal citations in which copyright subsists be the only acceptable submission to such courts and agencies where alternatives exist; to the Committee on the Judiciary.

By Mr. HERGER:

H.R. 1585. A bill to expand the boundary of the Modoc National Forest to include lands presently owned by the Bank of California, N.A. Trustee, to facilitate a land exchange with the Forest Service, and for other purposes; to the Committee on Resources.

By Mr. JACOBS:

H.R. 1586. A bill to amend title II of the Social Security Act to establish a continuing disability review account in the Federal disability insurance trust fund which shall be available solely for expenditures necessary to carry out continuing disability reviews; to the Committee on Ways and Means.

By Mr. JACOBS:

H.R. 1587. A bill to amend title 28, United States Code, and the Social Security Act with respect to the establishment and jurisdiction of a U.S. Court of Appeals for the Social Security Circuit; to the Committee on the Judiciary, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. JOHNSON of South Dakota:

H.R. 1588. A bill to amend the Internal Revenue Code of 1986 relating to the treatment of livestock sold on account of weather-related conditions; to the Committee on Ways and Means.

By Mr. KNOLLENBERG:

H.R. 1589. A bill to amend the Fair Labor Standards Act of 1938 to exempt from the minimum wage and overtime requirements individuals who volunteer their time in order to enhance their occupational opportunities; to the Committee on Economic and Educational Opportunities.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. ARCHER (for himself and Mr. THOMAS):

H.R. 1590. A bill to require the Trustees of the Medicare trust funds to report recommendations on resolving projected financial imbalance in Medicare trust funds; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MARTINEZ (for himself, Mr. FATTAH, Mr. DELLUMS, Ms. WATERS, Mr. CLAY, Mr. LEWIS of Georgia, Mr. ABERCROMBIE, Mr. OWENS, Mr. SCOTT, Ms. ROYBAL-ALLARD, Ms. VELAZQUEZ, Mrs. COLLINS of Illinois, Mr. TORRES, Mr. SERRANO, Mr. FOGLIETTA, and Mr. MCDERMOTT):

H.R. 1591. A bill to establish a national public works program to provide incentives for the creation of jobs and address the restoration of infrastructure in communities across the United States, and for other purposes; to the Committee on Economic and Educational Opportunities, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently

determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. McKEON:

H.R. 1592. A bill to require the Postmaster General to redraw ZIP code boundaries to coincide with community boundaries; to the Committee on Government Reform and Oversight.

By Mr. MONTGOMERY (for himself, Mr. CLYBURN, and Mr. MASCARA):

H.R. 1593. A bill to amend title 38, United States Code, to provide for a Veterans' Employment and Training Bill of Rights, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SAXTON (for himself, Mr. ARMEY, Mr. HASTERT, Mr. ISTOOK, Mrs. KELLY, Mrs. SEASTRAND, Mr. HASTINGS of Washington, Mr. HOKE, Mr. COX, Mr. MANZULLO, Mr. EWING, Mr. SANFORD, Mr. LAHOOD, Mrs. MEYERS of Kansas, Mr. STUMP, Mr. SCARBOROUGH, Mr. UPTON, Mr. HEINEMAN, Mr. LARGENT, Mr. SMITH of Texas, Mr. THORNBERRY, Mr. DOOLITTLE, Mr. EHRLICH, Mr. ROHRABACHER, Mr. CUNNINGHAM, Mr. SALMON, Mr. BARTLETT of Maryland, Mr. BOEHNER, Mr. MILLER of Florida, Mrs. CHENOWETH, Mr. HERGER, Mr. BARTON of Texas, Mr. LATHAM, Mr. LIVINGSTON, Mr. GEKAS, Mr. HILLEARY, Mr. TALENT, Mr. WALSH, and Mr. DELAY):

H.R. 1594. A bill to place restrictions on the promotion by the Department of Labor and other Federal agencies and instrumentalities of economically targeted investments in connection with employee benefit plans; to the Committee on Economic and Educational Opportunities.

By Mr. GINGRICH (for himself, Mr. GILMAN, Mr. HORN, Mr. LAZIO of New York, Mr. ZIMMER, Mr. SMITH of New Jersey, Mr. WELLER, Mr. DELAY, Mr. PAXON, Mr. SOLOMON, Mr. MCINTOSH, Ms. MOLINARI, Mr. HASTERT, Mr. ARCHER, Mrs. MYRICK, Mr. NUSSLE, Mrs. VUCANOVICH, Mr. BARR, Mr. TORKILDSEN, and Mr. BURTON of Indiana):

H.R. 1595. A bill to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes; to the Committee on International Relations.

By Mr. SAXTON (for himself and Mr. SMITH of New Jersey):

H.R. 1596. A bill to require the President to notify the Congress of certain arms sales to Saudi Arabia until certain outstanding commercial disputes between United States nationals and the government of Saudi Arabia are resolved; to the Committee on International Relations.

By Mr. STUMP (for himself, Mr. CALLAHAN, and Mr. EVERETT):

H.R. 1597. A bill to amend the Immigration and Nationality Act with respect to the authority of the Attorney General to parole aliens into the United States; to the Committee on the Judiciary.

By Mr. TRAFICANT:

H.R. 1598. A bill to establish a definition of made in America or the equivalent thereof for purposes of Federal law; to the Committee on Government Reform and Oversight.

By Mr. SKAGGS (for himself, Ms. DELAURO, Mr. ABERCROMBIE, Mr. JOHNSTON of Florida, Mr. YATES, Mr. FATTAH, Mr. GUTIERREZ, Mr. SHAYS, Mr. TORRICELLI, Mr. OWENS, Mrs. CLAYTON, Ms. PELOSI, Mr. SABO, Mr. BERMAN, Mr. BARRETT of Wisconsin, Mr. LEWIS of Georgia, Mr. ENGEL, Mr. TORRES, Mr. WARD, Mr. SERRANO, Mr. ROMERO-BARCELO, Mr. ACKERMAN, Mr. MCDERMOTT, Mr. TUCKER, Ms. WATERS, Mr. FRAZER, Mr. COYNE, Mr. UNDERWOOD, Mr. MANTON, Ms. LOWEY, Mrs. COLLINS of Illinois, Mr. STARK, Mr. MARKEY, and Mr. SCHUMER):

H. Con. Res. 65. Concurrent resolution expressing the sense of the Congress that the Brady Handgun Violence Prevention Act, the assault weapons ban, and the restrictions on the transfer of handguns to juveniles are reasonable, important, and effective measures to reduce crimes of violence; to the Committee on the Judiciary.

By Mr. LEVIN (for himself and Mrs. JOHNSON of Connecticut):

H. Res. 141. Resolution expressing the sense of the House regarding United States-Japan trade; to the Committee on Ways and Means.

By Mr. SCOTT (for himself, Mr. REED, Mr. OWENS, Mr. FATTAH, Mr. FRANK of Massachusetts, and Mr. BERMAN):

H. Res. 142. Resolution amending the Rules of the House of Representatives to allow proxy voting in committee in particular, limited circumstances; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

68. By the SPEAKER: Memorial of the Senate of the State of Hawaii, relative to urging the U.S. Congress to renew the highly successful U.S. Sugar Program in the 1995 farm bill; to the Committee on Agriculture.

69. Also, memorial of the Senate of the State of Hawaii, relative to urging the U.S. Congress to renew the highly successful U.S. Sugar Program in the 1995 farm bill; to the Committee on Agriculture.

70. Also, memorial of the Senate of the State of Washington, relative to requesting the United States to advocate for the admission of Taiwan to the United Nations; to the Committee on International Relations.

71. Also, memorial of the Senate of the State of Washington, relative to water adjudication; to the Committee on Resources.

72. Also, memorial of the House of Representatives of the State of Maine, relative to Federal mandates; to the Committee on the Judiciary.

73. Also, memorial of the House of Representatives of the State of Washington, relative to urging Congress to use transportation funds for transportation purposes; to the Committee on Transportation and Infrastructure.

74. Also, memorial of the House of Representatives of the State of Minnesota, relative to memorializing Congress to fund the Amtrak system to enable it to continue to serve Minnesota; to the Committee on Transportation and Infrastructure.

75. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to memorializing the Congress of the United States to enact legislation to allow Federal income tax deductions on medical expenditures and health insurance premiums purchased by the self-employed, and other individuals' to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DAVIS:

H.R. 1599. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade of the United States for the vessel *Too Much Fun;* to the Committee on Transportation and Infrastructure.

By Mr. WISE:

H.R. 1600. A bill for the relief of Robert and Dorothy Shickle; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 43: Mr. SCHUMER, Mr. MEEHAN, and Ms. LOFGREN.

H.R. 58: Mr. BARTON of Texas and Mr. MCCRERY.

H.R. 65: Mr. DEFAZIO and Mr. BRYANT of Texas.

H.R. 67: Mr. MINGE, Mr. PETRI, and Mr. PORTER.

H.R. 70: Mr. BENTSEN and Mr. BARTON of Texas.

H.R. 89: Mr. HOSTETTLER.

H.R. 103: Ms. KAPTUR, Mr. MCHUGH, Mr. FOLEY, Mr. EMERSON, and Mr. CRAMER.

H.R. 104: Mr. DELAY.

H.R. 109: Mr. JOHNSON of South Dakota and Mrs. ROUKEMA.

H.R. 110: Mr. BURTON of Indiana.

H.R. 244: Mr. BLUTE and Mr. NEAL of Massachusetts.

H.R. 248: Mr. SERRANO.

H.R. 303: Mr. DEFAZIO and Mr. BRYANT of Texas.

H.R. 332: Mr. FALEOMAVAEGA.

H.R. 390: Mr. CREMEANS, Mr. BRYANT of Texas, Mr. WHITFIELD, Mr. SALMON, Mr. CRAPO, and Mr. BARRETT of Wisconsin.

H.R. 393: Mr. GEJDENSON.

H.R. 394: Mr. NETHERCUTT, Mr. CALLAHAN, Mr. ROHRABACHER, Mr. HORN, Mr. HASTING of Washington, Mr. JOHNSTON of Florida, Ms. LOFGREN, Mr. MILLER of Florida, Mr. SCHAEFER, Mr. DEFAZIO, Mr. FOLEY, Mr. CRAMER, Mr. BARTON of Texas, and Mr. CANADY.

H.R. 407: Mr. GANSKE.

H.R. 452: Mr. MEEHAN.

H.R. 468: Mr. FROST, Mr. WELLER, Mr. EVANS, Mr. FILNER, Mr. SOLOMON, Mr. SCHIFF, Mr. GEJDENSON, and Mr. GENE GREEN of Texas.

H.R. 470: Mr. BROWN of Ohio, Mr. KENNEDY of Massachusetts, Mr. SCHIFF, Mr. BLUTE, and Mr. MENENDEZ.

H.R. 488: Mr. CASTLE, Mr. DEUTSCH, Mr. FATTAH, Mr. FRISA, Ms. NORTON, Mr. UNDERWOOD, Mr. MANTON, Mr. LEWIS of Georgia, Mr. CHAPMAN, Mr. KLUG, and Mr. MARTINEZ.

H.R. 520: Mr. HOSTETTLER.

H.R. 522: Mrs. JOHNSON of Connecticut.

H.R. 526: Mr. BURR, Mr. BLILEY, and Mr. JOHNSON of South Dakota.

H.R. 530: Mr. CLEMENT, Mr. FILNER, Mr. TANNER, Mr. ORTON, Mr. GALLEGLY, Mr. MCNULTY, and Mr. DUNCAN.

H.R. 553: Mrs. MEEK of Florida and Ms. JACKSON-LEE.

H.R. 580: Mr. HAYES, Mr. HALL of Ohio, Mr. KOLBE, Mr. ENSIGN, Mr. RIGGS, Mr. YOUNG of Florida, Mr. GOODLING, Mr. ROSE, Mr.

SPRATT, Mrs. LINCOLN, Mr. MCINNIS, Mr. BUNN of Oregon, Mr. FIELDS of Texas, Mr. EHLERS, Mrs. CHENOWETH, Mr. GUTKNECHT, and Mr. CAMP.

H.R. 623: Mr. HEFNER.

H.R. 661: Mr. EMERSON.

H.R. 704: Mr. ROMERO-BARCELO, Mr. HEFLEY, Mr. FROST, and Mr. FIELDS of Texas.

H.R. 733: Mr. ZIMMER and Mr. RUSH.

H.R. 734: Mr. ZIMMER and Mr. RUSH.

H.R. 745: Mr. FRANK of Massachusetts.

H.R. 752: Mr. LATOURETTE.

H.R. 753: Ms. ESHOO, Mr. SERRANO, and Mr. VENTO.

H.R. 757: Mr. STARK.

H.R. 772: Ms. DANNER, Mr. KLECZKA, Mr. POMEROY, Mr. ROSE, Mr. PORTER, Mr. JACOBS, Ms. ROYBAL-ALLARD, Mr. MINETA, Mr. MEEHAN, Mr. CARDIN, Ms. ESHOO, Mr. ANDREWS, Mr. MOAKLEY, Ms. MCCARTHY, Mr. STUDDS, Mr. YATES, and Mr. KILDEE.

H.R. 783: Mr. PETE GEREN of Texas, Mr. SKEEN, Mr. TRAFICANT, Mr. HOLDEN, Mr. GRAHAM, Mr. BROWN of Ohio, Mr. HOEKSTRA, Mr. BROWNBACK, Mr. THORNBERRY, and Mr. CALVERT.

H.R. 784: Mr. DUNCAN, Mr. MCCRERY, Mr. THORNBERRY, Mr. GALLEGLY, and Mr. HOSTETTLER.

H.R. 788: Mr. BARTON of Texas.

H.R. 789: Mr. NORWOOD, Mr. HERGER, Mr. HEINEMAN, Mr. DOYLE, Mr. HOBSON, Mr. LAUGHLIN, Mr. GILLMOR, and Mr. MURTHA.

H.R. 820: Mrs. MYRICK, Mr. BALLENGER, Mr. KLINK, Mr. WELDON of Pennsylvania, Ms. ROYBAL-ALLARD, Mr. BARR, Mr. MURTHA, and Mrs. FOWLER.

H.R. 833: Mr. SHAYS.

H.R. 864: Mr. HINCHEY, Mr. RANGEL, Mr. BOUCHER, Mr. PARKER, Mr. COOLEY, and Mr. SHAW.

H.R. 873: Mr. BENTSEN, Mr. NADLER, Mr. LUTHER, Mr. FARR, Mr. EVANS, Mr. TORRICELLI, Mr. MARTINEZ, Mr. PALLONE, Mr. LEWIS of Georgia, and Mr. BROWNBACK.

H.R. 911: Mr. HOLDEN and Mr. SISISKY.

H.R. 931: Ms. LOWEY and Mr. GUTIERREZ.

H.R. 940: Ms. BROWN of Florida, Mr. DELLUMS, Mr. KILDEE, Mr. MATSUI, Ms. NORTON, Mr. PAYNE of New Jersey, Mr. SAWYER, Mr. SCOTT, Mr. THOMPSON, Ms. WOOLSEY, and Ms. VELAZQUEZ.

H.R. 945: Mr. SERRANO, Ms. LOFGREN, Mr. WELDON of Pennsylvania, Mr. HOLDEN, Mr. GEKAS, Mr. SAXTON, Mr. BASS, Mr. YATES, Mr. DUNCAN, Mr. POMBO, Mr. DORNAN, Mr. UNDERWOOD, Mr. ROBERTS, Mr. ACKERMAN, Mrs. MEEK of Florida, Ms. PELOSI, Mrs. MEYERS of Kansas, Mr. OXLEY, Ms. LOWEY, Mr. ENGEL, Mr. HUTCHINSON, Mr. BARRETT of Wisconsin, Mr. TIAHRT, Mr. ZIMMER, Mr. RIGGS, Mr. WHITFIELD, Mr. LAZIO of New York, Mr. BUYER, Mr. SCHUMER, Mr. FORBES, Mr. HERGER, Mr. TORRES, Mr. WELLER, Mr. WISE, Mr. FRISA, Mr. KANJORSKI, and Mr. EMERSON.

H.R. 966: Mr. BARRETT of Wisconsin, Mr. CONYERS, Mr. FAZIO of California, Ms. DANNER, Mr. HEINEMAN, Mr. MCCOLLUM, Ms. NORTON, and Mr. SANDERS.

H.R. 972: Mr. HEFNER.

H.R. 983: Mr. CLAY, Mr. MOAKLEY, Mr. FARR, Mr. LEWIS of Georgia, Mr. OBERSTAR, Mr. SANDERS, Mr. YATES, Mr. TORRES, and Mrs. COLLINS of Illinois.

H.R. 1021: Mr. ANDREWS and Mr. STARK.

H.R. 1023: Mr. LANTOS, Mr. ANDREWS, Mr. DOYLE, and Mr. OBERSTAR.

H.R. 1024: Mr. GOODLATTE, Mr. GREENWOOD, Mr. BOEHNER, and Mr. DUNCAN.

H.R. 1043: Mrs. FOWLER.

H.R. 1045: Mr. BUYER and Mr. BURTON of Indiana.

H.R. 1066: Mr. TALENT.

H.R. 1073: Ms. LOFGREN, Mr. FARR, Mr. GUTIERREZ, Mr. ACKERMAN, Mr. LAFALCE, and Mr. DURBIN.

H.R. 1074: Mr. FARR, Mr. GUTIERREZ, Mr. ACKERMAN, and Mr. LAFALCE.

H.R. 1079: Mr. DIAZ-BALART, Mr. SERRANO, Mrs. SEASTRAND, Mr. WOLF, Ms. LOWEY, Mr. RAHALL, Mr. HALL of Texas, Mr. HYDE, Mr. STUMP, Ms. BROWN of Florida, Mr. DORNAN, Mr. BLUTE, Mr. DICKS, Mrs. JOHNSON of Connecticut, and Mr. BILIRAKIS.

H.R. 1085: Mr. BUNN of Oregon and Mr. TRAFICANT.

H.R. 1090: Mr. BISHOP, Mr. FILNER, and Mr. SERRANO.

H.R. 1099: Mr. SAXTON, Mr. CRAPO, Mr. PAYNE of Virginia, Mr. MCCRERY, Mr. HERGER, Mr. LEWIS of Georgia, Mr. ENSIGN, and Ms. WOOLSEY.

H.R. 1103: Mr. FOGLIETTA.

H.R. 1114: Mr. GUNDERSON, Mr. ROYCE, Mr. DELAY, Mr. PETE GEREN of Texas, Ms. DUNN of Washington, Mr. BILBRAY, Mr. EHLERS, Mr. HILLIARD, Mr. ROHRABACHER, and Mr. LIVINGSTON.

H.R. 1118: Mr. HUNTER and Mr. NORWOOD.

H.R. 1119: Mr. ABERCROMBIE, Mr. KING, Mr. MARTINEZ, and Mr. JOHNSON of South Dakota.

H.R. 1120: Mr. COOLEY and Mrs. WALDHOLTZ.

H.R. 1136: Mr. ANDREWS, Mr. BECERRA, Mr. BISHOP, Mr. BORSKI, Mr. CLYBURN, Mr. ENGEL, Mr. FOGLIETTA, Mr. GUTIERREZ, Mr. MATSUI, Mr. MCDERMOTT, Mr. MENENDEZ, Mr. PALLONE, Ms. RIVERS, Mr. SANDERS, Mr. SCOTT, Mr. SOLOMON, Mr. TOWNS, and Mr. WYNN.

H.R. 1143: Mr. SERRANO.

H.R. 1144: Mr. SERRANO.

H.R. 1145: Mr. SERRANO.

H.R. 1152: Mr. LIPINSKI, Mr. ACKERMAN, Ms. NORTON, Mr. FRANK of Massachusetts, Mr. SMITH of New Jersey, Ms. KAPTUR, Ms. LOWEY, and Ms. FURSE.

H.R. 1160: Mr. BARRETT of Wisconsin.

H.R. 1172: Mr. TOWNS, Mr. HASTINGS of Washington, Mr. PICKETT, Mr. SCHIFF, and Mr. MANTON.

H.R. 1173: Mr. TIAHRT.

H.R. 1204: Mr. BOEHNER, Mr. SERRANO, Mr. FRANKS of New Jersey, Mr. PETE GEREN of Texas, Mr. RIVERS, Mr. EHLERS, Mr. WYDEN, and Mr. PAYNE of Virginia.

H.R. 1229: Mr. TORRICELLI, Mr. EVANS, Mr. BENTSEN, Mr. STUPAK, Mr. MARTINEZ, and Mr. DE LA GARZA.

H.R. 1243: Mr. BURTON of Indiana, Mr. FRANK of Massachusetts.

H.R. 1255: Mr. BARTLETT of Maryland, Mr. COOLEY, and Mr. MANZULLO.

H.R. 1259: Mr. THOMPSON.

H.R. 1264: Mrs. CLAYTON, Mr. FATTAH, and Mr. SERRANO.

H.R. 1274: Mr. VELAZQUEZ and Mr. MOORHEAD.

H.R. 1291: Mr. GOSS, Mr. UNDERWOOD, Mr. POSHARD, and Mr. ZIMMER.

H.R. 1318: Mr. NORWOOD.

H.R. 1328: Ms. MOLINARI and Mr. FATTAH.

H.R. 1331: Mrs. CLAYTON and Mr. SMITH of New Jersey.

H.R. 1362: Mr. KNOLLENBERG, Mr. METCALF, Mr. TAYLOR of North Carolina, Mr. LUCAS, Mr. MINGE, Mr. HAYWORTH, Mr. BARR, Mr. LINDER, Mrs. WALDHOLTZ, Mr. PICKETT, Mr. GALLEGLY, Mr. JONES, and Ms. FURSE.

H.R. 1385: Mr. HEFNER.

H.R. 1422: Mr. EVANS, Mr. STUPAK, Mr. HILLIARD, Ms. RIVERS, and Mr. SERRANO.

H.R. 1442: Mrs. KENNELLY and Mrs. SCHROEDER.

H.R. 1445: Mr. BONO, Mr. BARR, and Mr. FRANK of Massachusetts.

H.R. 1448: Mr. LEWIS of California, Mr. TRAFICANT, Mr. MARTINEZ, Mr. JEFFERSON, Mr. MCHALE, Mr. PICKETT, Mr. SKELTON, Mr. ROHRABACHER, Mr. COX, Mr. LIVINGSTON, and Mr. YOUNG of Florida.

H.R. 1458: Mr. HEFNER.

H.R. 1460: Mr. KING, Ms. BROWN of Florida, Mr. HEFLEY, Mr. MCCOLLUM, Mr. MINGE, Mr. ROYCE, Mr. UNDERWOOD, and Mr. SCHUMER.

H.R. 1468: Mr. HEFNER.

H.R. 1482: Mr. HEFNER.

H.R. 1487: Mr. WELLER, Mr. METCALF, Mr. ROYCE, and Mr. BONO.

H.R. 1496: Mr. BARTON of Texas.

H.R. 1499: Mr. JACOBS, Mrs. SEASTRAND, Ms. KAPTUR, Mrs. MORELLA, Mr. STUPAK, Mr. CANADY, Mr. BARRETT of Wisconsin, Mr. UPTON, Ms. LOFGREN, and Mr. NEY.

H.R. 1500: Ms. DELAURO, Mr. DIXON, Ms. ESHOO, Mr. GORDON, Mr. KENNEDY of Massachusetts, and Mr. LIPINSKI.

H.R. 1512: Mrs. CHENOWETH.

H.R. 1516: Mr. MINGE and Mr. POSHARD.

H.R. 1522: Mr. STARK and Mr. LEWIS of Georgia.

H.R. 1523: Mr. STARK and Mr. LEWIS of Georgia.

H.R. 1524: Mr. STARK and Mr. LEWIS of Georgia.

H.R. 1525: Mr. STARK and Mr. LEWIS of Georgia.

H.R. 1533: Mr. BUYER, Mr. QUILLEN, Mr. SENSENBRENNER, Mr. GEKAS, Mr. GOODLATTE, Mr. FLANAGAN, Mr. FOLEY, Mr. HANCOCK, Mr. HILLEARY, Mrs. MYRICK, and Mr. DUNCAN.

H.R. 1547: Mr. OLVER.

H.R. 1555: Mr. DEUTSCH.

H.R. 1559: Mr. BROWN of California, Mr. FROST, Mr. KLECZKA, Mr. LIPINSKI, Mr. SMITH of New Jersey, Mrs. SCHROEDER, Mr. SCHUMER, Mr. SPRATT, and Mr. STARK.

H.R. 1560: Mr. CHAPMAN, Mr. FROST, Mr. DELLUMS, Mr. MOAKLEY, Mr. MURTHA, and Mr. SABO.

H.J. Res. 48: Mr. BARTON of Texas.

H.J. Res. 74: Mr. ROYCE and Mr. SOUDER.

H.J. Res. 79: Mr. HAMILTON, Mr. KANJORSKI, Mr. LEWIS of California, Mr. ROEMER, and Ms. ROS-LEHTINEN.

H. Con. Res. 21: Ms. LOWEY and Ms. LOFGREN.

H. Con. Res. 25: Mr. SHAYS.

H. Con. Res. 35: Mr. MANTON.

H. Con. Res. 42: Mr. HAMILTON, Mr. TRAFICANT, Mr. HASTINGS of Florida, Mr. KLINK, Mr. SISISKY, Mr. MEEHAN, Mrs. MORELLA, Mr. KENNEDY of Massachusetts, Mr. TORRES, and Mr. BROWN of Ohio.

H. Con. Res. 45: Mr. PASTOR, Mr. EVANS, Mr. ROMERO-BARCELÓ, Mr. CLINGER, and Mr. ACKERMAN.

H. Con. Res. 50: Mr. SISISKY, Mr. FRANK of Massachusetts, Mr. ACKERMAN, Mr. SCHUMER, and Mr. MEEHAN.

H. Con. Res. 54: Mr. KLINK.

H. Con. Res. 63: Mr. BARTON of Texas, Mr. SCHUMER, Mr. ZIMMER, and Mr. JONES.

H. Con. Res. 64: Mr. TRAFICANT.

H. Res. 122: Mr. DEFAZIO and Mr. SERRANO.

H. Res. 124: Mr. ANDREWS, Ms. MCKINNEY, and Mr. TORRES.

H. Res. 138: Mr. SHAYS, Mr. HERGER, Mr. SMITH of Texas, and Mr. LARGENT.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 743: Mr. FATTAH.

H.J. Res. 87: Mr. SALMON.

PETITIONS, ETC.

Under clause 1 of rule XXII.

20. The SPEAKER presented a petition of the Alexandria City Council, Alexandria, VA, relative to welfare reform; which was referred to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follow:

H.R. 961

OFFERED BY: MR. BACHUS

AMENDMENT NO. 1: Page 146, line 21, after the period insert the following:

At a minimum, the term 'small business' shall include a corporation, partnership, unincorporated business, and sole proprietorship employing 100 or fewer full time employees.

H.R. 961

OFFERED BY: MR. BACHUS

AMENDMENT NO. 2: Page 213, after line 5, insert the following:

SEC. 507. FEDERAL POWER ACT PART I PROJECTS.

Section 511(a) (33 U.S.C. 1371(a)) is amended by striking ", or (3)" and inserting the following: "; (3) applying to hydropower projects within the jurisdiction of the Federal Energy Regulatory Commission or its successors under the authority of part I of the Federal Power Act (16 U.S.C. 791 et seq.); except that water quality certification, unless waived or denied, shall be issued for such projects under section 401 and the water quality conditions in those certifications shall become conditions on project licenses and except that any water quality certification conditions or denial issued under section 401 shall be limited to consideration of narrative and numeric water quality criteria adopted in water quality standards under section 303 and such conditions shall not regulate, or such denial be based on, water use or water quantities; or (4)".

Renumber subsequent sections of the bill and conform the table of contents of the bill accordingly.

H.R. 961

OFFERED BY: MR. BOEHLERT

AMENDMENT NO. 3: Page 239, strike line 3 and all that follows through line 22 on page 322 and insert the following:

TITLE VIII—WETLANDS CONSERVATION AND MANAGEMENT

SEC. 801. SHORT TITLE.

This title may be cited as the "Wetlands and Watershed Management Act of 1995".

SEC. 802. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds and declares the following:

(1) Wetlands perform a number of valuable functions needed to restore and maintain the chemical, physical, and biological integrity of the Nation's waters, including—

(A) reducing pollutants (including nutrients, sediment, and toxics) from nonpoint and point sources;

(B) storing, conveying, and purifying flood and storm waters;

(C) reducing both bank erosion and wave and storm damage to adjacent lands and trapping sediment from upland sources;

(D) providing habitat and food sources for a broad range of commercial and recreational fish, shellfish, and migratory wildlife species (including waterfowl and endangered species); and

(E) providing a broad range of recreational values for canoeing, boating, birding, and nature study and observation.

(2) Original wetlands in the contiguous United States have been reduced by an estimated 50 percent and continue to disappear at a rate of 200,000 to 300,000 acres a year. Many of these original wetlands have also been altered or partially degraded, reducing their ecological value.

(3) Wetlands are highly sensitive to changes in water regimes and are, therefore, susceptible to degradation by fills, drainage, grading, water extractions, and other activities within their watersheds which affect the quantity, quality, and flow of surface and ground waters. Protection and management of wetlands, therefore, should be integrated with management of water systems on a watershed basis. A watershed protection and management perspective is also needed to understand and reverse the gradual, continued destruction of wetlands that occurs due to cumulative impacts.

(4) Wetlands constitute an estimated 5 percent of the Nation's surface area. Because much of this land is in private ownership wetlands protection and management strategies must take into consideration private property rights and the need for economic development and growth. This can be best accomplished in the context of a cooperative and coordinated Federal, State, and local strategy for data gathering, planning, management, and restoration with an emphasis on advance planning of wetlands in watershed contexts.

(b) PURPOSES.—The purposes of this Act are—

(1) to help create a coordinated national wetland management effort with efficient use of scarce Federal, State, and local financial and manpower resources to protect wetland functions and values and reduce natural hazard losses;

(2) to help reverse the trend of wetland loss in a fair, efficient, and cost-effective manner;

(3) to reduce inconsistencies and duplication in Federal, State, and local wetland management efforts and encourage integrated permitting at the Federal, State, and local levels;

(4) to increase technical assistance, cooperative training, and educational opportunities for States, local governments, and private landowners;

(5) to help integrate wetland protection and management with other water resource management programs on a watershed basis such as flood control, storm water management, allocation of water supply, protection of fish and wildlife, and point and nonpoint source pollution control;

(6) to increase regionalization of wetland delineation and management policies within a framework of national policies through advance planning of wetland areas, programmatic general permits and other approaches and the tailoring of policies to ecosystem and land use needs to reflect significant watershed variance in wetland resources;

(7) to address the cumulative loss of wetland resources;

(8) to increase the certainty and predictability of planning and regulatory policies for private landowners;

(9) to help achieve no overall net loss and net gain of the remaining wetland base of the United States through watershed-based restoration strategies involving all levels of government;

(10) to restore and create wetlands in order to increase the quality and quantity of the wetland resources and by so doing to restore and maintain the quality and quantity of the waters of the United States; and

(11) to provide mechanisms for joint State, Federal, and local development and testing of approaches to better protect wetland resources such as mitigation banking.

SEC. 803. STATE, LOCAL, AND LANDOWNER TECHNICAL ASSISTANCE AND COOPERATIVE TRAINING.

(a) STATE AND LOCAL TECHNICAL ASSISTANCE.—Upon request, the Administrator, or the Secretary of the Army, as appropriate, shall provide technical assistance to State and local governments in the development and implementation of State and local government permitting programs under sections 404(e) and 404(h) of the Federal Water Pollution Control Act, State wetland conservation plans under section 805, and regional or local wetland management plans under section 805.

(b) COOPERATIVE TRAINING.—The Administrator and the Secretary, in cooperation with the Coordinating Committee established pursuant to section 804, shall conduct training courses for States and local governments involving wetland delineation, utilization of wetlands in nonpoint pollution control, wetland and stream restoration, wetland planning, wetland evaluation, mitigation banking, and other subjects deemed appropriate by the Administrator or Secretary.

(c) PRIVATE LANDOWNER TECHNICAL ASSISTANCE.—The Administrator and Secretary shall, in cooperation with the Coordination Committee, and appropriate Federal agencies develop and provide to private landowners guidebooks, pamphlets, or other materials and technical assistance to help them in identifying and evaluating wetlands, developing integrated wetland management plans for their lands consistent with the goals of this Act and the Federal Water Pollution Control Act, and restoring wetlands.

SEC. 804. FEDERAL, STATE, AND LOCAL GOVERNMENT COORDINATING COMMITTEE.

(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall establish a Federal, State, and Local Government Wetlands Coordinating Committee (hereinafter in this section referred to as the "Committee").

(b) FUNCTIONS.—The Committee shall—

(1) help coordinate Federal, State, and local wetland planning, regulatory, and restoration programs on an ongoing basis to reduce duplication, resolve potential conflicts, and efficiently allocate manpower and resources at all levels of government;

(2) provide comments to the Secretary of the Army or Administrator in adopting regulatory, policy, program, or technical guidance affecting wetland systems;

(3) help develop and field test, national policies prior to implementation such as wetland, delineation, classification of wetlands, methods for sequencing wetland mitigation responses, the utilization of mitigation banks;

(4) help develop and carry out joint technical assistance and cooperative training programs as provided in section 803;

(5) help develop criteria and implementation strategies for facilitating State conservation plans and strategies, local and regional wetland planning, wetland restoration and creation, and State and local permitting programs pursuant to section 404(e) or 404(g) of the Federal Water Pollution Control Act; and

(6) help develop a national strategy for the restoration of wetland ecosystems pursuant to section 6 of this Act.

(c) MEMBERSHIP.—The Committee shall be composed of 18 members as follows:

(1) The Administrator or the designee of the Administrator.

(2) The Secretary or the designee of the Secretary.

(3) The Director of the United States Fish and Wildlife Service or the designee of the Director.

(4) The Chief of the Natural Resources Conservation Service or the designee of the Chief.

(5) The Undersecretary for Oceans and Atmosphere or the designee of the Under Secretary.

(6) One individual appointed by the Administrator who will represent the National Governor's Association.

(7) One individual appointed by the Administrator who will represent the National Association of Counties.

(8) One individual appointed by the Administrator who will represent the National League of Cities.

(9) One State wetland expert from each of the 10 regions of the Environmental Protection Agency. Each member to be appointed under this paragraph shall be jointly appointed by the Governors of the States within the Environmental Protection Agency's region. If the Governors from a region cannot agree on such a representative, they will each submit a nomination to the Administrator and the Administrator will select a representative from such region.

(d) TERMS.—Each member appointed pursuant to paragraph (6), (7), (8), or (9) of subsection (c) shall be appointed for a term of 2 years.

(e) VACANCIES.—A vacancy in the Committee shall be filled, on or before the 30th day after the vacancy occurs, in the manner in which the original appointment was made.

(f) PAY.—Members shall serve without pay, but may receive travel expenses (including per diem in lieu of subsistence) in accordance with sections 5702 and 5703 of title 5, United States Code.

(g) COCHAIRPERSONS.—The Administrator and one member appointed pursuant to paragraph (6), (7), (8), or (9) of subsection (c) (selected by such members) shall serve as cochairpersons of the Committee.

(h) QUORUM.—Two-thirds of the members of the Committee shall constitute a quorum but a lesser number may hold meetings.

(i) MEETINGS.—The Committee shall hold its first meeting not later than 120 days after the date of the enactment of this Act. The Committee shall meet at least twice each year thereafter. Meetings will be opened to the public.

SEC. 805. STATE AND LOCAL WETLAND CONSERVATION PLANS AND STRATEGIES; GRANTS TO FACILITATE THE IMPLEMENTATION OF SECTION 404.

(a) STATE WETLAND CONSERVATION PLANS AND STRATEGIES.—Subject to the requirements of this section, the Administrator shall make grants to States and tribes to assist in the development and implementation of wetland conservation plans and strategies. More specific goals for such conservation plans and strategies may include:

(1) Inventorying State wetland resources, identifying individual and cumulative losses, identifying State and local programs applying to wetland resources, determining gaps in such programs, and making recommendations for filling those gaps.

(2) Developing and coordinating existing State, local, and regional programs for wetland management and protection on a watershed basis.

(3) Increasing the consistency of Federal, State, and local wetland definitions, delineation, and permitting approaches.

(4) Mapping and characterizing wetland resources on a watershed basis.

(5) Identifying sites with wetland restoration or creation potential.

(6) Establishing management strategies for reducing causes of wetland degradation and restoring wetlands on a watershed basis.

(7) Assisting regional and local governments prepare watershed plans for areas with a high percentage of lands classified as wetlands or otherwise in need of special management.

(8) Establishing and implementing State or local permitting programs under section 404(e) or 404(h) of the Federal Water Pollution Control Act.

(b) REGIONAL AND LOCAL WETLAND PLANNING, REGULATION, AND MANAGEMENT PROGRAMS.—Subject to the requirements of this section, the Administrator shall make grants to States which will, in turn, use this funding to make grants to regional and local governments to assist them in adopting and implementing wetland and watershed management programs consistent with goals stated in section 101 of the Federal Water Pollution Control Act and section 802 of this Act. Such plans shall be integrated with (where appropriate) or coordinated with planning efforts pursuant to section 319 of the Federal Water Pollution Control Act. Such programs shall, at a minimum, involve the inventory of wetland resources and the adoption of plans and policies to help achieve the goal of no net loss of wetland resources on a watershed basis. Other goals may include, but are not limited to:

(1) Integration of wetland planning and management with broader water resource and land use planning and management, including flood control, water supply, storm water management, and control of point and nonpoint source pollution.

(2) Adoption of measures to increase consistency in Federal, State, and local wetland definitions, delineation, and permitting approaches.

(3) Establishment of management strategies for restoring wetlands on a watershed basis.

(c) GRANTS TO FACILITATE THE IMPLEMENTATION OF SECTION 404.—Subject to the requirements of this section, the Administrator may make grants to States which assist the Federal Government in the implementation of the section 404 Federal Water Pollution Control program through State assumption of permitting pursuant to sections 404(g) and 404(h) of such Act through State permitting through a State programmatic general permit pursuant to section 404(e) of such Act or through monitoring and enforcement activities. In order to be eligible to receive a grant under this section a State shall provide assurances satisfactory to the Administrator that amounts received by the State in grants under this section will be used to issue regulatory permits or to enforce regulations consistent with the overall goals of section 802 and the standards and procedures of section 404(g) or 404(e) of this Act.

(d) MAXIMUM AMOUNT.—No State may receive more than $500,000 in total grants under subsections (a), (b), and (c) in any fiscal year and more than $300,000 in grants for subsection (a), (b), or (c), individually.

(e) FEDERAL SHARE.—The Federal share of the cost of activities carried out using amounts made available in grants under this section shall not exceed 75 percent.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 per fiscal year for each of fiscal years 1996, 1997, 1998, 1999, and 2000.

SEC. 806. NATIONAL COOPERATIVE WETLAND ECOSYSTEM RESTORATION STRATEGY.

(a) DEVELOPMENT.—Not later than 180 days after the date of the enactment of this Act, the Administrator, in cooperation with other Federal agencies, State, and local governments, and representatives of the private sector, shall initiate the development of a National Cooperative Wetland Ecosystem Restoration Strategy.

(b) GOALS.—The goal of the National Cooperative Wetland Ecosystem Restoration Strategy shall be to restore damaged and degraded wetland and riparian ecosystems consistent with the goals of the Water Pollution Control Amendments and the goals of section 802, and the recommendations of the National Academy of Sciences with regard to the restoration of aquatic ecosystems.

(c) FUNCTIONS.—The National Cooperative Wetland Ecosystem Restoration Strategy shall—

(1) be designed to help coordinate and promote restoration efforts by Federal, State, regional, and local governments and the private sector, including efforts authorized by the Coastal Wetlands Planning, Protection, and Restoration Act, the North American Waterfowl Management Plan, the Wetlands Reserve Program, and the wetland restoration efforts on Federal, State, local, and private lands;

(2) involve the Federal, State, and local Wetlands Coordination Committee established pursuant to section 804;

(3) inventory and evaluate existing restoration efforts and make suggestions for the establishment of new watershed specific efforts consistent with existing Federal programs and State, regional, and local wetland protection and management efforts;

(4) evaluate the role presently being played by wetland restoration in both regulatory and nonregulatory contexts and the relative success of wetland restoration in these contexts;

(5) develop criteria for identifying wetland restoration sites on a watershed basis, procedures for wetlands restoration, and ecological criteria for wetlands restoration; and

(6) identify regulatory obstacles to wetlands ecosystem restoration and recommend methods to reduce such obstacles.

SEC. 807. PERMITS FOR DISCHARGE OF DREDGED OR FILL MATERIAL.

(a) Section 404(a) (33 U.S.C. 1344) is amended by adding at the end thereof the following: "The Secretary shall, in cooperation with the Administrator, establish a permit monitoring and tracking programs on a watershed basis to monitor the cumulative impact of individual and general permits issued under this section. This program shall determine the impact of permitted activities in relationship to the no net loss goal. Results shall be reported biannually to Congress.".

(b) Paragraph (1) of section 404(e) is amended by inserting "local," before "State, regional, or nationwide basis" in the first sentence.

(c) Paragraph (2) of section 404(e) is amended by striking the period at the end and inserting "or a State or local government has failed to adequately monitor and control the individual and cumulative adverse effects of activities authorized by State or local programmatic general permits.".

(d) Section 404(e) is amended by adding at the end thereof the following new paragraph:

"(3) Consistent with the following requirements, the Secretary may, after notice and opportunity for public comment, issue State or local programmatic general permits for

the purpose of avoiding unnecessary duplication of regulations by State, regional, and local regulatory programs:

"(A) The Secretary may issue a programmatic general permit based on a State, regional, or local government regulatory program if that general permit includes adequate safeguards to ensure that the State, regional, or local program will have no more than minimal cumulative impacts on the environment and will provide at least the same degree of protection for the environment, including all waters of the United States, and for Federal interests, as is provided by this section and by the Federal permitting program pursuant to section 404(a). Such safeguards shall include provisions whereby the Corps District Engineer and the Regional Administrators or Directors of the Environmental Protection Agency, the United States Fish and Wildlife Service, and the National Marine Fisheries Service (where appropriate), shall have an opportunity to review permit applications submitted to the State, regional, or local regulatory agency which would have more than minimal individual or cumulative adverse impacts on the environment, attempt to resolve any environmental concern or protect any Federal interest at issue, and, if such concern is not adequately addressed by the State, local, or regional agency, require the processing of an individual Federal permit under this section for the specific proposed activity. The Secretary shall ensure that the District Engineer will utilize this authority to protect all Federal interests including, but not limited to, national security, navigation, flood control, Federal endangered or threatened species, Federal interests under the Wild and Scenic Rivers Act, special aquatic sites of national importance, and other interests of overriding national importance. Any programmatic general permit issued under this subsection shall be consistent with the guidelines promulgated to implement subsection (b)(1).

"(B) In addition to the requirements of subparagraph (A), the Secretary shall not promulgate any local or regional programmatic general permit based on a local or regional government's regulatory program unless the responsible unit of government has also adopted a wetland and watershed management plan and is administering regulations to implement this plan. The watershed management plan shall include—

"(i) the designation of a local or regional regulatory agency which shall be responsible for issuing permits under the plan and for making reports every 2 years on implementation of the plan and on the losses and gains in functions and acres of wetland within the watershed plan area;

"(ii) mapping of—

"(I) the boundary of the plan area;

"(II) all wetlands and waters within the plan area as well as other areas proposed for protection under the plan; and

"(III) proposed wetland restoration or creation sites with a description of their intended functions upon completion and the time required for completion;

"(iii) a description of the regulatory policies and standards applicable to all wetlands and waters within the plan areas and all activities which may affect these wetlands and waters that will assure, at a minimum, no net loss of the functions and acres of wetlands within the plan area; and

"(iv) demonstration that the regulatory agency has the legal authority and scientific monitoring capability to carry out the proposed plan including the issuance, monitoring, and enforcement of permits in compliance with the plan.".

(e) Section 404(f) is amended by adding the following:

"(3)(A) For purposes of this section, the following shall not be considered navigable waters:

"(i) Irrigation ditches excavated in uplands.

"(ii) Artificially irrigated areas which would revert to uplands if the irrigation ceased.

"(iii) Artificial lakes or ponds created by excavating or diking uplands to collect and retain water, and which are used exclusively for stock watering, irrigation, or rice growing.

"(iv) Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating or diking uplands to retain water for primarily aesthetic reasons.

"(v) Temporary, water filled depressions created in uplands incidental to construction activity.

"(vi) Pits excavated in uplands for the purpose of obtaining fill, sand, gravel, aggregates, or minerals, unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States.

"(vii) Artificial stormwater detention areas and artificial sewage treatment areas which are not modified natural waters.

"(B) Subparagraph (A) shall not apply to a particular water body unless the person desiring to conduct an activity in that water body is able to demonstrate that the water body qualifies under subparagraph (A) for exemption from regulation under this section.".

SEC. 808. TECHNICAL ASSISTANCE TO PRIVATE LANDOWNERS, CODIFICATION OF REGULATIONS AND POLICIES.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(u)(1) The Secretary and the Administrator shall in cooperation with the United States Fish and Wildlife Service, Natural Resources Conservation Service, and National Marine Fisheries Service provide technical assistance to private landowners in delineation of wetlands and the planning and management of their wetlands. This assistance shall include—

"(A) the delineation of wetland boundaries within 90 days (providing on the ground conditions allow) of a request for such delineation for a project with a proposed individual permit application under this section and a total assessed value of less than $15,000; and

"(B) the provision of technical assistance to owners of wetlands in the preparation of wetland management plans for their lands to protect and restore wetlands and meet other goals of this Act, including control of nonpoint and point sources of pollution, prevention and reduction of erosion, and protection of estuaries and lakes.

"(2) The Secretary shall prepare, update on a biannual basis, and make available to the public for purchase at cost, an indexed publication containing all Federal regulations, general permits, and regulatory guidance letters relevant to the permitting of activities in wetland areas pursuant to section 404(a). The Secretary and the Administrator shall also prepare and distribute brochures and pamphlets for the public addressing—

"(A) the delineation of wetlands,

"(B) wetland permitting requirements; and

"(C) wetland restoration and other matters considered relevant.".

SEC. 809. DELINEATION.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(v) The United States Army Corps of Engineers, the United States Environmental Protection Agency, and other Federal agencies shall use the 1987 Corps of Engineers Manual for the Delineation of Jurisdictional Wetlands pursuant to this section until a new manual has been prepared and formally adopted by the Corps and the Environmental Protection Agency with input from the United States Fish and Wildlife Service, Natural Resources, Natural Resources Conservation Service, and other relevant agencies and adopted after field testing, hearing, and public comment. Any new manual shall take into account the conclusions of the National Academy of Sciences panel concerning the delineation of wetlands. The Corps in cooperation with the Environmental Protection Agency shall develop materials and conduct training courses for consultants, State, and local governments, and landowners explaining the use of the corps 1987 wetland manual in the delineation of wetland areas. The Corps in cooperation with the Environmental Protection Agency may also, in cooperation with the States, develop supplemental criteria and procedures for identification of regional wetland types. Such criteria and procedures may include supplemental plant and soil lists and supplementary technical criteria pertaining to wetland hydrology, soils, and vegetation.".

SEC. 810. FAST TRACK FOR MINOR PERMITS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(w)(1) Not later than 6 months after the date of enactment of this subsection, the Secretary shall issue regulations to explore the review and practice of individual permits for minor activities. Minor activities include activities of 1 acre or less in size which also have minor direct, secondary, or cumulative impacts.

"(2) Permit applications for minor permits shall ordinarily be processed within 60 days of the receipt of completed application.

"(3) The Secretary shall establish fast-track field teams or other procedures in the individual offices sufficient to expedite the processing of the individual permits involving minor activities.".

SEC. 811. COMPENSATORY MITIGATION.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(x) GENERAL REQUIREMENTS.—(1) Each permit issued under this section that results in loss of wetland functions or acreage shall require compensatory mitigation. The preferred sequence of mitigation options is as set forth in subparagraph (A) and (C). However, the Secretary shall have sufficient flexibility to approve practical options that provide the most protection to the resource—

"(A) measures shall first be undertaken by the permittee to avoid any adverse effects on wetlands caused by activities authorized by the permit.

"(B) measures shall be undertaken by the permittee to minimize any such adverse effects that cannot be avoided;

"(C) measures shall then be undertaken by the permittee to compensate for adverse impacts on wetland functions, values, and acreage;

"(D) where compensatory mitigation is used, preference shall be given to in-kind restoration on the same water body and within the same local watershed;

"(E) where on-site and in-kind compensatory mitigation are impossible, impractical, would fail to work in the circumstances, or would not make ecological sense, off-site and/or out-of-kind compensatory mitigation may be permitted within

the watershed including participation in cooperative mitigation ventures or mitigation banks as provided in section 404(y).

"(2) The Secretary in consultation with the Administrator shall ensure that compensable mitigation by a permitee—

"(A) is a specific, enforceable condition of the permit for which it is required;

"(B) will meet defined success criteria; and

"(C) is monitored to ensure compliance with the conditions of the permit and to determine the effectiveness of the mitigation in compensating for the adverse effects for which it is required.".

SEC. 812. COOPERATIVE MITIGATION VENTURES AND MITIGATION BANKS.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(y)(1) Not later than 1 year after the date of the enactment of this Act, the Secretary and the Administrator shall jointly issue rules for a system of cooperative mitigation ventures and wetland banks. Such rules shall, at the minimum, address the following topics:

"(A) Mitigation banks and cooperative ventures may be used on a watershed basis to compensate for unavoidable wetland losses which cannot be compensated on-site due to inadequate hydrologic conditions, excessive sedimentation, water pollution, or other problems. Mitigation banks and cooperative ventures may also be used to improve the potential success of compensatory mitigation through the use of larger projects, by locating projects in areas in more favorable short-term and long-term hydrology and proximity to other wetlands and waters, and by helping to ensure short-term and long-term project protection, monitoring, and maintenance.

"(B) Parties who may establish mitigation banks and cooperative mitigation ventures for use in specific context and for particular types of wetlands may include government agencies, nonprofits, and private individuals.

"(C) Surveys and inventories on a watershed basis of potential mitigation sites throughout a region or State shall ordinarily be required prior to the establishment of mitigation banks and cooperative ventures pursuant to this section.

"(D) Mitigation banks and cooperative mitigation ventures shall be used in a manner consistent with the sequencing requirements to mitigate unavoidable wetland impacts. Impacts should be mitigated within the watershed and water body if possible with on-site mitigation preferable as set forth in section 404(x).

"(E) The long-term security of ownership interests of wetlands and uplands on which projects are conducted shall be insured to protect the wetlands values associated with those wetlands and uplands;

"(F) Methods shall be specified to determine debits by evaluating wetland functions, values, and acreages at the sites of proposed permits for discharges or alternations pursuant to subsections (a), (c), and (g) and methods to be used to determine credits based upon functions, values, and acreages at the times of mitigation banks and cooperative mitigation ventures.

"(G) Geographic restrictions on the use of banks and cooperative mitigation ventures shall be specified. In general, mitigation banks or cooperative ventures shall be located on the same water body as impacted wetlands. If this is not possible or practical, banks or ventures shall be located as near as possible to impacted projects with preference given to the same watershed where the impact is occurring.

"(H) Compensation ratios for restoration, creation, enhancement, and preservation reflecting and overall goal of no net loss of function and the status of scientific knowledge with regard to compensation for individual wetlands, risks, costs, and other relevant factors shall be specified. A minimum restoration compensation ratio of 1:1 shall be required for restoration of lost acreage with larger compensation ratios for wetland creation, enhancement and preservation.

"(I) Fees to be charged for participation in a bank or cooperative mitigation venture shall be based upon the costs of replacing lost functions and acreage on-site and off-site; the risks of project failure, the costs of long-term maintenance, monitoring, and protection, and other relevant factors.

"(J) Responsibilities for long-term monitoring, maintenance, and protection shall be specified.

"(K) Public review of proposals for mitigation banks and cooperative mitigation ventures through one or more public hearings shall be provided.

"(2) The Secretary, in consultation with the Administrator, is authorized to establish and implement a demonstration program for creating and implementing mitigation banks and cooperative ventures and for evaluating alternative approaches for mitigation banks and cooperative mitigation ventures as a means of contributing to the goals established by section 101(a)(8) or section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403). The Secretary shall also monitor and evaluate existing banks and cooperative ventures and establish a number of such banks and cooperative ventures to test and demonstrate:

"(A) The technical feasibility of compensation for lost on-site values through off-site cooperative mitigation ventures and mitigation banks.

"(B) Techniques for evaluating lost wetland functions and values at sites for which permits are sought pursuant to section 404(a) and techniques for determining appropriate credits and debits at the sites of cooperative mitigation ventures and mitigation banks.

"(C) The adequacy of alternative institutional arrangements for establishing and administering mitigation banks and cooperative mitigation ventures.

"(D) The appropriate geographical locations of bank or cooperative mitigation ventures in compensation for lost functions and values.

"(E) Mechanisms for ensuring short-term and long-term project monitoring and maintenance.

"(F) Techniques and incentives for involving private individuals in establishing and implementing mitigation banks and cooperative mitigation ventures.

Not later than 3 years after the date of the enactment of this subsection, the Secretary shall transmit to Congress a report evaluating mitigation banks and cooperative ventures. The Secretary shall also, within this time period, prepare educational materials and conduct training programs with regard to the use of mitigation banks and cooperative ventures.".

SEC. 813. WETLANDS MONITORING AND RESEARCH.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(z) The Secretary, in cooperation with the Administrator, the Director of the United States Fish and Wildlife Service, and appropriate State and local government entities, shall initiate, with opportunity for public notice and comment, a research program of wetlands and watershed management. The purposes of the research program shall include, but not be limited—

"(1) to study the functions, values and management needs of altered, artificial, and managed wetland systems including lands that were converted to production of commodity crops prior to December 23, 1985, and report to Congress within 2 years of the date of the enactment of this subsection;

"(2) to study techniques for managing and restoring wetlands within a watershed context;

"(3) to study techniques for better coordinating and integrating wetland, floodplain, stormwater, point and nonpoint source pollution controls, and water supply planning and plan implementation on a watershed basis at all levels of government; and

"(4) to establish a national wetland regulatory tracking program on a watershed basis.

This program shall track the individual and cumulative impact of permits issued pursuant to section 404(a), 404(e), and 404(h) in terms of types of permits issued, conditions, and approvals. The tracking program shall also include mitigation required in terms of the amount required, types required, and compliance.".

SEC. 814. DEFINITIONS.

Section 502 (33 U.S.C. 1362) is amended by adding at the end the following:

"(28) The term 'wetland' means those areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions.

"(29) The term 'discharge of dredged or fill material' means the act of discharging and any related act of filling, grading, draining, dredging, excavation, channelization, flooding, clearing of vegetation, driving of piling or placement of other obstructions, diversion of water, or other activities in navigable waters which impair the flow, reach, or circulation of surface water, or which result in a more than minimal change in the hydrologic regime, bottom contour, or configuration of such waters, or in the type, distribution, or diversity of vegetation in such waters.

"(30) The term 'mitigation bank' shall mean wetland restoration, creation, or enhancement projects undertaken primarily for the purpose of providing mitigation compensation credits for wetland losses from future activities. Often these activities will be, as yet, undefined.

"(31) The term 'cooperative mitigation ventures' shall mean wetland restoration, creation, or enhancement projects undertaken jointly by several parties (such as private, public, and nonprofit parties) with the primary goal of providing compensation for wetland losses from existing or specific proposed activities. Some compensation credits may also be provided for future as yet undefined activities. Most cooperative mitigation ventures will involve at least one private and one public cooperating party.".

Conform the table of contents of the bill accordingly.

H.R. 961

OFFERED BY: MR. BOEHLERT

AMENDMENT NO. 4: Page 115, strike line 5 and all that follows through line 3 on page 117 and insert the following:

(n) COASTAL ZONE MANAGEMENT.—Section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1451 note) is amended—

(1) in subsection (a)(1)—

(A) by inserting "(A)" after "PROGRAM DEVELOPMENT.—"; and

(B) by adding at the end the following:

"(B) A State that has not received Federal approval for the State's core coastal management program pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) shall have 30 months from the date of approval of such program to submit a Coastal Nonpoint Pollution Program pursuant to this section. Any such State shall also be eligible for any extension of time for submittal of the State's nonpoint program that may be received by a State with a federally approved coastal management program.";

(2) in subsection (b), in the matter preceding paragraph (1), by striking "to protect coastal waters generally" and inserting "to restore and protect coastal waters where the State has determined that coastal waters are threatened or significantly degraded";

(3) in subsection (b)(3)—

(A) by striking "The implementation" and inserting "A schedule for the implementation"; and

(B) by inserting ", and no less often than once every 5 years," after "from time to time";

(4) in subsection (b) by adding at the end the following:

"(7) IDENTIFICATION OF PRIORITY AREAS.—A prioritization of the areas in the State in which management measures will be implemented.";

(5) in subsection (c) by adding at the end the following:

"(5) CONDITIONAL APPROVAL.—The Secretary and Administrator may grant conditional approval to a State's program where the State requests additional time to complete the development of its program. During the period during which the State's program is subject to conditional approval, the penalty provisions of paragraphs (3) and (4) shall not apply.";

(6) in subsection (h)(1) by striking ", 1993, and 1994" and inserting "through 2000"; and

(7) in subsection (h)(2)(B)(iv) by striking "fiscal year 1995" and inserting "each of fiscal years 1995 through 2000".

H.R. 961

OFFERED BY: MR. BOEHLERT

AMENDMENT NO. 5: Page 133, strike line 15 and all that follows through line 9 on page 170 and insert the following:

SEC. 322. MUNICIPAL AND INDUSTRIAL STORMWATER DISCHARGES.

(a) DEADLINES.—Section 402(p) (33 U.S.C. 1343(p)) is amended—

(1) in paragraph (1) by striking "1994" and inserting "2005"; and

(2) in paragraph (6) by striking "1993" and inserting "2005".

(b) PROHIBITION ON NUMERIC EFFLUENT LIMITATIONS FOR MUNICIPAL DISCHARGES.—Section 402(p)(3) is amended by adding at the end of the following:

"(C) PROHIBITION ON NUMERIC EFFLUENT LIMITATIONS FOR MUNICIPAL DISCHARGES.—Permits for municipal separate storm sewers shall not include numeric effluent limitations.".

Conform the table of contents of the bill accordingly.

H.R. 961

(Amendment in the Nature of a Substitute)

OFFERED BY: MR. BOEHLERT

AMENDMENT NO. 6: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Clean Water Amendments of 1995".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Definition.
Sec. 3. Amendment of Federal Water Pollution Control Act.

TITLE I—RESEARCH AND RELATED PROGRAMS

Sec. 101. Research, investigations, training, and information.
Sec. 102. State management assistance.
Sec. 103. Mine water pollution control.
Sec. 104. Water sanitation in rural and Native Alaska villages.
Sec. 105. Authorization of appropriations for Chesapeake program.
Sec. 106. Great Lakes management.

TITLE II—CONSTRUCTION GRANTS

Sec. 201. Uses of funds.
Sec. 202. Administration of closeout of construction grant program.
Sec. 203. Sewage collection systems.
Sec. 204. Value engineering review.
Sec. 205. Grants for wastewater treatment.

TITLE III—STANDARDS AND ENFORCEMENT

Sec. 301. Arid areas.
Sec. 302. Secondary treatment.
Sec. 303. Federal facilities.
Sec. 304. National estuary program.
Sec. 305. Nonpoint source management programs.
Sec. 306. Coastal zone management.
Sec. 307. Comprehensive watershed management.
Sec. 308. Revision of effluent limitations.

TITLE IV—PERMITS AND LICENSES

Sec. 401. Waste treatment systems for concentrated animal feeding operations.
Sec. 402. Municipal and industrial stormwater discharges.
Sec. 403. Intake credits.
Sec. 404. Combined sewer overflows.
Sec. 405. Abandoned mines.
Sec. 406. Beneficial use of biosolids.

TITLE V—GENERAL PROVISIONS

Sec. 501. Publicly owned treatment works defined.
Sec. 502. Implementation of water pollution laws with respect to vegetable oil.
Sec. 503. Needs estimate.
Sec. 504. Food processing and food safety.
Sec. 505. Audit dispute resolution.

TITLE VI—STATE WATER POLLUTION CONTROL REVOLVING FUNDS

Sec. 601. General authority for capitalization grants.
Sec. 602. Capitalization grant agreements.
Sec. 603. Water pollution control revolving loan funds.
Sec. 604. Allotment of funds.
Sec. 605. Authorization of appropriations.
Sec. 606. State nonpoint source water pollution control revolving funds.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Technical amendments.
Sec. 702. John A. Blatnik National Fresh Water Quality Research Laboratory.
Sec. 703. Wastewater service for colonias.
Sec. 704. Savings in municipal drinking water costs.

TITLE VIII—WETLANDS CONSERVATION AND MANAGEMENT

Sec. 801. Short title.
Sec. 802. Findings and purposes.
Sec. 803. State, local, and landowner technical assistance and cooperative training.
Sec. 804. Federal, State, and Local Government Coordinating Committee.
Sec. 805. State and local wetland conservation plans and strategies; grants to facilitate the implementation of section 404.
Sec. 806. National cooperative wetland ecosystem restoration strategy.
Sec. 807. Permits for discharge of dredged or fill material.
Sec. 808. Technical assistance to private landowners, codification of regulations and policies.
Sec. 809. Delineation.
Sec. 810. Fast track for minor permits.
Sec. 811. Compensatory mitigation.
Sec. 812. Cooperative mitigation ventures and mitigation banks.
Sec. 813. Wetlands monitoring and research.
Sec. 814. Administrative appeals.
Sec. 815. Cranberry production.
Sec. 816. State classification systems.
Sec. 817. Definitions.

SEC. 2. DEFINITION.

In this Act, the term "Administrator" means the Administrator of the Environmental Protection Agency.

SEC. 3. AMENDMENT OF FEDERAL WATER POLLUTION CONTROL ACT.

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 Federal Water Pollution Control Act (33 U.S.C. 1251–1387).

TITLE I—RESEARCH AND RELATED PROGRAMS

SEC. 101. RESEARCH, INVESTIGATIONS, TRAINING, AND INFORMATION.

(a) NATIONAL PROGRAMS.—Section 104(a) (33 U.S.C. 1254(a)) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following:

"(7) in cooperation with appropriate Federal, State, and local agencies, conduct, promote, and encourage to the maximum extent feasible, in watersheds that may be significantly affected by nonpoint sources of pollution, monitoring and measurement of water quality by means and methods that will help to identify the relative contributions of particular nonpoint sources.".

(b) GRANTS TO LOCAL GOVERNMENTS.—Section 104(b)(3) (33 U.S.C. 1254(b)(3)) is amended by inserting "local governments," after "interstate agencies,".

(c) TECHNICAL ASSISTANCE FOR RURAL AND SMALL TREATMENT WORKS.—Section 104(b) (33 U.S.C. 1254(b)) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting a semicolon; and

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

"(8) make grants to nonprofit organizations to provide technical assistance and training to rural and small publicly owned treatment works to enable such treatment works to achieve and maintain compliance with the requirements of this Act; and

"(9) disseminate information to rural, small, and disadvantaged communities with respect to the planning, design, construction, and operation of treatment works.".

(d) WASTEWATER TREATMENT IN IMPOVERISHED COMMUNITIES.—Section 104(q) (33 U.S.C. 1254(q)) is amended by adding at the end the following:

"(5) SMALL IMPOVERISHED COMMUNITIES.—

"(A) GRANTS.—The Administrator may make grants to States to provide assistance for planning, design, and construction of publicly owned treatment works to provide wastewater services to rural communities of 3,000 or less that are not currently served by any sewage collection or water treatment system and are severely economically disadvantaged, as determined by the Administrator.

"(B) AUTHORIZATION.—There is authorized to be appropriated to carry out this paragraph $50,000,000 per fiscal year for fiscal years 1996 through 2000.".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 104(u) (33 U.S.C. 1254(u)) is amended—

(1) by striking "and" before "(6)"; and

(2) by inserting before the period at the end the following: "; and (7) not to exceed $50,000,000 per fiscal year for each of fiscal years 1996 through 2000 for carrying out the provisions of subsections (b)(3), (b)(8), and (b)(9), except that not less than 20 percent of the sums appropriated pursuant to this clause shall be available for carrying out the provisions of subsections (b)(8) and (b)(9)".

SEC. 102. STATE MANAGEMENT ASSISTANCE.

Section 106(a) (33 U.S.C. 1256(a)) is amended—

(1) by striking "and" before "$75,000,000";

(2) by inserting after "1990" the following: ", such sums as may be necessary for each of fiscal years 1991 through 1995, and $150,000,000 per fiscal year for each of fiscal years 1996 through 2000"; and

(3) by adding at the end the following: "States or interstate agencies receiving grants under this section may use such funds to finance, with other States or interstate agencies, studies and projects on interstate issues relating to such programs.".

SEC. 103. MINE WATER POLLUTION CONTROL.

Section 107 (33 U.S.C. 1257) is amended to read as follows:

"SEC. 107. MINE WATER POLLUTION CONTROL.

"(a) ACIDIC AND OTHER TOXIC MINE DRAINAGE.—The Administrator shall establish a program to demonstrate the efficacy of measures for abatement of the causes and treatment of the effects of acidic and other toxic mine drainage within qualified hydrologic units affected by past coal mining practices for the purpose of restoring the biological integrity of waters within such units.

"(b) GRANTS.—

"(1) IN GENERAL.—Any State or Indian tribe may apply to the Administrator for a grant for any project which provides for abatement of the causes or treatment of the effects of acidic or other toxic mine drainage within a qualified hydrologic unit affected by past coal mining practices.

"(2) APPLICATION REQUIREMENTS.—An application submitted to the Administrator under this section shall include each of the following:

"(A) An identification of the qualified hydrologic unit.

"(B) A description of the extent to which acidic or other toxic mine drainage is affecting the water quality and biological resources within the hydrologic unit.

"(C) An identification of the sources of acidic or other toxic mine drainage within the hydrologic unit.

"(D) An identification of the project and the measures proposed to be undertaken to abate the causes or treat the effects of acidic or other toxic mine drainage within the hydrologic unit.

"(E) The cost of undertaking the proposed abatement or treatment measures.

"(c) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of the cost of a project receiving grant assistance under this section shall be 50 percent.

"(2) LANDS, EASEMENTS, AND RIGHTS-OF-WAY.—Contributions of lands, easements, and rights-of-way shall be credited toward the non-Federal share of the cost of a project under this section but not in an amount exceeding 25 percent of the total project cost.

"(3) OPERATION AND MAINTENANCE.—The non-Federal interest shall bear 100 percent of the cost of operation and maintenance of a project under this section.

"(d) PROHIBITED PROJECTS.—No acidic or other toxic mine drainage abatement or treatment project may receive assistance under this section if the project would adversely affect the free-flowing characteristics of any river segment within a qualified hydrologic unit.

"(e) APPLICATIONS FROM FEDERAL ENTITIES.—Any Federal entity may apply to the Administrator for a grant under this section for the purposes of an acidic or toxic mine drainage abatement or treatment project within a qualified hydrologic unit located on lands and waters under the administrative jurisdiction of such entity.

"(f) APPROVAL.—The Administrator shall approve an application submitted pursuant to subsection (b) or (e) after determining that the application meets the requirements of this section.

"(g) QUALIFIED HYDROLOGIC UNIT DEFINED.—For purposes of this section, the term 'qualified hydrologic unit' means a hydrologic unit—

"(1) in which the water quality has been significantly affected by acidic or other toxic mine drainage from past coal mining practices in a manner which adversely impacts biological resources; and

"(2) which contains lands and waters eligible for assistance under title IV of the Surface Mining and Reclamation Act of 1977.".

SEC. 104. WATER SANITATION IN RURAL AND NATIVE ALASKA VILLAGES.

(a) IN GENERAL.—Section 113 (33 U.S.C. 1263) is amended by striking the section heading and designation and subsections (a) through (f) and inserting the following:

"SEC. 113. ALASKA VILLAGE PROJECTS AND PROGRAMS.

"(a) GRANTS.—The Administrator is authorized to make grants—

"(1) for the development and construction of facilities which provide sanitation services for rural and Native Alaska villages;

"(2) for training, technical assistance, and educational programs relating to operation and maintenance for sanitation services in rural and Native Alaska villages; and

"(3) for reasonable costs of administering and managing grants made and programs and projects carried out under this section; except that not to exceed 4 percent of the amount of any grant made under this section may be made for such costs.

"(b) FEDERAL SHARE.—A grant under this section shall be 50 percent of the cost of the program or project being carried out with such grant.

"(c) SPECIAL RULE.—The Administrator shall award grants under this section for project construction following the rules specified in subpart H of part 1942 of title 7 of the Code of Federal Regulations.

"(d) GRANTS TO STATE FOR BENEFIT OF VILLAGES.—Grants under this section may be made to the State for the benefit of rural Alaska villages and Alaska Native villages.

"(e) COORDINATION.—In carrying out activities under this subsection, the Administrator is directed to coordinate efforts between the State of Alaska, the Secretary of Housing and Urban Development, the Secretary of Health and Human Services, the Secretary of the Interior, the Secretary of Agriculture, and the recipients of grants.

"(f) FUNDING.—There is authorized to be appropriated $25,000,000 for fiscal years beginning after September 30, 1995, to carry out this section.".

(b) CONFORMING AMENDMENT.—Section 113(g) is amended by inserting after "(g)" the following: "DEFINITIONS.—".

SEC. 105. AUTHORIZATION OF APPROPRIATIONS FOR CHESAPEAKE PROGRAM.

Section 117(d) (33 U.S.C. 1267(d)) is amended—

(1) in paragraph (1), by inserting "such sums as may be necessary for fiscal years 1991 through 1995, and $3,000,000 per fiscal year for each of fiscal years 1996 through 2000" after "1990,"; and

(2) in paragraph (2), by inserting "such sums as may be necessary for fiscal years 1991 through 1995, and $18,000,000 per fiscal year for each of fiscal years 1996 through 2000" after "1990,".

SEC. 106. GREAT LAKES MANAGEMENT.

(a) GREAT LAKES RESEARCH COUNCIL.—

(1) IN GENERAL.—Section 118 (33 U.S.C. 1268) is amended—

(A) in subsection (a)(3)—

(i) by striking subparagraph (E) and inserting the following:

"(E) 'Council' means the Great Lakes Research Council established by subsection (d)(1);";

(ii) by striking "and" at the end of subparagraph (I);

(iii) by striking the period at the end of subparagraph (J) and inserting "; and"; and

(iv) by adding at the end the following:

"(K) 'Great Lakes research' means the application of scientific or engineering expertise to explain, understand, and predict a physical, chemical, biological, or socioeconomic process, or the interaction of 1 or more of the processes, in the Great Lakes ecosystem.";

(B) by striking subsection (d) and inserting the following:

"(d) GREAT LAKES RESEARCH COUNCIL.—

"(1) ESTABLISHMENT OF COUNCIL.—There is established a Great Lakes Research Council.

"(2) DUTIES OF COUNCIL.—The Council—

"(A) shall advise and promote the coordination of Federal Great Lakes research activities to avoid unnecessary duplication and ensure greater effectiveness in achieving protection of the Great Lakes ecosystem through the goals of the Great Lakes Water Quality Agreement;

"(B) not later than 1 year after the date of the enactment of this subparagraph and biennially thereafter and after providing opportunity for public review and comment, shall prepare and provide to interested parties a document that includes—

"(i) an assessment of the Great Lakes research activities needed to fulfill the goals of the Great Lakes Water Quality Agreement;

"(ii) an assessment of Federal expertise and capabilities in the activities needed to fulfill the goals of the Great Lakes Water Quality Agreement, including an inventory of Federal Great Lakes research programs, projects, facilities, and personnel; and

"(iii) recommendations for long-term and short-term priorities for Federal Great Lakes research, based on a comparison of the assessments conducted under clauses (i) and (ii);

"(C) shall identify topics for and participate in meetings, workshops, symposia, and conferences on Great Lakes research issues;

"(D) shall make recommendations for the uniform collection of data for enhancing Great Lakes research and management protocols relating to the Great Lakes ecosystem;

"(E) shall advise and cooperate in—

"(i) improving the compatible integration of multimedia data concerning the Great Lakes ecosystem; and

"(ii) any effort to establish a comprehensive multimedia data base for the Great Lakes ecosystem; and

"(F) shall ensure that the results, findings, and information regarding Great Lakes research programs conducted or sponsored by the Federal Government are disseminated in a timely manner, and in useful forms, to interested persons, using to the maximum extent practicable mechanisms in existence on the date of the dissemination, such as the Great Lakes Research Inventory prepared by the International Joint Commission.

"(3) MEMBERSHIP.—

"(A) IN GENERAL.—The Council shall consist of 1 research manager with extensive knowledge of, and scientific expertise and experience in, the Great Lakes ecosystem from each of the following agencies and instrumentalities:

"(i) The Agency.

"(ii) The National Oceanic and Atmospheric Administration.

"(iii) The National Biological Service.

"(iv) The United States Fish and Wildlife Service.

"(v) Any other Federal agency or instrumentality that expends $1,000,000 or more for a fiscal year on Great Lakes research.

"(vi) Any other Federal agency or instrumentality that a majority of the Council membership determines should be represented on the Council.

"(B) NONVOTING MEMBERS.—At the request of a majority of the Council membership, any person who is a representative of a Federal agency or instrumentality not described in subparagraph (A) or any person who is not a Federal employee may serve as a nonvoting member of the Council.

"(4) CHAIRPERSON.—The chairperson of the Council shall be a member of the Council from an agency specified in clause (i), (ii), or (iii) of paragraph (3)(A) who is elected by a majority vote of the members of the Council. The chairperson shall serve as chairperson for a period of 2 years. A member of the Council may not serve as chairperson for more than 2 consecutive terms.

"(5) EXPENSES.—While performing official duties as a member of the Council, a member shall be allowed travel or transportation expenses under section 5703 of title 5, United States Code.

"(6) INTERAGENCY COOPERATION.—The head of each Federal agency or instrumentality that is represented on the Council—

"(A) shall cooperate with the Council in implementing the recommendations developed under paragraph (2);

"(B) on written request of the chairperson of the Council, may make available, on a reimbursable basis or otherwise, such personnel, services, or facilities as may be necessary to assist the Council in carrying out the duties of the Council under this section; and

"(C) on written request of the chairperson, shall furnish data or information necessary to carry out the duties of the Council under this section.

"(7) INTERNATIONAL COOPERATION.—The Council shall cooperate, to the maximum extent practicable, with the research coordination efforts of the Council of Great Lakes Research Managers of the International Joint Commission.

"(8) REIMBURSEMENT FOR REQUESTED ACTIVITIES.—Each Federal agency or instrumentality represented on the Council may reimburse another Federal agency or instrumentality or a non-Federal entity for costs associated with activities authorized under this subsection that are carried out by the other agency, instrumentality, or entity at the request of the Council.

"(9) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council.

"(10) EFFECT ON OTHER LAW.—Nothing in this subsection affects the authority of any Federal agency or instrumentality, under any law, to undertake Great Lakes research activities.";

(C) in subsection (e)—

(i) in paragraph (1) by striking "the Program Office and the Research Office shall prepare a joint research plan" and inserting "the Program Office, in consultation with the Council, shall prepare a research plan"; and

(ii) in paragraph (3)(A) by striking "the Research Office, the Agency for Toxic Substances and Disease Registry, and Great Lakes States" and inserting "the Council, the Agency for Toxic Substances and Disease Registry, and Great Lakes States,"; and

(D) in subsection (h)—

(i) by adding "and" at the end of paragraph (1);

(ii) by striking "; and" at the end of paragraph (2) and inserting a period; and

(iii) by striking paragraph (3).

(2) CONFORMING AMENDMENT.—The second sentence of section 403(a) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1447b(a)) is amended by striking "Great Lakes Research Office authorized under" and inserting "Great Lakes Research Council established by".

(b) CONSISTENCY OF PROGRAMS WITH FEDERAL GUIDANCE.—Section 118(c)(2)(C) (33 U.S.C. 1268(c)(2)(C)) is amended by adding at the end the following: "For purposes of this section, a State's standards, policies, and procedures shall be considered consistent with such guidance if the standards, policies, and procedures are based on scientifically defensible judgments and policy choices made by the State after consideration of the guidance and provide an overall level of protection comparable to that provided by the guidance, taking into account the specific circumstances of the State's waters.".

(c) REAUTHORIZATION OF ASSESSMENT AND REMEDIATION OF CONTAMINATED SEDIMENTS PROGRAM.—Section 118(c)(7) is amended by adding at the end the following:

"(D) REAUTHORIZATION OF ASSESSMENT AND REMEDIATION OF CONTAMINATED SEDIMENTS PROGRAM.—

"(i) IN GENERAL.—The Administrator, acting through the Program Office, in consultation and cooperation with the Assistant Secretary of the Army having responsibility for civil works, shall conduct at least 3 pilot projects involving promising technologies and practices to remedy contaminated sediments (including at least 1 full-scale demonstration of a remediation technology) at sites in the Great Lakes System, as the Administrator determines appropriate.

"(ii) SELECTION OF SITES.—In selecting sites for the pilot projects, the Administrator shall give priority consideration to—

"(I) the Ashtabula River in Ohio;

"(II) the Buffalo River in New York;

"(III) Duluth and Superior Harbor in Minnesota;

"(IV) the Fox River in Wisconsin;

"(V) the Grand Calumet River in Indiana; and

"(VI) Saginaw Bay in Michigan.

"(iii) DEADLINES.—In carrying out this subparagraph, the Administrator shall—

"(I) not later than 18 months after the date of the enactment of this subparagraph, identify at least 3 sites and the technologies and practices to be demonstrated at the sites (including at least 1 full-scale demonstration of a remediation technology); and

"(II) not later than 5 years after such date of enactment, complete at least 3 pilot projects (including at least 1 full-scale demonstration of a remediation technology).

"(iv) ADDITIONAL PROJECTS.—The Administrator, acting through the Program Office, in consultation and cooperation with the Assistant Secretary of the Army having responsibility for civil works, may conduct additional pilot- and full-scale pilot projects involving promising technologies and practices at sites in the Great Lakes System other than the sites selected under clause (i).

"(v) EXECUTION OF PROJECTS.—The Administrator may cooperate with the Assistant Secretary of the Army having responsibility for civil works to plan, engineer, design, and execute pilot projects under this subparagraph.

"(vi) NON-FEDERAL CONTRIBUTIONS.—The Administrator may accept non-Federal contributions to carry out pilot projects under this subparagraph.

"(vii) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subparagraph $3,500,000 for each of fiscal years 1996 through 2000.

"(E) TECHNICAL INFORMATION AND ASSISTANCE.—

"(i) IN GENERAL.—The Administrator, acting through the Program Office, may provide technical information and assistance involving technologies and practices for remediation of contaminated sediments to persons that request the information or assistance.

"(ii) TECHNICAL ASSISTANCE PRIORITIES.—In providing technical assistance under this subparagraph, the Administrator, acting through the Program Office, shall give special priority to requests for integrated assessments of, and recommendations regarding, remediation technologies and practices for contaminated sediments at Great Lakes areas of concern.

"(iii) COORDINATION WITH OTHER DEMONSTRATIONS.—The Administrator shall—

"(I) coordinate technology demonstrations conducted under this subparagraph with other federally assisted demonstrations of contaminated sediment remediation technologies; and

"(II) share information from the demonstrations conducted under this subparagraph with the other demonstrations.

"(iv) OTHER SEDIMENT REMEDIATION ACTIVITIES—Nothing in this subparagraph limits the authority of the Administrator to carry out sediment remediation activities under other laws.

"(v) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subparagraph $1,000,000 for each of fiscal years 1996 through 2000.".

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) RESEARCH AND MANAGEMENT.—Section 118(e)(3)(B) (33 U.S.C. 1268(e)(3)(B)) is amended by inserting before the period at the end the following: ", such sums as may be necessary for fiscal year 1995, and $4,000,000 per fiscal year for each of fiscal years 1996, 1997, and 1998".

(2) GREAT LAKES PROGRAMS.—Section 118(h) (33 U.S.C. 1268(h)) is amended—

(A) by striking "and" before "$25,000,000"; and

(B) by inserting before the period at the end of the first sentence the following: ", such sums as may be necessary for fiscal years 1992 through 1995, and $17,500,000 per fiscal year for each of fiscal years 1996 through 2000".

TITLE II—CONSTRUCTION GRANTS

SEC. 201. USES OF FUNDS.

(a) NONPOINT SOURCE PROGRAM.—Section 201(g)(1) (33 U.S.C. 1281(g)(1)) is amended by striking the period at the end of the first sentence and all that follows through the period at the end of the last sentence and inserting the following: "and for any purpose for which a grant may be made under sections 319(h) and 319(i) of this Act (including any innovative and alternative approaches for the control of nonpoint sources of pollution).".

(b) RETROACTIVE ELIGIBILITY.—Section 201(g)(1) is further amended by adding at the end the following: "The Administrator, with the concurrence of the States, shall develop procedures to facilitate and expedite the retroactive eligibility and provision of grant funding for facilities already under construction.".

SEC. 202. ADMINISTRATION OF CLOSEOUT OF CONSTRUCTION GRANT PROGRAM.

Section 205(g)(1) (33 U.S.C. 1285(g)(1)) is amended by adding at the end the following: "The Administrator may negotiate an annual budget with a State for the purpose of administering the closeout of the State's construction grants program under this title. Sums made available for administering such closeout shall be subtracted from amounts remaining available for obligation under the State's construction grant program under this title.".

SEC. 203. SEWAGE COLLECTION SYSTEMS.

Section 211(a) (33 U.S.C. 1291(a)) is amended—

(1) in clause (1) by striking "an existing collection system" and inserting "a collection system existing on the date of the enactment of the Clean Water Amendments of 1995"; and

(2) in clause (2)—

(A) by striking "an existing community" and inserting "a community existing on such date of enactment"; and

(B) by striking "sufficient existing" and inserting "sufficient capacity existing on such date of enactment".

SEC. 204. VALUE ENGINEERING REVIEW.

Section 218(c) (33 U.S.C. 1298(c)) is amended by striking "$10,000,000" and inserting "$25,000,000".

SEC. 205. GRANTS FOR WASTEWATER TREATMENT.

(a) COASTAL LOCALITIES.—The Administrator shall make grants under title II of the Federal Water Pollution Control Act to appropriate instrumentalities for the purpose of construction of treatment works (including combined sewer overflow facilities) to serve coastal localities. No less than $10,000,000 of the amount of such grants shall be used for water infrastructure improvements in New Orleans, no less than $3,000,000 of the amount of such grants shall be used for water infrastructure improvements in Bristol County, Massachusetts, and no less than ⅓ of the amount of such grants shall be used to assist localities that meet both of the following criteria:

(1) NEED.—A locality that has over $2,000,000,000 in category I treatment needs documented and accepted in the Environmental Protection Agency's 1992 Needs Survey database as of February 4, 1993.

(2) HARDSHIP.—A locality that has wastewater user charges, for residential use of 7,000 gallons per month based on Ernst & Young National Water and Wastewater 1992 Rate Survey, greater than 0.65 percent of 1989 median household income for the metropolitan statistical area in which such locality is located as measured by the Bureau of the Census.

(b) FEDERAL SHARE.—Notwithstanding section 202(a)(1) of the Federal Water Pollution Control Act, the Federal share of grants under subsection (a) shall be 80 percent of the cost of construction, and the non-Federal share shall be 20 percent of the cost of construction.

(c) SMALL COMMUNITIES.—The Administrator shall make grants to States for the purpose of providing assistance for the construction of treatment works to serve small communities as defined by the State; except that the term "small communities" may not include any locality with a population greater than 75,000. Funds made available to carry out this subsection shall be allotted by the Administrator to the States in accordance with the allotment formula contained in section 604(a) of the Federal Water Pollution Control Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for making grants under this section $300,000,000 for fiscal year 1996. Such sums shall remain available until expended and shall be equally divided between subsections (a) and (c) of this section. Such authorization of appropriation shall take effect only if the total amount appropriated for fiscal year 1996 to carry out title VI of the Federal Water Pollution Control Act is at least $3,000,000,000.

TITLE III—STANDARDS AND ENFORCEMENT

SEC. 301. ARID AREAS.

(a) CONSTRUCTED WATER CONVEYANCES.—Section 303(c)(2) (33 U.S.C. 1313(c)(2)) is amended by adding at the end the following:

"(D) STANDARDS FOR CONSTRUCTED WATER CONVEYANCES.—

"(i) RELEVANT FACTORS.—If a State exercises jurisdiction over constructed water conveyances in establishing standards under this section, the State may consider the following:

"(I) The existing and planned uses of water transported in a conveyance system.

"(II) Any water quality impacts resulting from any return flow from a constructed water conveyance to navigable waters and the need to protect downstream users.

"(III) Management practices necessary to maintain the conveyance system.

"(IV) State or regional water resources management and water conservation plans.

"(V) The authorized purpose for the constructed conveyance.

"(ii) RELEVANT USES.—If a State adopts or reviews water quality standards for constructed water conveyances, it shall not be required to establish recreation, aquatic life, or fish consumption uses for such systems if the uses are not existing or reasonably foreseeable or such uses impede the authorized uses of the conveyance system.".

(b) CRITERIA AND GUIDANCE FOR EPHEMERAL AND EFFLUENT-DEPENDENT STREAMS.—Section 304(a) (33 U.S.C. 1314(a)) is amended by adding at the end the following:

"(9) CRITERIA AND GUIDANCE FOR EPHEMERAL AND EFFLUENT-DEPENDENT STREAMS.—

"(A) DEVELOPMENT.—Not later than 2 years after the date of the enactment of this paragraph, and after providing notice and opportunity for public comment, the Administrator shall develop and publish—

"(i) criteria for ephemeral and effluent-dependent streams; and

"(ii) guidance to the States on development and adoption of water quality standards applicable to such streams.

"(B) FACTORS.—The criteria and guidance developed under subparagraph (A) shall take into account the limited ability of ephemeral and effluent-dependent streams to support aquatic life and certain designated uses, shall include consideration of the role the discharge may play in maintaining the flow or level of such waters, and shall promote the beneficial use of reclaimed water pursuant to section 101(a)(10).".

(c) FACTORS REQUIRED TO BE CONSIDERED BY ADMINISTRATOR.—Section 303(c)(4) is amended by adding at the end the following: "In revising or adopting any new standard for ephemeral or effluent-dependent streams under this paragraph, the Administrator shall consider the factors referred to in section 304(a)(9)(B).".

(d) DEFINITIONS.—Section 502 (33 U.S.C. 1362) is amended by adding at the end the following:

"(21) The term 'effluent-dependent stream' means a stream or a segment thereof—

"(A) with respect to which the flow (based on the annual average expected flow, determined by calculating the average mode over a 10-year period) is primarily attributable to the discharge of treated wastewater;

"(B) that, in the absence of a discharge of treated wastewater and other primary anthropogenic surface or subsurface flows, would be an ephemeral stream; or

"(C) that is an effluent-dependent stream under applicable State water quality standards.

"(22) The term 'ephemeral stream' means a stream or segments thereof that flows periodically in response to precipitation, snowmelt, or runoff.

"(23) The term 'constructed water conveyance' means a manmade water transport system constructed for the purpose of transporting water in a waterway that is not and never was a natural perennial waterway.".

SEC. 302. SECONDARY TREATMENT.

(a) COASTAL DISCHARGES.—Section 304(d) (33 U.S.C. 1314(d)) is amended by adding at the end the following:

"(5) COASTAL DISCHARGES.—For purposes of this subsection, any municipal wastewater treatment facility shall be deemed the equivalent of a secondary treatment facility if each of the following requirements is met:

"(A) The facility employs chemically enhanced primary treatment.

"(B) The facility, on the date of the enactment of this paragraph, discharges through an ocean outfall into an open marine environment greater than 4 miles offshore into a depth greater than 300 feet.

"(C) The facility's discharge is in compliance with all local and State water quality standards for the receiving waters.

"(D) The facility's discharge will be subject to an ocean monitoring program acceptable to relevant Federal and State regulatory agencies.".

(b) MODIFICATION OF SECONDARY TREATMENT REQUIREMENTS.—

(1) IN GENERAL.—Section 301 (33 U.S.C. 1311) is amended by adding at the end the following:

"(s) MODIFICATION OF SECONDARY TREATMENT REQUIREMENTS.—

"(1) IN GENERAL.—The Administrator, with the concurrence of the State, shall issue a 10-year permit under section 402 which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of

any pollutant from a publicly owned treatment works into marine waters which are at least 150 feet deep through an ocean outfall which discharges at least 1 mile offshore, if the applicant demonstrates that—

"(A) there is an applicable ocean plan and the facility's discharge is in compliance with all local and State water quality standards for the receiving waters;

"(B) the facility's discharge will be subject to an ocean monitoring program determined to be acceptable by relevant Federal and State regulatory agencies;

"(C) the applicant has an Agency approved pretreatment plan in place; and

"(D) the applicant, at the time such modification becomes effective, will be discharging effluent which has received at least chemically enhanced primary treatment and achieves a monthly average of 75 percent removal of suspended solids.

"(2) DISCHARGE OF ANY POLLUTANT INTO MARINE WATERS DEFINED.—For purposes of this subsection, the term 'discharge of any pollutant into marine waters' means a discharge into deep waters of the territorial sea or the waters of the contiguous zone, or into saline estuarine waters where there is strong tidal movement.

"(3) DEADLINE.—On or before the 90th day after the date of submittal of an application for a modification under paragraph (1), the Administrator shall issue to the applicant a modified permit under section 402 or a written determination that the application does not meet the terms and conditions of this subsection.

"(4) EFFECT OF FAILURE TO RESPOND.—If the Administrator does not respond to an application for a modification under paragraph (1) on or before the 90th day referred to in paragraph (3), the application shall be deemed approved and the modification sought by the applicant shall be in effect for the succeeding 10-year period.".

(2) EXTENSION OF APPLICATION DEADLINE.—Section 301(j) (33 U.S.C. 1311(j)) is amended by adding at the end the following:

"(6) EXTENSION OF APPLICATION DEADLINE.—In the 365-day period beginning on the date of the enactment of this paragraph, municipalities may apply for a modification pursuant to subsection (s) of the requirements of subsection (b)(1)(B) of this section.".

(c) MODIFICATIONS FOR SMALL SYSTEM TREATMENT TECHNOLOGIES.—Section 301 (33 U.S.C. 1311) is amended by adding at the end the following:

"(t) MODIFICATIONS FOR SMALL SYSTEM TREATMENT TECHNOLOGIES.—The Administrator, with the concurrence of the State, or a State with an approved program under section 402 may issue a permit under section 402 which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of any pollutant from a publicly owned treatment works serving a community of 20,000 people or fewer if the applicant demonstrates to the satisfaction of the Administrator that—

"(1) the effluent from such facility originates primarily from domestic users; and

"(2) such facility utilizes a properly constructed and operated alternative treatment system (including recirculating sand filter systems, constructed wetlands, and oxidation lagoons) which is equivalent to secondary treatment or will provide in the receiving waters and watershed an adequate level of protection to human health and the environment and contribute to the attainment of water quality standards.".

(d) PUERTO RICO.—Section 301 (33 U.S.C. 1311) is further amended by adding at the end the following:

"(u) PUERTO RICO.—

"(1) STUDY BY GOVERNMENT OF PUERTO RICO.—Not later than 3 months after the date of the enactment of this section, the Government of Puerto Rico may, after consultation with the Administrator, initiate a study of the marine environment of Anasco Bay off the coast of the Mayaguez region of Puerto Rico to determine the feasibility of constructing a deepwater outfall for the publicly owned treatment works located at Mayaguez, Puerto Rico. Such study shall recommend one or more technically feasible locations for the deepwater outfall based on the effects of such outfall on the marine environment.

"(2) APPLICATION FOR MODIFICATION.—Notwithstanding subsection (j)(1)(A), not later than 18 months after the date of the enactment of this section, an application may be submitted for a modification pursuant to subsection (h) of the requirements of subsection (b)(1)(B) of this section by the owner of the publicly owned treatment works at Mayaguez, Puerto Rico, for a deepwater outfall at a location recommended in the study conducted pursuant to paragraph (1).

"(3) INITIAL DETERMINATION.—On or before the 90th day after the date of submittal of an application for modification under paragraph (2), the Administrator shall issue to the applicant a draft initial determination regarding the modification of the existing permit.

"(4) FINAL DETERMINATION.—On or before the 270th day after the date of submittal of an application for modification under paragraph (2), the Administrator shall issue a final determination regarding such modification.

"(5) EFFECTIVENESS.—If a modification is granted pursuant to an application submitted under this subsection, such modification shall be effective only if the new deepwater outfall is operational within 5 years after the date of the enactment of this subsection. In all other aspects, such modification shall be effective for the period applicable to all modifications granted under subsection (h).".

SEC. 303. FEDERAL FACILITIES.

(a) APPLICATION OF CERTAIN PROVISIONS.—Section 313(a) (33 U.S.C. 1323(a)) is amended by striking all preceding subsection (b) and inserting the following:

"SEC. 313. FEDERAL FACILITIES POLLUTION CONTROL.

"(a) APPLICABILITY OF FEDERAL, STATE, INTERSTATE, AND LOCAL LAWS.—

"(1) IN GENERAL.—Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government—

"(A) having jurisdiction over any property or facility, or

"(B) engaged in any activity resulting, or which may result, in the discharge or runoff of pollutants,

and each officer, agent, or employee thereof in the performance of his official duties, shall be subject to, and comply with, all Federal, State, interstate, and local requirements, administrative authority, and process and sanctions respecting the control and abatement of water pollution in the same manner and to the same extent as any nongovernmental entity, including the payment of reasonable service charges.

"(2) TYPES OF ACTIONS COVERED.—Paragraph (1) shall apply—

"(A) to any requirement whether substantive or procedural (including any recordkeeping or reporting requirement, any requirement respecting permits, and any other requirement),

"(B) to the exercise of any Federal, State, or local administrative authority, and

"(C) to any process and sanction, whether enforced in Federal, State, or local courts or in any other manner.

"(3) PENALTIES AND FINES.—The Federal, State, interstate, and local substantive and procedural requirements, administrative authority, and process and sanctions referred to in paragraph (1) include all administrative orders and all civil and administrative penalties and fines, regardless of whether such penalties or fines are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations.

"(4) SOVEREIGN IMMUNITY.—

"(A) WAIVER.—The United States hereby expressly waives any immunity otherwise applicable to the United States with respect to any requirement, administrative authority, and process and sanctions referred to in paragraph (1) (including any injunctive relief, any administrative order, any civil or administrative penalty or fine referred to in paragraph (3), or any reasonable service charge).

"(B) PROCESSING FEES.—The reasonable service charges referred to in this paragraph include fees or charges assessed in connection with the processing and issuance of permits, renewal of permits, amendments to permits, review of plans, studies, and other documents, and inspection and monitoring of facilities, as well as any other nondiscriminatory charges that are assessed in connection with a Federal, State, interstate, or local water pollution regulatory program.

"(5) EXEMPTIONS.—

"(A) GENERAL AUTHORITY OF PRESIDENT.—The President may exempt any effluent source of any department, agency, or instrumentality in the executive branch from compliance with any requirement to which paragraph (1) applies if the President determines it to be in the paramount interest of the United States to do so; except that no exemption may be granted from the requirements of section 306 or 307 of this Act.

"(B) LIMITATION.—No exemptions shall be granted under subparagraph (A) due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation.

"(C) TIME PERIOD.—Any exemption under subparagraph (A) shall be for a period not in excess of 1 year, but additional exemptions may be granted for periods of not to exceed 1 year upon the President's making a new determination.

"(D) MILITARY PROPERTY.—In addition to any exemption of a particular effluent source, the President may, if the President determines it to be in the paramount interest of the United States to do so, issue regulations exempting from compliance with the requirements of this section any weaponry, equipment, aircraft, vessels, vehicles, or other classes or categories of property, and access to such property, which are owned or operated by the Armed Forces of the United States (including the Coast Guard) or by the National Guard of any State and which are uniquely military in nature. The President shall reconsider the need for such regulations at 3-year intervals.

"(E) REPORTS.—The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with the President's reason for granting such exemption.

"(6) VENUE.—Nothing in this section shall be construed to prevent any department,

agency, or instrumentality of the Federal Government, or any officer, agent, or employee thereof in the performance of official duties, from removing to the appropriate Federal district court any proceeding to which the department, agency, or instrumentality or officer, agent, or employee thereof is subject pursuant to this section, and any such proceeding may be removed in accordance with chapter 89 of title 28, United States Code.

"(7) PERSONAL LIABILITY OF FEDERAL EMPLOYEES.—No agent, employee, or officer of the United States shall be personally liable for any civil penalty under any Federal, State, interstate, or local water pollution law with respect to any act or omission within the scope of the official duties of the agent, employee, or officer.

"(8) CRIMINAL SANCTIONS.—An agent, employee, or officer of the United States shall be subject to any criminal sanction (including any fine or imprisonment) under any Federal or State water pollution law, but no department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to any such sanction.".

(b) FUNDS COLLECTED BY A STATE.—Section 313 (33 U.S.C. 1323) is further amended by adding at the end the following:

"(c) LIMITATION ON STATE USE OF FUNDS.—Unless a State law in effect on the date of the enactment of this subsection or a State constitution requires the funds to be used in a different manner, all funds collected by a State from the Federal Government in penalties and fines imposed for the violation of a substantive or procedural requirement referred to in subsection (a) shall be used by a State only for projects designed to improve or protect the environment or to defray the costs of environmental protection or enforcement.".

(c) ENFORCEMENT.—Section 313 is further amended by adding at the end the following:

"(d) FEDERAL FACILITY ENFORCEMENT.—

"(1) ADMINISTRATIVE ENFORCEMENT BY EPA.—The Administrator may commence an administrative enforcement action against any department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government pursuant to the enforcement authorities contained in this Act.

"(2) PROCEDURE.—The Administrator shall initiate an administrative enforcement action against a department, agency, or instrumentality under this subsection in the same manner and under the same circumstances as an action would be initiated against any other person under this Act. The amount of any administrative penalty imposed under this subsection shall be determined in accordance with section 309(d) of this Act.

"(3) VOLUNTARY SETTLEMENT.—Any voluntary resolution or settlement of an action under this subsection shall be set forth in an administrative consent order.

"(4) CONFERRAL WITH EPA.—No administrative order issued to a department, agency, or instrumentality under this section shall become final until such department, agency, or instrumentality has had the opportunity to confer with the Administrator.".

(d) LIMITATION ON ACTIONS AND RIGHT OF INTERVENTION.—Section 313 is further amended by adding at the end the following:

"(e) LIMITATION ON ACTIONS AND RIGHT OF INTERVENTION.—Any violation with respect to which the Administrator has commenced and is diligently prosecuting an action under this subsection, or for which the Administrator has issued a final order and the violator has either paid a penalty or fine assessed under this subsection or is subject to an enforceable schedule of corrective actions, shall not be the subject of an action under section 505 of this Act. In any action under this subsection, any citizen may intervene as a matter of right.".

(e) DEFINITION OF PERSON.—Section 502(5) (33 U.S.C. 1362(5)) is amended by inserting before the period at the end the following: "and includes any department, agency, or instrumentality of the United States".

(f) DEFINITION OF RADIOACTIVE MATERIALS.—Section 502 (33 U.S.C. 1362) is amended by adding at the end the following:

"(24) The term 'radioactive materials' includes source materials, special nuclear materials, and byproduct materials (as such terms are defined under the Atomic Energy Act of 1954) which are used, produced, or managed at facilities not licensed by the Nuclear Regulatory Commission; except that such term does not include any material which is discharged from a vessel or other facility covered by Executive Order 12344 (42 U.S.C. 7158 note; relating to the Naval Nuclear Propulsion Program).".

(g) CONFORMING AMENDMENTS.—Section 313(b) (33 U.S.C. 1323(b)) is amended—

(1) by striking "(b)(1)" and inserting the following:

"(b) WASTEWATER FACILITIES.—

"(1) COOPERATION FOR USE OF WASTEWATER CONTROL SYSTEMS.—";

(2) in paragraph (2) by inserting "LIMITATION ON CONSTRUCTION.—" before "Construction"; and

(3) by moving paragraphs (1) and (2) 2 ems to the right.

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall only apply to violations occurring after such date of enactment.

SEC. 304. NATIONAL ESTUARY PROGRAM.

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

(1) The Nation's estuaries are a vital natural resource to which many regional economies are closely tied.

(2) Many of the Nation's estuaries are under a severe threat from point source pollution and polluted run-off (nonpoint source pollution) and from habitat alteration and destruction.

(3) Only through expanded investments in waste water treatment and other water and sediment pollution control and prevention efforts can the environmental and economic values of the Nation's estuaries be restored and protected.

(4) The National Estuary Program created under the Federal Water Pollution Control Act has significantly advanced the Nation's understanding of the declining condition of the Nation's estuaries.

(5) The National Estuary Program has also provided precise information about the corrective and preventative measures required to reverse the degradation of water and sediment quality and to halt the alteration and destruction of vital habitat in the Nation's estuaries.

(6) The level of funding available to States, municipalities, and the Environmental Protection Agency for implementation of approved conservation and management plans is inadequate, and additional financial resources must be provided.

(7) Funding for implementation of approved conservation and management plans should be provided under the State revolving loan fund program authorized by title VI of the Federal Water Pollution Control Act.

(8) Authorization levels for State revolving loan fund capitalization grants should be increased by an amount necessary to ensure the achievement of the goals of the Federal Water Pollution Control Act.

(b) TECHNICAL AMENDMENT.—Section 320(a)(2)(B) (33 U.S.C. 1330(a)(2)(B)) is amended to read as follows:

"(B) PRIORITY CONSIDERATION.—The Administrator shall give priority consideration under this section to Long Island Sound, New York and Connecticut; Narragansett Bay, Rhode Island; Buzzards Bay, Massachusetts; Massachusetts Bay, Massachusetts (including Cape Cod Bay and Boston Harbor); Puget Sound, Washington; New York-New Jersey Harbor, New York and New Jersey; Delaware Bay, Delaware and New Jersey; Delaware Inland Bays, Delaware; Albemarle Sound, North Carolina; Sarasota Bay, Florida; San Francisco Bay, California; Santa Monica Bay, California; Galveston Bay, Texas; Barataria-Terrebonne Bay estuary complex, Louisiana; Indian River Lagoon, Florida; Charlotte Harbor, Florida; Barnegat Bay, New Jersey; and Peconic Bay, New York.".

(c) GRANTS.—Section 320(g)(2) (33 U.S.C. 1330(g)(2)) is amended by inserting "and implementation monitoring" after "development".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 320(i) (33 U.S.C. 1330(i)) is amended by striking "1987" and all that follows through "1991" and inserting the following: "1987 through 1991, such sums as may be necessary for fiscal years 1992 through 1995, and $19,000,000 per fiscal year for each of fiscal years 1996 through 2000".

SEC. 305. NONPOINT SOURCE MANAGEMENT PROGRAMS.

(a) REVIEW AND REVISION.—Section 319(b) (33 U.S.C. 1329(b)) is amended by adding at the end the following:

"(5) REVIEW AND REVISION.—Not later than 18 months after the date of the enactment of this paragraph, the State shall review and revise the report required by this subsection and submit such revised report to the Administrator for approval.".

(b) APPROVAL OR DISAPPROVAL OF MANAGEMENT PROGRAMS.—Section 319(d)(1) (33 U.S.C. 1329(d)(1)) is amended by inserting "or revised management program" after "management program" each place it appears.

(c) GRANTS FOR PROTECTING GROUND WATER QUALITY.—Section 319(i)(3) (33 U.S.C. 1329(i)(3)) is amended by striking "$150,000" and inserting "$500,000".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 319(j) (33 U.S.C. 1329(j)) is amended—

(1) by striking "and" before "$130,000,000";

(2) by inserting after "1991" the following: ", such sums as may be necessary for fiscal years 1992 through 1995, $100,000,000 for fiscal year 1996, $150,000,000 for fiscal year 1997, $200,000,000 for fiscal year 1998, $250,000,000 for fiscal year 1999, and $300,000,000 for fiscal year 2000"; and

(3) by striking "$7,500,000" and inserting "$25,000,000".

(e) AGRICULTURAL INPUTS.—Section 319 (33 U.S.C. 1329) is amended by adding at the end the following:

"(o) AGRICULTURAL INPUTS.—For the purposes of this Act, any land application of livestock manure shall not be considered a point source and shall be subject to enforcement only under this section.".

SEC. 306. COASTAL ZONE MANAGEMENT.

Section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1451 note) is amended—

(1) in subsection (a)(1)—

(A) by inserting "(A)" after "PROGRAM DEVELOPMENT.—"; and

(B) by adding at the end the following:

"(B) A State that has not received Federal approval for the State's core coastal management program pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) shall have 30 months from the date of approval of such program to submit a Coastal Nonpoint Pollution Program pursuant to this section. Any such State shall also be eligible for any extension of time for submittal of the State's nonpoint program that may be received by a State with a federally approved coastal management program.";

(2) in subsection (b), in the matter preceding paragraph (1), by striking "to protect coastal waters generally" and inserting "to restore and protect coastal waters where the State has determined that coastal waters are threatened or significantly degraded";

(3) in subsection (b)(3)—

(A) by striking "The implementation" and inserting "A schedule for the implementation"; and

(B) by inserting ", and no less often than once every 5 years," after "from time to time";

(4) in subsection (b) by adding at the end the following:

"(7) IDENTIFICATION OF PRIORITY AREAS.—A prioritization of the areas in the State in which management measures will be implemented.";

(5) in subsection (c) by adding at the end the following:

"(5) CONDITIONAL APPROVAL.—The Secretary and Administrator may grant conditional approval to a State's program where the State requests additional time to complete the development of its program. During the period during which the State's program is subject to conditional approval, the penalty provisions of paragraphs (3) and (4) shall not apply.";

(6) in subsection (h)(1) by striking ", 1993, and 1994" and inserting "through 2000"; and

(7) in subsection (h)(2)(B)(iv) by striking "fiscal year 1995" and inserting "each of fiscal years 1995 through 2000".

SEC. 307. COMPREHENSIVE WATERSHED MANAGEMENT.

(a) IN GENERAL.—Title III (33 U.S.C. 1300–1330) is amended by adding at the end the following:

"SEC. 321. COMPREHENSIVE WATERSHED MANAGEMENT.

"(a) FINDINGS, PURPOSE, AND DEFINITIONS.—

"(1) FINDINGS.—Congress finds that comprehensive watershed management will further the goals and objectives of this Act by—

"(A) identifying more fully water quality impairments and the pollutants, sources, and activities causing the impairments;

"(B) integrating water protection quality efforts under this Act with other natural resource protection efforts, including Federal efforts to define and protect ecological systems (including the waters and the living resources supported by the waters);

"(C) defining long-term social, economic, and natural resource objectives and the water quality necessary to attain or maintain the objectives;

"(D) increasing, through citizen participation in the watershed management process, public support for improved water quality;

"(E) identifying priority water quality problems that need immediate attention; and

"(F) identifying the most cost-effective measures to achieve the objectives of this Act.

"(2) PURPOSE.—The purpose of this section is to encourage comprehensive watershed management in maintaining and enhancing water quality, in restoring and protecting living resources supported by the waters, and in ensuring waters of a quality sufficient to meet human needs, including water supply and recreation.

"(3) DEFINITIONS.—In this section, the following definitions apply:

"(A) ECOSYSTEM.—The term 'ecosystem' means the community of plants and animals (including humans) and the environment (including surface water, the ground water with which it interacts, and riparian areas) upon which that community depends.

"(B) ENVIRONMENTAL OBJECTIVES.—The term 'environmental objectives' means the goals specified by States or State-designated watershed management entities to protect, restore, and maintain water resources and aquatic ecosystems within a watershed, including applicable water quality standards and wetlands protection goals established under the Act.

"(C) STATE.—The term 'State' includes Indian tribes eligible under section 518(e).

"(b) STATE WATERSHED PROGRAM.—

"(1) SUBMITTAL.—A State, at any time, may submit to the Administrator for approval a watershed management program for the State.

"(2) APPROVAL.—The Administrator shall approve a State watershed program submitted under paragraph (1) if the program, at a minimum, contains the following elements:

"(A) An identification of the State agency generally responsible for overseeing and approving watershed management plans and a designation of watershed management entities and lead responsibilities for such entities. Such entities may include other State agencies and sub-State agencies.

"(B) A description of the scope of the program. In determining the scope of the program, the State may choose to address all watersheds within the State over a period of time or to concentrate efforts on selected watersheds. Within each watershed, the issues to be addressed should be based on a comprehensive analysis of the problems within the watershed. The scope of the program may expand over a period of time both in terms of the number of watersheds and the issues addressed by the program.

"(C) An identification of watershed management units for which watershed management plans will be developed. In selecting such units, the State shall consider those waters in the State that are water quality threatened or impaired or are otherwise in need of special protection. To the extent practicable, the boundaries of each watershed management unit shall be consistent with United States Geological Service hydrological units.

"(D) A description of activities required of watershed management entities (as specified under subsection (f)(1)) and a description of the State's approval process for watershed management plans.

"(E) A specification of an effective public participation process, including procedures to encourage the public to participate in developing and implementing watershed management plans.

"(F) An identification of the statewide environmental objectives that will be pursued in each watershed. Such objectives, at a minimum, shall include State water quality standards and goals under this Act, and, as appropriate, other objectives such as habitat restoration and biological diversity.

"(2) DEADLINE.—The Administrator, after consultation with other Federal agencies, shall approve or disapprove a State watershed program submitted under paragraph (1) on or before the 180th day following the date of the submittal. If a State watershed program is disapproved, the State may modify and resubmit its program under paragraph (1).

"(3) ANNUAL REPORT.—A State with an approved watershed program under this subsection shall provide to the Administrator an annual report summarizing the status of the program, including a description of any modifications to the program. An annual report submitted under this section may be used by the State to satisfy reporting requirements under sections 106, 314, 319, and 320.

"(4) EFFECTIVE PERIOD OF APPROVALS.—An approval of a State watershed program under paragraph (2) shall remain in effect for a 5-year period beginning on the date of the approval and may be renewed by the Administrator.

"(5) WITHDRAWAL OF APPROVAL.—Whenever the Administrator determines after public hearing that a State is not administering a watershed program approved under paragraph (2) in accordance with requirements of this section, he shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed 90 days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

"(c) DESIGNATION OF ADDITIONAL WATERSHED MANAGEMENT UNITS AND ENTITIES.—A State with an approved watershed program under this section may modify such program at any time in order to designate additional watershed management units and entities, including lead responsibilities, for the purpose of developing and implementing watershed management plans.

"(d) ELIGIBLE WATERSHED MANAGEMENT AND PLANNING ACTIVITIES.—The following watershed management activities are eligible to receive assistance from the Administrator under sections 205(j), 319(h), and 604(b):

"(1) Characterizing waters and land uses.

"(2) Identifying problems within a watershed.

"(3) Selecting short-term and long-term goals for watershed management.

"(4) Developing and implementing measures and practices to meet identified goals.

"(5) Identifying and coordinating projects and activities necessary to restore and maintain water quality or meet other environmental objectives within the watershed.

"(6) Identifying the appropriate institutional arrangements to carry out an approved watershed management plan.

"(7) Updating an approved watershed management plan.

"(8) Any other activities deemed appropriate by the Administrator.

"(e) SUPPORT FOR WATERSHED MANAGEMENT AND PLANNING.—

"(1) INTERAGENCY COMMITTEE.—There is established an interagency committee to support comprehensive watershed management and planning. The President shall appoint the members of the committee. The members shall include a representative from each Federal agency that carries out programs and activities that may have a significant impact on water quality or other natural resource values that may be appropriately addressed through comprehensive watershed management.

"(2) USE OF OTHER FUNDS UNDER THIS ACT.—The planning and implementation activities

carried out by a management entity pursuant to this section may be carried out with funds made available through the State pursuant to sections 205(j), 319(h), and 604(b).

"(f) APPROVED PLANS.—

"(1) MINIMUM REQUIREMENTS.—A State with an approved watershed program may approve a watershed management plan when such plan satisfies the following conditions:

"(A) If the watershed includes waters that are not meeting applicable water quality standards under this Act at the time of submission, the plan—

"(i) identifies the environmental objectives of the plan including, at a minimum, State water quality standards and goals under this Act, and any other environmental objectives the planning entity deems appropriate;

"(ii) identifies the stressors, pollutants, and sources causing the impairment;

"(iii) identifies actions necessary to achieve the environmental objectives of the plan, including source reduction of pollutants to achieve any allocated load reductions consistent with the requirements of section 303(d) and the priority for implementing such actions;

"(iv) contains an implementation plan, with schedules, milestones, projected completion dates, and the identification of those persons responsible for implementing the actions, demonstrating that water quality standards will be attained as expeditiously as practicable, but not later than deadlines in applicable sections of this Act and all other environmental objectives identified in the watershed management plan will be attained as expeditiously as practicable;

"(v) contains an effective public participation process in the development and implementation of the plan;

"(vi) specifies a process to monitor and evaluate progress toward meeting environmental objectives; and

"(vii) specifies a process to revise the plan as needed.

"(B) For those waters in the watershed attaining water quality standards at the time of submission (including threatened waters), the plan identifies those projects and activities necessary to maintain water quality standards and attain or maintain other environmental objectives in the future.

"(2) TERMS OF PLAN AND PLAN APPROVAL.—Each plan submitted and approved under this subsection shall extend for a period of not less than 5 years and include a planning and implementation schedule with milestones and completion dates within that period. The approval by the State of a plan shall apply for a period not exceed 5 years. A revised and updated plan may be submitted prior to the expiration of the period specified in the preceding sentence for approval pursuant to the same conditions and requirements that apply to an initial plan for a watershed that is approved pursuant to this subsection.

"(g) INCENTIVES FOR WATERSHED MANAGEMENT.—

"(1) POINT SOURCE PERMITS.—

"(A) IN GENERAL.—Notwithstanding section 301(b)(1)(C), a permit may be issued under section 402 with a limitation that does not meet water quality standards, if—

"(i) the receiving water is in a watershed with an approved watershed plan;

"(ii) the plan includes enforceable requirements under State or local law for nonpoint source pollutant load reductions that in combination with point source requirements will meet water quality standards prior to the expiration of plan; and

"(iii) the point source does not have a history of significant noncompliance with its permit effluent limitations, as determined by the Administrator or the State (in the case with an approved permit under section 402).

"(B) SYNCHRONIZED PERMIT TERMS.—Notwithstanding section 402(b)(1)(B), the term of a permit issued under section 402 may be extended by 5 years if the discharge is located in a watershed planning area for which a watershed management plan is to be developed.

"(C) 10-YEAR PERMIT TERMS.—Notwithstanding section 402(b)(1)(B), the term of a permit issued under section 402 may be extended to 10 years for any point source located in a watershed management unit for which a watershed management plan has been approved if the plan provides for the attainment and maintenance of water quality standards (including designated uses) in the affected waters and unless receiving waters are not meeting water quality standards due to the point source discharge. Such permits may be revised at any time if necessary to meet water quality standards.

"(2) NONPOINT SOURCE CONTROLS.—Not later than 30 months after the date of the enactment of this section, a State with an approved watershed program under this section may make a showing to the Administrator that nonpoint source management practices different from those established in national guidance issued by the Administrator under section 319 will attain water quality standards as expeditiously as practicable and not later than the deadlines established by this Act. If the Administrator is satisfied with such showing, then the Administrator may approve the State's nonpoint source management program that relies on such practices as meeting the requirements of section 319. Alternative watershed nonpoint source control practices must be identified in the watershed management plan adopted under subsection (f)(2) of this section.

"(3) FUNDING.—The Administrator may provide assistance to a State with an approved watershed management program under this section in the form of a multipurpose grant that would provide for single application, workplan and review, matching, oversight, and end-of-year closeout requirements for grant funding under sections 104(b)(3), 104(g), 106, 314(b), 319, 320, and 604(b). A State with an approved multipurpose grant may focus activities funded under such sections on a priority basis consistent with State-approved watershed management plans.

"(h) GUIDANCE.—Not later than 12 months after the date of the enactment of this section, and after consultation with other appropriate agencies, the Administrator shall issue guidance on recommended provisions to be included in State watershed programs and State-approved watershed management plans.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator for providing grants to States to assist such States in carrying out activities under this section $25,000,000 per fiscal year for each of fiscal years 1996 through 2000.".

(b) CONFORMING AMENDMENT.—Section 401(a)(1) (33 U.S.C. 1341(a)(1)) is amended by inserting "and with the provisions of a management plan approved by a State under section 321 of this Act" before the period at the end of the first sentence.

SEC. 308. REVISION OF EFFLUENT LIMITATIONS.

(a) ELIMINATION OF REQUIREMENT FOR ANNUAL REVISION.—Section 304(b) (33 U.S.C. 1314(b)) is amended in the matter preceding paragraph (1) by striking "and, at least annually thereafter," and inserting "and thereafter shall".

(b) SPECIAL RULE.—Section 304(b) (33 U.S.C. 1314(b)) is amended by striking the period at the end of the first sentence and inserting the following: "; except that guidelines issued under paragraph (1)(A) addressing pollutants identified pursuant to subsection (a)(4) shall not be revised after February 15, 1995, to be more stringent unless such revised guidelines meet the requirements of paragraph (4)(A).".

TITLE IV—PERMITS AND LICENSES

SEC. 401. WASTE TREATMENT SYSTEMS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS.

Section 402(a) is amended by adding at the end the following:

"(6) CONCENTRATED ANIMAL FEEDING OPERATIONS.—For purposes of this section, waste treatment systems, including retention ponds or lagoons, used to meet the requirements of this Act for concentrated animal feeding operations, are not waters of the United States. An existing concentrated animal feeding operation that uses a natural topographic impoundment or structure on the effective date of this Act, which is not hydrologically connected to any other waters of the United States, as a waste treatment system or wastewater retention facility may continue to use that natural topographic feature for waste storage regardless of its size, capacity, or previous use.".

SEC. 402. MUNICIPAL AND INDUSTRIAL STORMWATER DISCHARGES.

(a) DEADLINES.—Section 402(p) (33 U.S.C. 1343(p)) is amended—

(1) in paragraph (1) by striking "1994" and inserting "2005"; and

(2) in paragraph (6) by striking "1993" and inserting "2005".

(b) PROHIBITION ON NUMERIC EFFLUENT LIMITATIONS FOR MUNICIPAL DISCHARGES.—Section 402(p)(3) is amended by adding at the end the following:

"(C) PROHIBITION ON NUMERIC EFFLUENT LIMITATIONS FOR MUNICIPAL DISCHARGES.—Permits for municipal separate storm sewers shall not include numeric effluent limitations.".

SEC. 403. INTAKE CREDITS.

Section 402 (33 U.S.C. 1342) is amended by adding at the end the following:

"(q) INTAKE CREDITS.—

"(1) IN GENERAL.—Notwithstanding any provision of this Act, in any effluent limitation or other limitation imposed under the permit program established by the Administrator under this section, any State permit program approved under this section (including any program for implementation under section 118(c)(2)), any standards established under section 307(a), or any program for industrial users established under section 307(b), the Administrator, as applicable, shall or the State, as applicable, may provide credits for pollutants present in or caused by intake water such that an owner or operator of a point source is not required to remove, reduce, or treat the amount of any pollutant in an effluent below the amount of such pollutant that is present in or caused by the intake water for such facility—

"(A)(i) if the source of the intake water and the receiving waters into which the effluent is ultimately discharged are the same;

"(ii) if the source of the intake water meets the maximum contaminant levels or treatment techniques for drinking water contaminants established pursuant to the Safe Drinking Water Act for the pollutant of concern; or

"(iii) if, at the time the limitation or standard is established, the level of the pollutant in the intake water is the same as or lower than the amount of the pollutant in the receiving waters, taking into account analytical variability; and

"(B) if, for conventional pollutants, the constituents of the conventional pollutants in the intake water are the same as the constituents of the conventional pollutants in the effluent.

"(2) ALLOWANCE FOR INCIDENTAL AMOUNTS.—In determining whether the condition set forth in paragraph (1)(A)(i) is being met, the Administrator shall or the State may, as appropriate, make allowance for incidental amounts of intake water from sources other than the receiving waters.

"(3) CREDIT FOR NONQUALIFYING POLLUTANTS.—The Administrator shall or a State may provide point sources an appropriate credit for pollutants found in intake water that does not meet the requirement of paragraph (1).

"(4) MONITORING.—Nothing in this section precludes the Administrator or a State from requiring monitoring of intake water, effluent, or receiving waters to assist in the implementation of this section.".

SEC. 404. COMBINED SEWER OVERFLOWS.

Section 402 (33 U.S.C. 1342) is amended by adding at the end the following:

"(r) COMBINED SEWER OVERFLOWS.—

"(1) REQUIREMENT FOR PERMITS.—Each permit issued pursuant to this section for a discharge from a combined storm and sanitary sewer shall conform with the combined sewer overflow control policy signed by the Administrator on April 11, 1994.

"(2) TERM OF PERMIT.—

"(A) COMPLIANCE DEADLINE.—Notwithstanding any compliance schedule under section 301(b), or any permit limitation under section 402(b)(1)(B), the Administrator (or a State with a program approved under subsection (b)) may issue a permit pursuant to this section for a discharge from a combined storm and sanitary sewer, that includes a schedule for compliance with a long-term control plan under the control policy referred to in paragraph (1), for a term not to exceed 15 years.

"(B) EXTENSION.—Notwithstanding the compliance deadline specified in subparagraph (A), the Administrator or a State with a program approved under subsection (b) shall extend, on request of an owner or operator of a combined storm and sanitary sewer and subject to subparagraph (C), the period of compliance beyond the last day of the 15-year period—

"(i) if the Administrator or the State determines that compliance by such last day is not within the economic capability of the owner or operator; and

"(ii) if the owner or operator demonstrates to the satisfaction of the Administrator or the State reasonable further progress towards compliance with a long-term control plan under the control policy referred to in paragraph (1).

"(C) LIMITATIONS ON EXTENSIONS.—

"(i) EXTENSION NOT APPROPRIATE.—Notwithstanding subparagraph (B), the Administrator or the State need not grant an extension of the compliance deadline specified in subparagraph (A) if the Administrator or the State determines that such an extension is not appropriate.

"(ii) NEW YORK-NEW JERSEY.—Prior to granting an extension under subparagraph (B) with respect to a combined sewer overflow discharge originating in the State of New York or New Jersey and affecting the other of such States, the Administrator or the State from which the discharge originates, as the case may be, shall provide written notice of the proposed extension to the other State and shall not grant the extension unless the other State approves the extension or does not disapprove the extension within 90 days of receiving such written notice.

"(3) SAVINGS CLAUSE.—Any consent decree or court order entered by a United States district court, or administrative order issued by the Administrator, before the date of the enactment of this subsection establishing any deadlines, schedules, or timetables, including any interim deadlines, schedules, or timetables, for the evaluation, design, or construction of treatment works for control or elimination of any discharge from a municipal combined storm and sanitary sewer system shall be modified upon motion or request by any party to such consent decree or court order, to extend to December 31, 2009, at a minimum, any such deadlines, schedules, or timetables, including any interim deadlines, schedules, or timetables as is necessary to conform to the policy referred to in paragraph (1) or otherwise achieve the objectives of this subsection. Notwithstanding the preceding sentence, the period of compliance with respect to a discharge referred to in paragraph (2)(C)(ii) may only be extended in accordance with paragraph (2)(C)(ii).".

SEC. 405. ABANDONED MINES.

Section 402 (33 U.S.C. 1342) is further amended by inserting after subsection (o) the following:

"(p) PERMITS FOR REMEDIATING PARTY ON ABANDONED OR INACTIVE MINED LANDS.—

"(1) APPLICABILITY.—Subject to this subsection, including the requirements of paragraph (3), the Administrator, with the concurrence of the concerned State or Indian tribe, may issue a permit to a remediating party under this section for discharges associated with remediation activity at abandoned or inactive mined lands which modifies any otherwise applicable requirement of sections 301(b), 302, and 403, or any subsection of this section (other than this subsection).

"(2) APPLICATION FOR A PERMIT.—A remediating party who desires to conduct remediation activities on abandoned or inactive mined lands from which there is or may be a discharge of pollutants to waters of the United States or from which there could be a significant addition of pollutants from nonpoint sources may submit an application to the Administrator. The application shall consist of a remediation plan and any other information requested by the Administrator to clarify the plan and activities.

"(3) REMEDIATION PLAN.—The remediation plan shall include (as appropriate and applicable) the following:

"(A) Identification of the remediating party, including any persons cooperating with the concerned State or Indian tribe with respect to the plan, and a certification that the applicant is a remediating party under this section.

"(B) Identification of the abandoned or inactive mined lands addressed by the plan.

"(C) Identification of the waters of the United States impacted by the abandoned or inactive mined lands.

"(D) A description of the physical conditions at the abandoned or inactive mined lands that are causing adverse water quality impacts.

"(E) A description of practices, including system design and construction plans and operation and maintenance plans, proposed to reduce, control, mitigate, or eliminate the adverse water quality impacts and a schedule for implementing such practices and, if it is an existing remediation project, a description of practices proposed to improve the project, if any.

"(F) An analysis demonstrating that the identified practices are expected to result in a water quality improvement for the identified waters.

"(G) A description of monitoring or other assessment to be undertaken to evaluate the success of the practices during and after implementation, including an assessment of baseline conditions.

"(H) A schedule for periodic reporting on progress in implementation of major elements of the plan.

"(I) A budget and identified funding to support the activities described in the plan.

"(J) Remediation goals and objectives.

"(K) Contingency plans.

"(L) A description of the applicant's legal right to enter and conduct activities.

"(M) The signature of the applicant.

"(N) Identification of the pollutant or pollutants to be addressed by the plan.

"(4) PERMITS.—

"(A) CONTENTS.—Permits issued by the Administrator pursuant to this subsection shall—

"(i) provide for compliance with and implementation of a remediation plan which, following issuance of the permit, may be modified by the applicant after providing notification to and opportunity for review by the Administrator;

"(ii) require that any modification of the plan be reflected in a modified permit;

"(iii) require that if, at any time after notice to the remediating party and opportunity for comment by the remediating party, the Administrator determines that the remediating party is not implementing the approved remediation plan in substantial compliance with its terms, the Administrator shall notify the remediating party of the determination together with a list specifying the concerns of the Administrator;

"(iv) provide that, if the identified concerns are not resolved or a compliance plan approved within 180 days of the date of the notification, the Administrator may take action under section 309 of this Act;

"(v) provide that clauses (iii) and (iv) not apply in the case of any action under section 309 to address violations involving gross negligence (including reckless, willful, or wanton misconduct) or intentional misconduct by the remediating party or any other person;

"(vi) not require compliance with any limitation issued under sections 301(b), 302, and 403 or any requirement established by the Administrator under any subsection of this section (other than this subsection); and

"(vii) provide for termination of coverage under the permit without the remediating party being subject to enforcement under sections 309 and 505 of this Act for any remaining discharges—

"(I) after implementation of the remediation plan;

"(II) if a party obtains a permit to mine the site; or

"(III) upon a demonstration by the remediating party that the surface water quality conditions due to remediation activities at the site, taken as a whole, are equal to or superior to the surface water qualities that existed prior to initiation of remediation.

"(B) LIMITATIONS.—The Administrator shall only issue a permit under this section, consistent with the provisions of this subsection, to a remediating party for discharges associated with remediation action

at abandoned or inactive mined lands if the remediation plan demonstrates with reasonable certainty that the actions will result in an improvement in water quality.

"(C) PUBLIC PARTICIPATION.—The Administrator may only issue a permit or modify a permit under this section after complying with subsection (b)(3).

"(D) EFFECT OF FAILURE TO COMPLY WITH PERMIT.—Failure to comply with terms of a permit issued pursuant to this subsection shall not be deemed to be a violation of an effluent standard or limitation issued under this Act.

"(E) LIMITATIONS ON STATUTORY CONSTRUCTION.—This subsection shall not be construed—

"(i) to limit or otherwise affect the Administrator's powers under section 504; or

"(ii) to preclude actions pursuant to section 309 or 505 for any violations of sections 301(a), 302, 402, and 403 that may have existed for the abandoned or inactive mined land prior to initiation of remediation covered by a permit issued under this subsection, unless such permit covers remediation activities implemented by the permit holder prior to issuance of the permit.

"(5) DEFINITIONS.—In this subsection the following definitions apply:

"(A) REMEDIATING PARTY.—The term 'remediating party' means—

"(i) the United States (on non-Federal lands), a State or its political subdivisions, or an Indian tribe or officers, employees, or contractors thereof; and

"(ii) any person acting in cooperation with a person described in clause (i), including a government agency that owns abandoned or inactive mined lands for the purpose of conducting remediation of the mined lands or that is engaging in remediation activities incidental to the ownership of the lands.

Such term does not include any person who, before or following issuance of a permit under this section, directly benefited from or participated in any mining operation (including exploration) associated with the abandoned or inactive mined lands.

"(B) ABANDONED OR INACTIVE MINED LANDS.—The term 'abandoned or inactive mined lands' means lands that were formerly mined and are not actively mined or in temporary shutdown at the time of submission of the remediation plan and issuance of a permit under this section.

"(C) MINED LANDS.—The term 'mined lands' means the surface or subsurface of an area where mining operations, including exploration, extraction, processing, and beneficiation, have been conducted. Such term includes private ways and roads appurtenant to such area, land excavations, underground mine portals, adits, and surface expressions associated with underground workings, such as glory holes and subsidence features, mining waste, smelting sites associated with other mined lands, and areas where structures, facilities, equipment, machines, tools, or other material or property which result from or have been used in the mining operation are located.

"(6) REGULATIONS.—The Administrator may issue regulations establishing more specific requirements that the Administrator determines would facilitate implementation of this subsection. Before issuance of such regulations, the Administrator may establish, on a case-by-case basis after notice and opportunity for public comment as provided by subsection (b)(3), more specific requirements that the Administrator determines would facilitate implementation of this subsection in an individual permit issued to the remediating party.".

SEC. 406. BENEFICIAL USE OF BIOSOLIDS.

(a) REFERENCES.—Section 405(a) (33 U.S.C. 1345(a)) is amended by inserting "(also referred to as 'biosolids')" after "sewage sludge" the first place it appears.

(b) APPROVAL OF STATE PROGRAMS.—Section 405(f) (33 U.S.C. 1345(f)) is amended by adding at the end the following:

"(3) APPROVAL OF STATE PROGRAMS.—Notwithstanding any other provision of law, the Administrator shall approve for purposes of this subsection State programs that meet the standards for final use or disposal of sewage sludge established by the Administrator pursuant to subsection (d).".

(c) STUDIES AND PROJECTS.—Section 405(g) (33 U.S.C. 1345(g)) is amended—

(1) in the first sentence of paragraph (1) by inserting "building materials," after "agricultural and horticultural uses,";

(2) in paragraph (1) by adding at the end the following: "Not later than January 1, 1997, and after providing notice and opportunity for public comment, the Administrator shall issue guidance on the beneficial use of sewage sludge."; and

(3) in paragraph (2) by striking "September 30, 1986," and inserting "September 30, 1995,".

TITLE V—GENERAL PROVISIONS

SEC. 501. PUBLICLY OWNED TREATMENT WORKS DEFINED.

Section 502 (33 U.S.C. 1362) is further amended by adding at the end the following:

"(25) The term 'publicly owned treatment works' means a treatment works, as defined in section 212, located at other than an industrial facility, which is designed and constructed principally, as determined by the Administrator, to treat domestic sewage or a mixture of domestic sewage and industrial wastes of a liquid nature. In the case of such a facility that is privately owned, such term includes only those facilities that, with respect to such industrial wastes, are carrying out a pretreatment program meeting all the requirements established under section 307 and paragraphs (8) and (9) of section 402(b) for pretreatment programs (whether or not the treatment works would be required to implement a pretreatment program pursuant to such sections).".

SEC. 502. IMPLEMENTATION OF WATER POLLUTION LAWS WITH RESPECT TO VEGETABLE OIL.

(a) DIFFERENTIATION AMONG FATS, OILS, AND GREASES.—

(1) IN GENERAL.—In issuing or enforcing a regulation, an interpretation, or a guideline relating to a fat, oil, or grease under a Federal law related to water pollution control, the head of a Federal agency shall—

(A) differentiate between and establish separate classes for—

(i)(I) animal fats; and

(II) vegetable oils; and

(ii) other oils, including petroleum oil; and

(B) apply different standards and reporting requirements (including reporting requirements based on quantitative amounts) to different classes of fat and oil as provided in paragraph (2).

(2) CONSIDERATIONS.—In differentiating between the classes of animal fats and vegetable oils referred to in paragraph (1)(A)(i) and the classes of oils described in paragraph (1)(A)(ii), the head of the Federal agency shall consider differences in physical, chemical, biological, and other properties, and in the environmental effects, of the classes.

(b) DEFINITIONS.—In this section, the following definitions apply:

(1) ANIMAL FAT.—The term "animal fat" means each type of animal fat, oil, or grease, including fat, oil, or grease from fish or a marine mammal and any fat, oil, or grease referred to in section 61(a)(2) of title 13, United States Code.

(2) VEGETABLE OIL.—The term "vegetable oil" means each type of vegetable oil, including vegetable oil from a seed, nut, or kernel and any vegetable oil referred to in section 61(a)(1) of title 13, United States Code.

SEC. 503. NEEDS ESTIMATE.

Section 516(b)(1) (33 U.S.C. 1375(b)(1)) is amended—

(1) in the first sentence by striking "biennially revised" and inserting "quadrennially revised"; and

(2) in the second sentence by striking "February 10 of each odd-numbered year" and inserting "December 31, 1997, and December 31 of every 4th calendar year thereafter".

SEC. 504. FOOD PROCESSING AND FOOD SAFETY.

Title V (33 U.S.C. 1361–1377) is amended by redesignating section 519 as section 521 and by inserting after section 518 the following:

"SEC. 519. FOOD PROCESSING AND FOOD SAFETY.

"In developing any effluent guideline under section 304(b), pretreatment standard under section 307(b), or new source performance standard under section 306 that is applicable to the food processing industry, the Administrator shall consult with and consider the recommendations of the Food and Drug Administration, Department of Health and Human Services, Department of Agriculture, and Department of Commerce. The recommendations of such departments and agencies and a description of the Administrator's response to those recommendations shall be made part of the rulemaking record for the development of such guidelines and standards. The Administrator's response shall include an explanation with respect to food safety, including a discussion of relative risks, of any departure from a recommendation by any such department or agency.".

SEC. 505. AUDIT DISPUTE RESOLUTION.

Title V (33 U.S.C. 1361–1377) is further amended by inserting before section 521, as redesignated by this Act, the following:

"SEC. 520. AUDIT DISPUTE RESOLUTION.

"(a) ESTABLISHMENT OF BOARD.—The Administrator shall establish an independent Board of Audit Appeals (hereinafter in this section referred to as the 'Board') in accordance with the requirements of this section.

"(b) DUTIES.—The Board shall have the authority to review and decide contested audit determinations related to grant and contract awards under this Act. In carrying out such duties, the Board shall consider only those regulations, guidance, policies, facts, and circumstances in effect at the time of the grant or contract award.

"(c) PRIOR ELIGIBILITY DECISIONS.—The Board shall not reverse project cost eligibility determinations that are supported by an decision document of the Environmental Protection Agency, including grant or contract approvals, plans and specifications approval forms, grant or contract payments, change order approval forms, or similar documents approving project cost eligibility, except upon a showing that such decision was arbitrary, capricious, or an abuse of law in effect at the time of such decision.

"(d) MEMBERSHIP.—

"(1) APPOINTMENT.—The Board shall be composed of 7 members to be appointed by the Administrator not later than 90 days after the date of the enactment of this section.

"(2) TERMS.—Each member shall be appointed for a term of 3 years.

"(3) QUALIFICATIONS.—The Administrator shall appoint as members of the Board individuals who are specially qualified to serve

on the Board by virtue of their expertise in grant and contracting procedures. The Administrator shall make every effort to ensure that individuals appointed as members of the Board are free from conflicts of interest in carrying out the duties of the Board.

"(e) BASIC PAY AND TRAVEL EXPENSES.—

"(1) RATES OF PAY.—Except as provided in paragraph (2), members shall each be paid at a rate of basic pay, to be determined by the Administrator, for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Board.

"(2) PROHIBITION OF COMPENSATION OF FEDERAL EMPLOYEES.—Members of the Board who are full-time officers or employees of the United States may not receive additional pay, allowances, or benefits by reason of their service on the Board.

"(3) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

"(f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Board, the Administrator shall provide to the Board the administrative support services necessary for the Board to carry out its responsibilities under this section.

"(g) DISPUTES ELIGIBLE FOR REVIEW.—The authority of the Board under this section shall extend to any contested audit determination that on the date of the enactment of this section has yet to be formally concluded and accepted by either the grantee or the Administrator.".

TITLE VI—STATE WATER POLLUTION CONTROL REVOLVING FUNDS

SEC. 601. GENERAL AUTHORITY FOR CAPITALIZATION GRANTS.

Section 601(a) (33 U.S.C. 1381(a)) is amended by striking "(1) for construction" and all that follows through the period and inserting "to accomplish the purposes of this Act.".

SEC. 602. CAPITALIZATION GRANT AGREEMENTS.

(a) REQUIREMENTS FOR CONSTRUCTION OF TREATMENT WORKS.—Section 602(b)(6) (33 U.S.C. 1382(b)(6)) is amended—

(1) by striking "before fiscal year 1995"; and

(2) by striking "201(b)" and all that follows through "218" and inserting "211".

(b) COMPLIANCE WITH OTHER FEDERAL LAWS.—Section 602 (33 U.S.C. 1382) is amended by adding at the end the following:

"(c) OTHER FEDERAL LAWS.—

"(1) COMPLIANCE WITH OTHER FEDERAL LAWS.—If a State provides assistance from its water pollution control revolving fund established in accordance with this title and in accordance with a statute, rule, executive order, or program of the State which addresses the intent of any requirement or any Federal executive order or law other than this Act, as determined by the State, the State in providing such assistance shall be treated as having met the Federal requirements.

"(2) LIMITATION ON APPLICABILITY OF OTHER FEDERAL LAWS.—If a State does not meet a requirement of a Federal executive order or law other than this Act under paragraph (1), such Federal law shall only apply to Federal funds deposited in the water pollution control revolving fund established by the State in accordance with this title the first time such funds are used to provide assistance from the revolving fund.".

(c) GUIDANCE FOR SMALL SYSTEMS.—Section 602 (33 U.S.C. 1382) is amended by adding at the end the following new subsection:

"(d) GUIDANCE FOR SMALL SYSTEMS.—

"(1) SIMPLIFIED PROCEDURES.—Not later than 1 year after the date of the enactment of this subsection, the Administrator shall assist the States in establishing simplified procedures for small systems to obtain assistance under this title.

"(2) PUBLICATION OF MANUAL.—Not later than 1 year after the date of the enactment of this subsection, and after providing notice and opportunity for public comment, the Administrator shall publish a manual to assist small systems in obtaining assistance under this title and publish in the Federal Register notice of the availability of the manual.

"(3) SMALL SYSTEM DEFINED.—For purposes of this title, the term 'small system' means a system for which a municipality or intermunicipal, interstate, or State agency seeks assistance under this title and which serves a population of 20,000 or less.".

SEC. 603. WATER POLLUTION CONTROL REVOLVING LOAN FUNDS.

(a) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—Section 603(c) (33 U.S.C. 1383(c)) is amended to read as follows:

"(c) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—

"(1) IN GENERAL.—The amounts of funds available to each State water pollution control revolving fund shall be used only for providing financial assistance to activities which have as a principal benefit the improvement or protection of water quality to a municipality, intermunicipal agency, interstate agency, State agency, or other person. Such activities may include the following:

"(A) Construction of a publicly owned treatment works if the recipient of such assistance is a municipality.

"(B) Implementation of lake protection programs and projects under section 314.

"(C) Implementation of a management program under section 319.

"(D) Implementation of a conservation and management plan under section 320.

"(E) Implementation of a watershed management plan under section 321.

"(F) Implementation of a stormwater management program under section 322.

"(G) Acquisition of property rights for the restoration or protection of publicly or privately owned riparian areas.

"(H) Implementation of measures to improve the efficiency of public water use.

"(I) Development and implementation of plans by a public recipient to prevent water pollution.

"(J) Acquisition of lands necessary to meet any mitigation requirements related to construction of a publicly owned treatment works.

"(2) FUND AMOUNTS.—The water pollution control revolving fund of a State shall be established, maintained, and credited with repayments, and the fund balance shall be available in perpetuity for providing financial assistance described in paragraph (1). Fees charged by a State to recipients of such assistance may be deposited in the fund for the sole purpose of financing the cost of administration of this title.".

(b) EXTENDED REPAYMENT PERIOD FOR DISADVANTAGED COMMUNITIES.—Section 603(d)(1) (33 U.S.C. 1383(d)(1)) is amended—

(1) in subparagraph (A) by inserting after "20 years" the following: "or, in the case of a disadvantaged community, the lesser of 40 years or the expected life of the project to be financed with the proceeds of the loan"; and

(2) in subparagraph (B) by striking "not later than 20 years after project completion" and inserting "upon the expiration of the term of the loan".

(c) LOAN GUARANTEES FOR INNOVATIVE TECHNOLOGY.—Section 603(d)(5) (33 U.S.C. 1383(d)(5)) is amended to read as follows:

"(5) to provide loan guarantees for—

"(A) similar revolving funds established by municipalities or intermunicipal agencies; and

"(B) developing and implementing innovative technologies.".

(d) ADMINISTRATIVE EXPENSES.—Section 603(d)(7) (33 U.S.C. 1383(d)(7)) is amended by inserting before the period at the end the following: "or $400,000 per year, whichever is greater, plus the amount of any fees collected by the State for such purpose under subsection (c)(2)".

(e) TECHNICAL AND PLANNING ASSISTANCE FOR SMALL SYSTEMS.—Section 603(d) (33 U.S.C. 1383(d)) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; and"; and

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

"(8) to provide to small systems technical and planning assistance and assistance in financial management, user fee analysis, budgeting, capital improvement planning, facility operation and maintenance, repair schedules, and other activities to improve wastewater treatment plant operations; except that such amounts shall not exceed 2 percent of all grant awards to such fund under this title.".

(f) CONSISTENCY WITH PLANNING REQUIREMENTS.—Section 603(f) (33 U.S.C. 1383(f)) is amended by striking "and 320" and inserting "320, 321, and 322".

(g) LIMITATIONS ON CONSTRUCTION ASSISTANCE.—Section 603(g) (33 U.S.C. 1383(g)) is amended to read as follows:

"(g) LIMITATIONS ON CONSTRUCTION ASSISTANCE.—The State may provide financial assistance from its water pollution control revolving fund with respect to a project for construction of a treatment works only if—

"(1) such project is on the State's priority list under section 216 of this Act; and

"(2) the recipient of such assistance is a municipality in any case in which the treatment works is privately owned.".

(h) INTEREST RATES.—Section 603 is further amended by adding at the end the following:

"(i) INTEREST RATES.—In any case in which a State makes a loan pursuant to subsection (d)(1) to a disadvantaged community, the State may charge a negative interest rate of not to exceed 2 percent to reduce the unpaid principal of the loan. The aggregate amount of all such negative interest rate loans the State makes in a fiscal year shall not exceed 20 percent of the aggregate amount of all loans made by the State from its revolving loan fund in such fiscal year.

"(j) DISADVANTAGED COMMUNITY DEFINED.—As used in this section, the term 'disadvantaged community' means the service area of a publicly owned treatment works with respect to which the average annual residential sewage treatment charges for a user of the treatment works meet affordability criteria established by the State in which the treatment works is located (after providing for public review and comment) in accordance with guidelines to be established by the Administrator, in cooperation with the States.".

(i) SALE OF TREATMENT WORKS.—Section 603 is further amended by adding at the end the following:

"(k) SALE OF TREATMENT WORKS.—

"(1) IN GENERAL.—Notwithstanding any other provisions of this Act, any State, municipality, intermunicipality, or interstate agency may transfer by sale to a qualified private sector entity all or part of a treatment works that is owned by such agency

and for which it received Federal financial assistance under this Act if the transfer price will be distributed, as amounts are received, in the following order:

"(A) First reimbursement of the agency of the unadjusted dollar amount of the costs of construction of the treatment works or part thereof plus any transaction and fix-up costs incurred by the agency with respect to the transfer less the amount of such Federal financial assistance provided with respect to such costs.

"(B) If proceeds from the transfer remain after such reimbursement, repayment of the Federal Government of the amount of such Federal financial assistance less the applicable share of accumulated depreciation on such treatment works (calculated using Internal Revenue Service accelerated depreciation schedule applicable to treatment works).

"(C) If any proceeds of such transfer remain after such reimbursement and repayment, retention of the remaining proceeds by such agency.

"(2) RELEASE OF CONDITION.—Any requirement imposed by regulation or policy for a showing that the treatment works are no longer needed to serve their original purpose shall not apply.

"(3) SELECTION OF BUYER.—A State, municipality, intermunicipality, or interstate agency exercising the authority granted by this subsection shall select a qualified private sector entity on the basis of total net cost and other appropriate criteria and shall utilize such competitive bidding, direct negotiation, or other criteria and procedures as may be required by State law.

"(l) PRIVATE OWNERSHIP OF TREATMENT WORKS.—

"(1) REGULATORY REVIEW.—The Administrator shall review the law and any regulations, policies, and procedures of the Environmental Protection Agency affecting the construction, improvement, replacement, operation, maintenance, and transfer of ownership of current and future treatment works owned by a State, municipality, intermunicipality, or interstate agency. If permitted by law, the Administrator shall modify such regulations, policies, and procedures to eliminate any obstacles to the construction, improvement, replacement, operation, and maintenance of such treatment works by qualified private sector entities.

"(2) REPORT.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall submit to Congress a report identifying any provisions of law that must be changed in order to eliminate any obstacles referred to in paragraph (1).

"(3) DEFINITION.—For purposes of this section, the term 'qualified private sector entity' means any nongovernmental individual, group, association, business, partnership, organization, or privately or publicly held corporation that—

"(A) has sufficient experience and expertise to discharge successfully the responsibilities associated with construction, operation, and maintenance of a treatment works and to satisfy any guarantees that are agreed to in connection with a transfer of treatment works under subsection (k);

"(B) has the ability to assure protection against insolvency and interruption of services through contractual and financial guarantees; and

"(C) with respect to subsection (k), to the extent consistent with the North American Free Trade Agreement and the General Agreement on Tariffs and Trade—

"(i) is majority-owned and controlled by citizens of the United States; and

"(ii) does not receive subsidies from a foreign government.".

SEC. 604. ALLOTMENT OF FUNDS.

(a) IN GENERAL.—Section 604(a) (33 U.S.C. 1384(a)) is amended to read as follows:

"(a) FORMULA FOR FISCAL YEARS 1996–2000.—Sums authorized to be appropriated pursuant to section 607 for each of fiscal years 1996, 1997, 1998, 1999, and 2000 shall be allotted for such year by the Administrator not later than the 10th day which begins after the date of the enactment of the Clean Water Amendments of 1995. Sums authorized for each such fiscal year shall be allotted in accordance with the following table:

"States:	*Percentage of sums authorized:*
Alabama	1.0110
Alaska	0.5411
Arizona	0.7464
Arkansas	0.5914
California	7.9031
Colorado	0.7232
	Percentage of sums
Connecticut	1.3537
Delaware	0.4438
District of Columbia	0.4438
Florida	3.4462
Georgia	1.8683
Hawaii	0.7002
Idaho	0.4438
Illinois	4.9976
Indiana	2.6631
Iowa	1.2236
Kansas	0.8690
Kentucky	1.3570
Louisiana	1.0060
Maine	0.6999
Maryland	2.1867
Massachusetts	3.7518
Michigan	3.8875
Minnesota	1.6618
Mississippi	0.8146
Missouri	2.5063
Montana	0.4438
Nebraska	0.4624
Nevada	0.4438
New Hampshire	0.9035
New Jersey	4.5156
New Mexico	0.4438
New York	12.1969
North Carolina	1.9943
North Dakota	0.4438
Ohio	5.0898
Oklahoma	0.7304
Oregon	1.2399
Pennsylvania	4.2145
Rhode Island	0.6071
South Carolina	0.9262
South Dakota	0.4438
Tennessee	1.4668
Texas	4.6458
Utah	0.4764
Vermont	0.4438
Virginia	2.2615
Washington	1.9217
West Virginia	1.4249
Wisconsin	2.4442
Wyoming	0.4438
Puerto Rico	1.1792
Northern Marianas	0.0377
American Samoa	0.0812
Guam	0.0587
Pacific Islands Trust Territory	0.1158
Virgin Islands	0.0576.".

(b) CONFORMING AMENDMENT.—Section 604(c)(2) is amended by striking "title II of this Act" and inserting "this title".

SEC. 605. AUTHORIZATION OF APPROPRIATIONS.

Section 607 (33 U.S.C. 1387(a)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding at the end the following:

"(6) such sums as may be necessary for fiscal year 1995;

"(7) $2,500,000,000 for fiscal year 1996;

"(8) $2,500,000,000 for fiscal year 1997;

"(9) $2,500,000,000 for fiscal year 1998;

"(10) $2,500,000,000 for fiscal year 1999; and

"(11) $2,500,000,000 for fiscal year 2000.".

SEC. 606. STATE NONPOINT SOURCE WATER POLLUTION CONTROL REVOLVING FUNDS.

Title VI (33 U.S.C. 1381–1387) is amended—

(1) in section 607 by inserting after "title" the following: "(other than section 608)"; and

(2) by adding at the end the following:

"SEC. 608. STATE NONPOINT SOURCE WATER POLLUTION CONTROL REVOLVING FUNDS.

"(a) GENERAL AUTHORITY.—The Administrator shall make capitalization grants to each State for the purpose of establishing a nonpoint source water pollution control revolving fund for providing assistance—

"(1) to persons for carrying out management practices and measures under the State management program approved under section 319; and

"(2) to agricultural producers for the development and implementation of the water quality components of a whole farm or ranch resource management plan and for implementation of management practices and measures under such a plan.

A State nonpoint source water pollution control revolving fund shall be separate from any other State water pollution control revolving fund; except that the chief executive officer of the State may transfer funds from one fund to the other fund.

"(b) APPLICABILITY OF OTHER REQUIREMENTS OF THIS TITLE.—Except to the extent the Administrator, in consultation with the chief executive officers of the States, determines that a provision of this title is not consistent with a provision of this section, the provisions of sections 601 through 606 of this title shall apply to grants made under this section in the same manner and to the same extent as they apply to grants made under section 601 of this title. Paragraph (5) of section 602(b) shall apply to all funds in a State revolving fund established under this section as a result of capitalization grants made under this section; except that such funds shall first be used to assure reasonable progress toward attainment of the goals of section 319, as determined by the Governor of the State. Paragraph (7) of section 603(d) shall apply to a State revolving fund established under this section, except that the 4-percent limitation contained in such section shall not apply to such revolving fund.

"(c) APPORTIONMENT OF FUNDS.—Funds made available to carry out this section for any fiscal year shall be allotted among the States by the Administrator in the same manner as funds are allotted among the States under section 319 in such fiscal year.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000,000 per fiscal year for each of fiscal years 1996 through 2000.".

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. TECHNICAL AMENDMENTS.

(a) SECTION 118.—Section 118(c)(1)(A) (33 U.S.C. 1268(c)(1)(A)) is amended by striking the last comma.

(b) SECTION 120.—Section 120(d) (33 U.S.C. 1270(d)) is amended by striking "(1)".

(c) SECTION 204.—Section 204(a)(3) (33 U.S.C. 1284(a)(3)) is amended by striking the final period and inserting a semicolon.

(d) SECTION 205.—Section 205 (33 U.S.C. 1285) is amended—

(1) in subsection (c)(2) by striking "and 1985" and inserting "1985, and 1986";

(2) in subsection (c)(2) by striking "through 1985" and inserting "through 1986";

(3) in subsection (g)(1) by striking the period following "4 per centum"; and

(4) in subsection (m)(1)(B) by striking "this" the last place it appears and inserting "such".

(e) SECTION 208.—Section 208 (33 U.S.C. 1288) is amended—

(1) in subsection (h)(1) by striking "designed" and inserting "designated"; and

(2) in subsection (j)(1) by striking "September 31, 1988" and inserting "September 30, 1988".

(f) SECTION 301.—Section 301(j)(1)(A) (33 U.S.C. 1311(j)(1)(A)) is amended by striking "that" the first place it appears and inserting "than".

(g) SECTION 309.—Section 309(d) (33 U.S.C. 1319(d)) is amended by striking the second comma following "Act by a State".

(h) SECTION 311.—Section 311 (33 U.S.C. 1321) is amended—

(1) in subsection (b) by moving paragraph (12) (including subparagraphs (A), (B) and (C)) 2 ems to the right; and

(2) in subsection (h)(2) by striking "The" and inserting "the".

(i) SECTION 505.—Section 505(f) (33 U.S.C. 1365(f)) is amended by striking the last comma.

(j) SECTION 516.—Section 516 (33 U.S.C. 1375) is amended by redesignating subsection (g) as subsection (f).

(k) SECTION 518.—Section 518(f) (33 U.S.C. 1377(f)) is amended by striking "(d)" and inserting "(e)".

SEC. 702. JOHN A. BLATNIK NATIONAL FRESH WATER QUALITY RESEARCH LABORATORY.

(a) DESIGNATION.—The laboratory and research facility established pursuant to section 104(e) of the Federal Water Pollution Control Act (33 U.S.C. 1254(e)) that is located in Duluth, Minnesota, shall be known and designated as the "John A. Blatnik National Fresh Water Quality Research Laboratory".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the laboratory and research facility referred to in subsection (a) shall be deemed to be a reference to the "John A. Blatnik National Fresh Water Quality Research Laboratory".

SEC. 703. WASTEWATER SERVICE FOR COLONIAS.

(a) GRANT ASSISTANCE.—The Administrator may make grants to States along the United States-Mexico border to provide assistance for planning, design, and construction of treatment works to provide wastewater service to the communities along such border commonly known as "colonias".

(b) FEDERAL SHARE.—The Federal share of the cost of a project carried out using funds made available under subsection (a) shall be 50 percent. The non-Federal share of such cost shall be provided by the State receiving the grant.

(c) TREATMENT WORKS DEFINED.—For purposes of this section, the term "treatment works" has the meaning such term has under section 212 of the Federal Water Pollution Control Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for making grants under subsection (a) $50,000,000 for fiscal year 1996. Such sums shall remain available until expended.

SEC. 704. SAVINGS IN MUNICIPAL DRINKING WATER COSTS.

(a) STUDY.—The Administrator of the Environmental Protection Agency, in consultation with the Director of the Office of Management and Budget, shall review, analyze, and compile information on the annual savings that municipalities realize in the construction, operation, and maintenance of drinking water facilities as a result of actions taken under the Federal Water Pollution Control Act.

(b) CONTENTS.—The study conducted under subsection (a), at a minimum, shall contain an examination of the following elements:

(1) Savings to municipalities in the construction of drinking water filtration facilities resulting from actions taken under the Federal Water Pollution Control Act.

(2) Savings to municipalities in the operation and maintenance of drinking water facilities resulting from actions taken under such Act.

(3) Savings to municipalities in health expenditures resulting from actions taken under such Act.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall transmit to Congress a report containing the results of the study conducted under subsection (a).

TITLE VIII—WETLANDS CONSERVATION AND MANAGEMENT

SEC. 801. SHORT TITLE.

This title may be cited as the "Wetlands and Watershed Management Act of 1995".

SEC. 802. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds and declares the following:

(1) Wetlands perform a number of valuable functions needed to restore and maintain the chemical, physical, and biological integrity of the Nation's waters, including—

(A) reducing pollutants (including nutrients, sediment, and toxics) from nonpoint and point sources;

(B) storing, conveying, and purifying flood and storm waters;

(C) reducing both bank erosion and wave and storm damage to adjacent lands and trapping sediment from upland sources;

(D) providing habitat and food sources for a broad range of commercial and recreational fish, shellfish, and migratory wildlife species (including waterfowl and endangered species); and

(E) providing a broad range of recreational values for canoeing, boating, birding, and nature study and observation.

(2) Original wetlands in the contiguous United States have been reduced by an estimated 50 percent and continue to disappear at a rate of 200,000 to 300,000 acres a year. Many of these original wetlands have also been altered or partially degraded, reducing their ecological value.

(3) Wetlands are highly sensitive to changes in water regimes and are, therefore, susceptible to degradation by fills, drainage, grading, water extractions, and other activities within their watersheds which affect the quantity, quality, and flow of surface and ground waters. Protection and management of wetlands, therefore, should be integrated with management of water systems on a watershed basis. A watershed protection and management perspective is also needed to understand and reverse the gradual, continued destruction of wetlands that occurs due to cumulative impacts.

(4) Wetlands constitute an estimated 5 percent of the Nation's surface area. Because much of this land is in private ownership wetlands protection and management strategies must take into consideration private property rights and the need for economic development and growth. This can be best accomplished in the context of a cooperative and coordinated Federal, State, and local strategy for data gathering, planning, management, and restoration with an emphasis on advance planning of wetlands in watershed contexts.

(b) PURPOSES.—The purposes of this Act are—

(1) to help create a coordinated national wetland management effort with efficient use of scarce Federal, State, and local financial and manpower resources to protect wetland functions and values and reduce natural hazard losses;

(2) to help reverse the trend of wetland loss in a fair, efficient, and cost-effective manner;

(3) to reduce inconsistencies and duplication in Federal, State, and local wetland management efforts and encourage integrated permitting at the Federal, State, and local levels;

(4) to increase technical assistance, cooperative training, and educational opportunities for States, local governments, and private landowners;

(5) to help integrate wetland protection and management with other water resource management programs on a watershed basis such as flood control, storm water management, allocation of water supply, protection of fish and wildlife, and point and nonpoint source pollution control;

(6) to increase regionalization of wetland delineation and management policies within a framework of national policies through advance planning of wetland areas, programmatic general permits and other approaches and the tailoring of policies to ecosystem and land use needs to reflect significant watershed variance in wetland resources;

(7) to address the cumulative loss of wetland resources;

(8) to increase the certainty and predictability of planning and regulatory policies for private landowners;

(9) to help achieve no overall net loss and net gain of the remaining wetland base of the United States through watershed-based restoration strategies involving all levels of government;

(10) to restore and create wetlands in order to increase the quality and quantity of the wetland resources and by so doing to restore and maintain the quality and quantity of the waters of the United States; and

(11) to provide mechanisms for joint State, Federal, and local development and testing of approaches to better protect wetland resources such as mitigation banking.

SEC. 803. STATE, LOCAL, AND LANDOWNER TECHNICAL ASSISTANCE AND COOPERATIVE TRAINING.

(a) STATE AND LOCAL TECHNICAL ASSISTANCE.—Upon request, the Administrator or the Secretary of the Army, as appropriate, shall provide technical assistance to State and local governments in the development and implementation of State and local government permitting programs under sections 404(e) and 404(h) of the Federal Water Pollution Control Act, State wetland conservation plans under section 805, and regional or local wetland management plans under section 805.

(b) COOPERATIVE TRAINING.—The Administrator and the Secretary, in cooperation with the Coordinating Committee established pursuant to section 804, shall conduct

training courses for States and local governments involving wetland delineation, utilization of wetlands in nonpoint pollution control, wetland and stream restoration, wetland planning, wetland evaluation, mitigation banking, and other subjects deemed appropriate by the Administrator or Secretary.

(c) PRIVATE LANDOWNER TECHNICAL ASSISTANCE.—The Administrator and Secretary shall, in cooperation with the Coordination Committee, and appropriate Federal agencies develop and provide to private landowners guidebooks, pamphlets, or other materials and technical assistance to help them in identifying and evaluating wetlands, developing integrated wetland management plans for their lands consistent with the goals of this Act and the Federal Water Pollution Control Act, and restoring wetlands.

SEC. 804. FEDERAL, STATE, AND LOCAL GOVERNMENT COORDINATING COMMITTEE.

(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall establish a Federal, State, and Local Government Wetlands Coordinating Committee (hereinafter in this section referred to as the "Committee").

(b) FUNCTIONS.—The Committee shall—

(1) help coordinate Federal, State, and local wetland planning, regulatory, and restoration programs on an ongoing basis to reduce duplication, resolve potential conflicts, and efficiently allocate manpower and resources at all levels of government;

(2) provide comments to the Secretary of the Army or Administrator in adopting regulatory, policy, program, or technical guidance affecting wetland systems;

(3) help develop and field test, national policies prior to implementation such as wetland, delineation, classification of wetlands, methods for sequencing wetland mitigation responses, the utilization of mitigation banks;

(4) help develop and carry out joint technical assistance and cooperative training programs as provided in section 803;

(5) help develop criteria and implementation strategies for facilitating State conservation plans and strategies, local and regional wetland planning, wetland restoration and creation, and State and local permitting programs pursuant to section 404(e) or 404(g) of the Federal Water Pollution Control Act; and

(6) help develop a national strategy for the restoration of wetland ecosystems pursuant to section 6 of this Act.

(c) MEMBERSHIP.—The Committee shall be composed of 18 members as follows:

(1) The Administrator or the designee of the Administrator.

(2) The Secretary or the designee of the Secretary.

(3) The Director of the United States Fish and Wildlife Service or the designee of the Director.

(4) The Chief of the Natural Resources Conservation Service or the designee of the Chief.

(5) The Undersecretary for Oceans and Atmosphere or the designee of the Under Secretary.

(6) One individual appointed by the Administrator who will represent the National Governor's Association.

(7) One individual appointed by the Administrator who will represent the National Association of Counties.

(8) One individual appointed by the Administrator who will represent the National League of Cities.

(9) One State wetland expert from each of the 10 regions of the Environmental Protection Agency. Each member to be appointed under this paragraph shall be jointly appointed by the Governors of the States within the Environmental Protection Agency's region. If the Governors from a region cannot agree on such a representative, they will each submit a nomination to the Administrator and the Administrator will select a representative from such region.

(d) TERMS.—Each member appointed pursuant to paragraph (6), (7), (8), or (9) of subsection (c) shall be appointed for a term of 2 years.

(e) VACANCIES.—A vacancy in the Committee shall be filled, on or before the 30th day after the vacancy occurs, in the manner in which the original appointment was made.

(f) PAY.—Members shall serve without pay, but may receive travel expenses (including per diem in lieu of subsistence) in accordance with sections 5702 and 5703 of title 5, United States Code.

(g) COCHAIRPERSONS.—The Administrator and one member appointed pursuant to paragraph (6), (7), (8), or (9) of subsection (c) (selected by such members) shall serve as cochairpersons of the Committee.

(h) QUORUM.—Two-thirds of the members of the Committee shall constitute a quorum but a lesser number may hold meetings.

(i) MEETINGS.—The Committee shall hold its first meeting not later than 120 days after the date of the enactment of this Act. The Committee shall meet at least twice each year thereafter. Meetings will be opened to the public.

SEC. 805. STATE AND LOCAL WETLAND CONSERVATION PLANS AND STRATEGIES; GRANTS TO FACILITATE THE IMPLEMENTATION OF SECTION 404.

(a) STATE WETLAND CONSERVATION PLANS AND STRATEGIES.—Subject to the requirements of this section, the Administrator shall make grants to States and tribes to assist in the development and implementation of wetland conservation plans and strategies. More specific goals for such conservation plans and strategies may include:

(1) Inventorying State wetland resources, identifying individual and cumulative losses, identifying State and local programs applying to wetland resources, determining gaps in such programs, and making recommendations for filling those gaps.

(2) Developing and coordinating existing State, local, and regional programs for wetland management and protection on a watershed basis.

(3) Increasing the consistency of Federal, State, and local wetland definitions, delineation, and permitting approaches.

(4) Mapping and characterizing wetland resources on a watershed basis.

(5) Identifying sites with wetland restoration or creation potential.

(6) Establishing management strategies for reducing causes of wetland degradation and restoring wetlands on a watershed basis.

(7) Assisting regional and local governments prepare watershed plans for areas with a high percentage of lands classified as wetlands or otherwise in need of special management.

(8) Establishing and implementing State or local permitting programs under section 404(e) or 404(h) of the Federal Water Pollution Control Act.

(b) REGIONAL AND LOCAL WETLAND PLANNING, REGULATION, AND MANAGEMENT PROGRAMS.—Subject to the requirements of this section, the Administrator shall make grants to States which will, in turn, use this funding to make grants to regional and local governments to assist them in adopting and implementing wetland and watershed management programs consistent with goals stated in section 101 of the Federal Water Pollution Control Act and section 802 of this Act. Such plans shall be integrated with (where appropriate) or coordinated with planning efforts pursuant to section 319 of the Federal Water Pollution Control Act. Such programs shall, at a minimum, involve the inventory of wetland resources and the adoption of plans and policies to help achieve the goal of no net loss of wetland resources on a watershed basis. Other goals may include, but are not limited to:

(1) Integration of wetland planning and management with broader water resource and land use planning and management, including flood control, water supply, storm water management, and control of point and nonpoint source pollution.

(2) Adoption of measures to increase consistency in Federal, State, and local wetland definitions, delineation, and permitting approaches.

(3) Establishment of management strategies for restoring wetlands on a watershed basis.

(c) GRANTS TO FACILITATE THE IMPLEMENTATION OF SECTION 404.—Subject to the requirements of this section, the Administrator may make grants to States which assist the Federal Government in the implementation of the section 404 Federal Water Pollution Control program through State assumption of permitting pursuant to sections 404(g) and 404(h) of such Act through State permitting through a State programmatic general permit pursuant to section 404(e) of such Act or through monitoring and enforcement activities. In order to be eligible to receive a grant under this section a State shall provide assurances satisfactory to the Administrator that amounts received by the State in grants under this section will be used to issue regulatory permits or to enforce regulations consistent with the overall goals of section 802 and the standards and procedures of section 404(g) or 404(e) of this Act.

(d) MAXIMUM AMOUNT.—No State may receive more than $500,000 in total grants under subsections (a), (b), and (c) in any fiscal year and more than $300,000 in grants for subsection (a), (b), or (c), individually.

(e) FEDERAL SHARE.—The Federal share of the cost of activities carried out using amounts made available in grants under this section shall not exceed 75 percent.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 per fiscal year for each of fiscal years 1996, 1997, 1998, 1999, and 2000.

SEC. 806. NATIONAL COOPERATIVE WETLAND ECOSYSTEM RESTORATION STRATEGY.

(a) DEVELOPMENT.—Not later than 180 days after the date of the enactment of this Act, the Administrator, in cooperation with other Federal agencies, State, and local governments, and representatives of the private sector, shall initiate the development of a National Cooperative Wetland Ecosystem Restoration Strategy.

(b) GOALS.—The goal of the National Cooperative Wetland Ecosystem Restoration Strategy shall be to restore damaged and degraded wetland and riparian ecosystems consistent with the goals of the Water Pollution Control Amendments and the goals of section 802, and the recommendations of the National Academy of Sciences with regard to the restoration of aquatic ecosystems.

(c) FUNCTIONS.—The National Cooperative Wetland Ecosystem Restoration Strategy shall—

(1) be designed to help coordinate and promote restoration efforts by Federal, State, regional, and local governments and the private sector, including efforts authorized by the Coastal Wetlands Planning, Protection, and Restoration Act, the North American Waterfowl Management Plan, the Wetlands Reserve Program, and the wetland restoration efforts on Federal, State, local, and private lands;

(2) involve the Federal, State, and local Wetlands Coordination Committee established pursuant to section 804;

(3) inventory and evaluate existing restoration efforts and make suggestions for the establishment of new watershed specific efforts consistent with existing Federal programs and State, regional, and local wetland protection and management efforts;

(4) evaluate the role presently being played by wetland restoration in both regulatory and nonregulatory contexts and the relative success of wetland restoration in these contexts;

(5) develop criteria for identifying wetland restoration sites on a watershed basis, procedures for wetlands restoration, and ecological criteria for wetlands restoration; and

(6) identify regulatory obstacles to wetlands ecosystem restoration and recommend methods to reduce such obstacles.

SEC. 807. PERMITS FOR DISCHARGE OF DREDGED OR FILL MATERIAL.

(a) PERMIT MONITORING AND TRACKING.—Section 404(a) (33 U.S.C. 1344) is amended by adding at the end thereof the following: "The Secretary shall, in cooperation with the Administrator, establish a permit monitoring and tracking program on a watershed basis to monitor the cumulative impact of individual and general permits issued under this section. This program shall determine the impact of permitted activities in relationship to the no net loss goal. Results shall be reported biannually to Congress.".

(b) ISSUANCE OF GENERAL PERMITS.—Paragraph (1) of section 404(e) is amended by inserting "local," before "State, regional, or nationwide basis" in the first sentence.

(c) REVOCATION OR MODIFICATION OF GENERAL PERMITS.—Paragraph (2) of section 404(e) is amended by striking the period at the end and inserting "or a State or local government has failed to adequately monitor and control the individual and cumulative adverse effects of activities authorized by State or local programmatic general permits.".

(d) PROGRAMMATIC GENERAL PERMITS.—Section 404(e) is amended by adding at the end thereof the following new paragraph:

"(3) PROGRAMMATIC GENERAL PERMITS.—Consistent with the following requirements, the Secretary may, after notice and opportunity for public comment, issue State or local programmatic general permits for the purpose of avoiding unnecessary duplication of regulations by State, regional, and local regulatory programs:

"(A) The Secretary may issue a programmatic general permit based on a State, regional, or local government regulatory program if that general permit includes adequate safeguards to ensure that the State, regional, or local program will have no more than minimal cumulative impacts on the environment and will provide at least the same degree of protection for the environment, including all waters of the United States, and for Federal interests, as is provided by this section and by the Federal permitting program pursuant to section 404(a). Such safeguards shall include provisions whereby the Corps District Engineer and the Regional Administrators or Directors of the Environmental Protection Agency, the United States Fish and Wildlife Service, and the National Marine Fisheries Service (where appropriate), shall have an opportunity to review permit applications submitted to the State, regional, or local regulatory agency which would have more than minimal individual or cumulative adverse impacts on the environment, attempt to resolve any environmental concern or protect any Federal interest at issue, and, if such concern is not adequately addressed by the State, local, or regional agency, require the processing of an individual Federal permit under this section for the specific proposed activity. The Secretary shall ensure that the District Engineer will utilize this authority to protect all Federal interests including, but not limited to, national security, navigation, flood control, Federal endangered or threatened species, Federal interests under the Wild and Scenic Rivers Act, special aquatic sites of national importance, and other interests of overriding national importance. Any programmatic general permit issued under this subsection shall be consistent with the guidelines promulgated to implement subsection (b)(1).

"(B) In addition to the requirements of subparagraph (A), the Secretary shall not promulgate any local or regional programmatic general permit based on a local or regional government's regulatory program unless the responsible unit of government has also adopted a wetland and watershed management plan and is administering regulations to implement this plan. The watershed management plan shall include—

"(i) the designation of a local or regional regulatory agency which shall be responsible for issuing permits under the plan and for making reports every 2 years on implementation of the plan and on the losses and gains in functions and acres of wetland within the watershed plan area;

"(ii) mapping of—

"(I) the boundary of the plan area;

"(II) all wetlands and waters within the plan area as well as other areas proposed for protection under the plan; and

"(III) proposed wetland restoration or creation sites with a description of their intended functions upon completion and the time required for completion;

"(iii) a description of the regulatory policies and standards applicable to all wetlands and waters within the plan areas and all activities which may affect these wetlands and waters that will assure, at a minimum, no net loss of the functions and acres of wetlands within the plan area; and

"(iv) demonstration that the regulatory agency has the legal authority and scientific monitoring capability to carry out the proposed plan including the issuance, monitoring, and enforcement of permits in compliance with the plan.".

(e) GRANDFATHER OF EXISTING GENERAL PERMITS.—Section 404(e) is further amended by adding at the end the following:

"(4) GRANDFATHER OF EXISTING GENERAL PERMITS.—General permits in effect on day before the date of the enactment of the Wetlands and Watershed Management Act of 1995 shall remain in effect until otherwise modified by the Secretary.".

(f) DISCHARGES NOT REQUIRING A PERMIT.—Section 404(f) (33 U.S.C. 1344(f)) is amended by striking the subsection designation and paragraph (1) and inserting the following:

"(f) EXEMPTIONS.—

"(1) ACTIVITIES NOT REQUIRING PERMIT.—

"(A) IN GENERAL.—Activities are exempt from the requirements of this section and are not prohibited by or otherwise subject to regulation under this section or section 301 or 402 of this Act (except effluent standards or prohibitions under section 307 of this Act) if such activities—

"(i) result from normal farming, silviculture, aquaculture, and ranching activities and practices, including but not limited to plowing, seeding, cultivating, haying, grazing, normal maintenance activities, minor drainage, burning of vegetation in connection with such activities, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices;

"(ii) are for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, flood control channels or other engineered flood control facilities, water control structures, water supply reservoirs (where such maintenance involves periodic water level drawdowns) which provide water predominantly to public drinking water systems, groins, riprap, breakwaters, utility distribution and transmission lines, causeways, and bridge abutments or approaches, and transportation structures;

"(iii) are for the purpose of construction or maintenance of farm, stock or aquaculture ponds, wastewater retention facilities (including dikes and berms) that are used by concentrated animal feeding operations, or irrigation canals and ditches or the maintenance or reconstruction of drainage ditches and tile lines;

"(iv) are for the purpose of construction of temporary sedimentation basins on a construction site, or the construction of any upland dredged material disposal area, which does not include placement of fill material into the navigable waters;

"(v) are for the purpose of construction or maintenance of farm roads or forest roads, in accordance with best management practices, to assure that flow and circulation patterns and chemical and biological characteristics of the waters are not impaired, that the reach of the waters is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized;

"(vi) are undertaken on farmed wetlands, except that any change in use of such land for the purpose of undertaking activities that are not exempt from regulation under this subsection shall be subject to the requirements of this section to the extent that such farmed wetlands are 'wetlands' under this section;

"(vii) are undertaken in incidentally created wetlands, unless such incidentally created wetlands have exhibited wetlands functions and values for more than 5 years in which case activities undertaken in such wetlands shall be subject to the requirements of this section; and

"(viii) are for the purpose of preserving and enhancing aviation safety or are undertaken in order to prevent an airport hazard.".

(g) AREAS NOT CONSIDERED TO BE NAVIGABLE WATERS.—Section 404(f) is further amended by adding the following:

"(3) AREAS NOT CONSIDERED TO BE NAVIGABLE WATERS.—

"(A) IN GENERAL.—For purposes of this section, the following shall not be considered navigable waters:

"(i) Irrigation ditches excavated in uplands.

"(ii) Artificially irrigated areas which would revert to uplands if the irrigation ceased.

"(iii) Artificial lakes or ponds created by excavating or diking uplands to collect and

retain water, and which are used exclusively for stock watering, irrigation, or rice growing.

"(iv) Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating or diking uplands to retain water for primarily aesthetic reasons.

"(v) Temporary, water filled depressions created in uplands incidental to construction activity.

"(vi) Pits excavated in uplands for the purpose of obtaining fill, sand, gravel, aggregates, or minerals, unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States.

"(vii) Artificial stormwater detention areas and artificial sewage treatment areas which are not modified natural waters.

"(B) DEMONSTRATION REQUIRED.—Subparagraph (A) shall not apply to a particular water body unless the person desiring to discharge dredged or fill material in that water body is able to demonstrate that the water body qualifies under subparagraph (A) for exemption from regulation under this section.".

SEC. 808. TECHNICAL ASSISTANCE TO PRIVATE LANDOWNERS, CODIFICATION OF REGULATIONS AND POLICIES.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(u)(1) The Secretary and the Administrator shall in cooperation with the United States Fish and Wildlife Service, Natural Resources Conservation Service, and National Marine Fisheries Service provide technical assistance to private landowners in delineation of wetlands and the planning and management of their wetlands. This assistance shall include—

"(A) the delineation of wetland boundaries within 90 days (providing on the ground conditions allow) of a request for such delineation for a project with a proposed individual permit application under this section and a total assessed value of less than $15,000; and

"(B) the provision of technical assistance to owners of wetlands in the preparation of wetland management plans for their lands to protect and restore wetlands and meet other goals of this Act, including control of nonpoint and point sources of pollution, prevention and reduction of erosion, and protection of estuaries and lakes.

"(2) The Secretary shall prepare, update on a biannual basis, and make available to the public for purchase at cost, an indexed publication containing all Federal regulations, general permits, and regulatory guidance letters relevant to the permitting of activities in wetland areas pursuant to section 404(a). The Secretary and the Administrator shall also prepare and distribute brochures and pamphlets for the public addressing—

"(A) the delineation of wetlands,

"(B) wetland permitting requirements; and

"(C) wetland restoration and other matters considered relevant.".

SEC. 809. DELINEATION.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(v) DELINEATION.—

"(1) IN GENERAL.—The United States Army Corps of Engineers, the United States Environmental Protection Agency, and other Federal agencies shall use the 1987 Corps of Engineers Manual for the Delineation of Jurisdictional Wetlands pursuant to this section until a new manual has been prepared and formally adopted by the Corps and the Environmental Protection Agency with input from the United States Fish and Wildlife Service, Natural Resources, Natural Resources Conservation Service, and other relevant agencies and adopted after field testing, hearing, and public comment. Any new manual shall take into account the conclusions of the National Academy of Sciences panel concerning the delineation of wetlands. The Corps, in cooperation with the Environmental Protection Agency and the Department of Agriculture, shall develop materials and conduct training courses for consultants, State, and local governments, and landowners explaining the use of the Corps 1987 wetland manual in the delineation of wetland areas. The Corps, in cooperation with the Environmental Protection Agency and the Department of Agriculture, may also, in cooperation with the States, develop supplemental criteria and procedures for identification of regional wetland types. Such criteria and procedures may include supplemental plant and soil lists and supplementary technical criteria pertaining to wetland hydrology, soils, and vegetation.

"(2) AGRICULTURAL LANDS.—

"(A) DELINEATION BY SECRETARY OF AGRICULTURE.—For purposes of this section, wetlands located on agricultural lands and associated nonagricultural lands shall be delineated solely by the Secretary of Agriculture in accordance with section 1222(j) of the Food Security Act of 1985 (16 U.S.C. 3822(j)).

"(B) EXEMPTION OF LANDS EXEMPTED UNDER FOOD SECURITY ACT.—Any area of agricultural land or any discharge related to the land determined to be exempt from the requirements of subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) shall also be exempt from the requirements of this section for such period of time as those lands are used as agricultural lands.

"(C) EFFECT OF APPEAL DETERMINATION PURSUANT TO FOOD SECURITY ACT.—Any area of agricultural land or any discharge related to the land determined to be exempt pursuant to an appeal taken pursuant to subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) shall be exempt under this section for such period of time as those lands are used as agricultural lands.".

SEC. 810. FAST TRACK FOR MINOR PERMITS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(w)(1) Not later than 6 months after the date of enactment of this subsection, the Secretary shall issue regulations to explore the review and practice of individual permits for minor activities. Minor activities include activities of 1 acre or less in size which also have minor direct, secondary, or cumulative impacts.

"(2) Permit applications for minor permits shall ordinarily be processed within 60 days of the receipt of completed application.

"(3) The Secretary shall establish fast-track field teams or other procedures in the individual offices sufficient to expedite the processing of the individual permits involving minor activities.".

SEC. 811. COMPENSATORY MITIGATION.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(x) GENERAL REQUIREMENTS.—(1) Each permit issued under this section that results in loss of wetland functions or acreage shall require compensatory mitigation. The preferred sequence of mitigation options is as set forth in subparagraph (A) and (C). However, the Secretary shall have sufficient flexibility to approve practical options that provide the most protection to the resource—

"(A) measures shall first be undertaken by the permittee to avoid any adverse effects on wetlands caused by activities authorized by the permit.

"(B) measures shall be undertaken by the permittee to minimize any such adverse effects that cannot be avoided;

"(C) measures shall then be undertaken by the permittee to compensate for adverse impacts on wetland functions, values, and acreage;

"(D) where compensatory mitigation is used, preference shall be given to in-kind restoration on the same water body and within the same local watershed;

"(E) where on-site and in-kind compensatory mitigation are impossible, impractical, would fail to work in the circumstances, or would not make ecological sense, off-site and/or out-of-kind compensatory mitigation may be permitted within the watershed including participation in cooperative mitigation ventures or mitigation banks as provided in section 404(y).

"(2) The Secretary in consultation with the Administrator shall ensure that compensable mitigation by a permitee—

"(A) is a specific, enforceable condition of the permit for which it is required;

"(B) will meet defined success criteria; and

"(C) is monitored to ensure compliance with the conditions of the permit and to determine the effectiveness of the mitigation in compensating for the adverse effects for which it is required.".

SEC. 812. COOPERATIVE MITIGATION VENTURES AND MITIGATION BANKS.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(y)(1) Not later than 1 year after the date of the enactment of this Act, the Secretary and the Administrator shall jointly issue rules for a system of cooperative mitigation ventures and wetland banks. Such rules shall, at the minimum, address the following topics:

"(A) Mitigation banks and cooperative ventures may be used on a watershed basis to compensate for unavoidable wetland losses which cannot be compensated on-site due to inadequate hydrologic conditions, excessive sedimentation, water pollution, or other problems. Mitigation banks and cooperative ventures may also be used to improve the potential success of compensatory mitigation through the use of larger projects, by locating projects in areas in more favorable short-term and long-term hydrology and proximity to other wetlands and waters, and by helping to ensure short-term and long-term project protection, monitoring, and maintenance.

"(B) Parties who may establish mitigation banks and cooperative mitigation ventures for use in specific context and for particular types of wetlands may include government agencies, nonprofits, and private individuals.

"(C) Surveys and inventories on a watershed basis of potential mitigation sites throughout a region or State shall ordinarily be required prior to the establishment of mitigation banks and cooperative ventures pursuant to this section.

"(D) Mitigation banks and cooperative mitigation ventures shall be used in a manner consistent with the sequencing requirements to mitigate unavoidable wetland impacts. Impacts should be mitigated within the watershed and water body if possible with on-site mitigation preferable as set forth in section 404(x).

"(E) The long-term security of ownership interests of wetlands and uplands on which projects are conducted shall be insured to protect the wetlands values associated with those wetlands and uplands;

"(F) Methods shall be specified to determine debits by evaluating wetland functions, values, and acreages at the sites of proposed permits for discharges or alternations pursuant to subsections (a), (c), and (g) and methods to be used to determine credits based upon functions, values, and acreages at the times of mitigation banks and cooperative mitigation ventures.

"(G) Geographic restrictions on the use of banks and cooperative mitigation ventures shall be specified. In general, mitigation banks or cooperative ventures shall be located on the same water body as impacted wetlands. If this is not possible or practical, banks or ventures shall be located as near as possible to impacted projects with preference given to the same watershed where the impact is occurring.

"(H) Compensation ratios for restoration, creation, enhancement, and preservation reflecting and overall goal of no net loss of function and the status of scientific knowledge with regard to compensation for individual wetlands, risks, costs, and other relevant factors shall be specified. A minimum restoration compensation ratio of 1:1 shall be required for restoration of lost acreage with larger compensation ratios for wetland creation, enhancement and preservation.

"(I) Fees to be charged for participation in a bank or cooperative mitigation venture shall be based upon the costs of replacing lost functions and acreage on-site and off-site; the risks of project failure, the costs of long-term maintenance, monitoring, and protection, and other relevant factors.

"(J) Responsibilities for long-term monitoring, maintenance, and protection shall be specified.

"(K) Public review of proposals for mitigation banks and cooperative mitigation ventures through one or more public hearings shall be provided.

"(2) The Secretary, in consultation with the Administrator, is authorized to establish and implement a demonstration program for creating and implementing mitigation banks and cooperative ventures and for evaluating alternative approaches for mitigation banks and cooperative mitigation ventures as a means of contributing to the goals established by section 101(a)(8) or section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403). The Secretary shall also monitor and evaluate existing banks and cooperative ventures and establish a number of such banks and cooperative ventures to test and demonstrate:

"(A) The technical feasibility of compensation for lost on-site values through off-site cooperative mitigation ventures and mitigation banks.

"(B) Techniques for evaluating lost wetland functions and values at sites for which permits are sought pursuant to section 404(a) and techniques for determining appropriate credits and debits at the sites of cooperative mitigation ventures and mitigation banks.

"(C) The adequacy of alternative institutional arrangements for establishing and administering mitigation banks and cooperative mitigation ventures.

"(D) The appropriate geographical locations of bank or cooperative mitigation ventures in compensation for lost functions and values.

"(E) Mechanisms for ensuring short-term and long-term project monitoring and maintenance.

"(F) Techniques and incentives for involving private individuals in establishing and implementing mitigation banks and cooperative mitigation ventures.

Not later than 3 years after the date of the enactment of this subsection, the Secretary shall transmit to Congress a report evaluating mitigation banks and cooperative ventures. The Secretary shall also, within this time period, prepare educational materials and conduct training programs with regard to the use of mitigation banks and cooperative ventures.".

SEC. 813. WETLANDS MONITORING AND RESEARCH.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(z) The Secretary, in cooperation with the Administrator, the Secretary of Agriculture, the Director of the United States Fish and Wildlife Service, and appropriate State and local government entities, shall initiate, with opportunity for public notice and comment, a research program of wetlands and watershed management. The purposes of the research program shall include, but not be limited—

"(1) to study the functions, values and management needs of altered, artificial, and managed wetland systems including lands that were converted to production of commodity crops prior to December 23, 1985, and report to Congress within 2 years of the date of the enactment of this subsection;

"(2) to study techniques for managing and restoring wetlands within a watershed context;

"(3) to study techniques for better coordinating and integrating wetland, floodplain, stormwater, point and nonpoint source pollution controls, and water supply planning and plan implementation on a watershed basis at all levels of government; and

"(4) to establish a national wetland regulatory tracking program on a watershed basis.

This program shall track the individual and cumulative impact of permits issued pursuant to section 404(a), 404(e), and 404(h) in terms of types of permits issued, conditions, and approvals. The tracking program shall also include mitigation required in terms of the amount required, types required, and compliance.".

SEC. 814. ADMINISTRATIVE APPEALS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(aa) ADMINISTRATIVE APPEALS.—

"(1) REGULATIONS ESTABLISHING PROCEDURES.—Not later than 1 year after the date of the enactment of the Wetlands and Watershed Management Act of 1995, the Secretary shall, after providing notice and opportunity for public comment, issue regulations establishing procedures pursuant to which—

"(A) a landowner may appeal a determination of regulatory jurisdiction under this section with respect to a parcel of the landowner's property;

"(B) a landowner may appeal a wetlands classification under this section with respect to a parcel of the landowner's property;

"(C) any person may appeal a determination that the proposed activity on the landowner's property is not exempt under subsection (f);

"(D) a landowner may appeal a determination that an activity on the landowner's property does not qualify under a general permit issued under this section;

"(E) an applicant for a permit under this section may appeal a determination made pursuant to this section to deny issuance of the permit or to impose a requirement under the permit; and

"(F) a landowner or any other person required to restore or otherwise alter a parcel of property pursuant to an order issued under this section may appeal such order.

"(2) DEADLINE FOR FILING APPEAL.—An appeal brought pursuant to this subsection shall be filed not later than 30 days after the date on which the decision or action on which the appeal is based occurs.

"(3) DEADLINE FOR DECISION.—An appeal brought pursuant to this subsection shall be decided not later than 90 days after the date on which the appeal is filed.

"(4) PARTICIPATION IN APPEALS PROCESS.—Any person who participated in the public comment process concerning a decision or action that is the subject of an appeal brought pursuant to this subsection may participate in such appeal with respect to those issues raised in the person's written public comments.

"(5) DECISIONMAKER.—An appeal brought pursuant to this subsection shall be heard and decided by an appropriate and impartial official of the Federal Government, other than the official who made the determination or carried out the action that is the subject of the appeal.

"(6) STAY OF PENALTIES AND MITIGATION.—A landowner or any other person who has filed an appeal under this subsection shall not be required to pay a penalty or perform mitigation or restoration assessed under this section or section 309 until after the appeal has been decided.".

SEC. 815. CRANBERRY PRODUCTION.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(bb) CRANBERRY PRODUCTION.—Activities associated with expansion, improvement, or modification of existing cranberry production operations shall be deemed in compliance, for purposes of sections 309 and 505, with section 301, if—

"(1) the activity does not result in the modification of more than 10 acres of wetlands per operator per year and the modified wetlands (other than where dikes and other necessary facilities are placed) remain as wetlands or other waters of the United States; or

"(2) the activity is required by any State or Federal water quality program.".

SEC. 816. STATE CLASSIFICATION SYSTEMS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(cc) STATE CLASSIFICATION SYSTEMS.—

"(1) GUIDELINES.—Not later than 1 year after the date of the enactment of this subsection, the Secretary, in consultation with the Administrator, the Secretary of Agriculture, and the Director of the United States Fish and Wildlife Service, shall establish guidelines to aid States and Indian tribes in establishing classification systems for the planning, managing, and regulating of wetlands.

"(2) ESTABLISHMENT.—In accordance with the guidelines established under paragraph (1), a State or Indian tribe may establish a wetlands classification system for lands of the State or Indian tribe and may submit such classification system to the Secretary for approval. Upon approval, the Secretary shall use such classification system in making permit determinations and establishing mitigation requirements for lands of the State or Indian tribe under this section.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to affect a State with an approved program under subsection (h) or a State with a wetlands classification system in effect on the date of the enactment of this subsection.".

SEC. 817. DEFINITIONS.

Section 502 (33 U.S.C. 1362) is amended by adding at the end the following:

"(26) The term 'wetland' means those areas that are inundated or saturated by surface

water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions.

"(27) The term 'discharge of dredged or fill material' means the act of discharging and any related act of filling, grading, draining, dredging, excavation, channelization, flooding, clearing of vegetation, driving of piling or placement of other obstructions, diversion of water, or other activities in navigable waters which impair the flow, reach, or circulation of surface water, or which result in a more than minimal change in the hydrologic regime, bottom contour, or configuration of such waters, or in the type, distribution, or diversity of vegetation in such waters.

"(28) The term 'mitigation bank' shall mean wetland restoration, creation, or enhancement projects undertaken primarily for the purpose of providing mitigation compensation credits for wetland losses from future activities. Often these activities will be, as yet, undefined.

"(29) The term 'cooperative mitigation ventures' shall mean wetland restoration, creation, or enhancement projects undertaken jointly by several parties (such as private, public, and nonprofit parties) with the primary goal of providing compensation for wetland losses from existing or specific proposed activities. Some compensation credits may also be provided for future as yet undefined activities. Most cooperative mitigation ventures will involve at least one private and one public cooperating party.

"(30) The term 'normal farming, silviculture, aquaculture and ranching activities' means normal practices identified as such by the Secretary of Agriculture, in consultation with the Cooperative Extension Service for each State and the land grant university system and agricultural colleges of the State, taking into account existing practices and such other practices as may be identified in consultation with the affected industry or community.

"(31) The term 'agricultural land' means cropland, pastureland, native pasture, rangeland, an orchard, a vineyard, nonindustrial forest land, an area that supports a water dependent crop (including cranberries, taro, watercress, or rice), and any other land used to produce or support the production of an annual or perennial crop (including forage or hay), aquaculture product, nursery product, or wetland crop or the production of livestock.".

H.R. 961

OFFERED BY: MR. BONIOR

AMENDMENT NO. 7: Page 22, strike lines 12 through 22.

Page 22, line 23, strike "(c)" and insert "(b)".

Page 27, line 8, strike "(d)" and insert "(c)".

H.R. 961

OFFERED BY: MR. BORSKI

AMENDMENT NO. 8: Page 239, strike line 3 and all that follows through line 22 on page 322 and insert the following:

TITLE VIII—WETLANDS CONSERVATION AND MANAGEMENT

SEC. 801. SHORT TITLE.

This title may be cited as the "Wetlands and Watershed Management Act of 1995".

SEC. 802. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds and declares the following:

(1) Wetlands perform a number of valuable functions needed to restore and maintain the chemical, physical, and biological integrity of the Nation's waters, including—

(A) reducing pollutants (including nutrients, sediment, and toxics) from nonpoint and point sources;

(B) storing, conveying, and purifying flood and storm waters;

(C) reducing both bank erosion and wave and storm damage to adjacent lands and trapping sediment from upland sources;

(D) providing habitat and food sources for a broad range of commercial and recreational fish, shellfish, and migratory wildlife species (including waterfowl and endangered species); and

(E) providing a broad range of recreational values for canoeing, boating, birding, and nature study and observation.

(2) Original wetlands in the contiguous United States have been reduced by an estimated 50 percent and continue to disappear at a rate of 200,000 to 300,000 acres a year. Many of these original wetlands have also been altered or partially degraded, reducing their ecological value.

(3) Wetlands are highly sensitive to changes in water regimes and are, therefore, susceptible to degradation by fills, drainage, grading, water extractions, and other activities within their watersheds which affect the quantity, quality, and flow of surface and ground waters. Protection and management of wetlands, therefore, should be integrated with management of water systems on a watershed basis. A watershed protection and management perspective is also needed to understand and reverse the gradual, continued destruction of wetlands that occurs due to cumulative impacts.

(4) Wetlands constitute an estimated 5 percent of the Nation's surface area. Because much of this land is in private ownership wetlands protection and management strategies must take into consideration private property rights and the need for economic development and growth. This can be best accomplished in the context of a cooperative and coordinated Federal, State, and local strategy for data gathering, planning, management, and restoration with an emphasis on advance planning of wetlands in watershed contexts.

(b) PURPOSES.—The purposes of this Act are—

(1) to help create a coordinated national wetland management effort with efficient use of scarce Federal, State, and local financial and manpower resources to protect wetland functions and values and reduce natural hazard losses;

(2) to help reverse the trend of wetland loss in a fair, efficient, and cost-effective manner;

(3) to reduce inconsistencies and duplication in Federal, State, and local wetland management efforts and encourage integrated permitting at the Federal, State, and local levels;

(4) to increase technical assistance, cooperative training, and educational opportunities for States, local governments, and private landowners;

(5) to help integrate wetland protection and management with other water resource management programs on a watershed basis such as flood control, storm water management, allocation of water supply, protection of fish and wildlife, and point and nonpoint source pollution control;

(6) to increase regionalization of wetland delineation and management policies within a framework of national policies through advance planning of wetland areas, programmatic general permits and other approaches and the tailoring of policies to ecosystem and land use needs to reflect significant watershed variance in wetland resources;

(7) to address the cumulative loss of wetland resources;

(8) to increase the certainty and predictability of planning and regulatory policies for private landowners;

(9) to help achieve no overall net loss and net gain of the remaining wetland base of the United States through watershed-based restoration strategies involving all levels of government;

(10) to restore and create wetlands in order to increase the quality and quantity of the wetland resources and by so doing to restore and maintain the quality and quantity of the waters of the United States; and

(11) to provide mechanisms for joint State, Federal, and local development and testing of approaches to better protect wetland resources such as mitigation banking.

SEC. 803. STATE, LOCAL, AND LANDOWNER TECHNICAL ASSISTANCE AND COOPERATIVE TRAINING.

(a) STATE AND LOCAL TECHNICAL ASSISTANCE.—Upon request, the Administrator, or the Secretary of the Army, as appropriate, shall provide technical assistance to State and local governments in the development and implementation of State and local government permitting programs under sections 404(e) and 404(h) of the Federal Water Pollution Control Act, State wetland conservation plans under section 805, and regional or local wetland management plans under section 805.

(b) COOPERATIVE TRAINING.—The Administrator and the Secretary, in cooperation with the Coordinating Committee established pursuant to section 804, shall conduct training courses for States and local governments involving wetland delineation, utilization of wetlands in nonpoint pollution control, wetland and stream restoration, wetland planning, wetland evaluation, mitigation banking, and other subjects deemed appropriate by the Administrator or Secretary.

(c) PRIVATE LANDOWNER TECHNICAL ASSISTANCE.—The Administrator and Secretary shall, in cooperation with the Coordination Committee, and appropriate Federal agencies develop and provide to private landowners guidebooks, pamphlets, or other materials and technical assistance to help them in identifying and evaluating wetlands, developing integrated wetland management plans for their lands consistent with the goals of this Act and the Federal Water Pollution Control Act, and restoring wetlands.

SEC. 804. FEDERAL, STATE, AND LOCAL GOVERNMENT COORDINATING COMMITTEE.

(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall establish a Federal, State, and Local Government Wetlands Coordinating Committee (hereinafter in this section referred to as the "Committee").

(b) FUNCTIONS.—The Committee shall—

(1) help coordinate Federal, State, and local wetland planning, regulatory, and restoration programs on an ongoing basis to reduce duplication, resolve potential conflicts, and efficiently allocate manpower and resources at all levels of government;

(2) provide comments to the Secretary of the Army or Administrator in adopting regulatory, policy, program, or technical guidance affecting wetland systems;

(3) help develop and field test, national policies prior to implementation such as wetland, delineation, classification of wetlands, methods for sequencing wetland mitigation responses, the utilization of mitigation banks;

(4) help develop and carry out joint technical assistance and cooperative training programs as provided in section 803;

(5) help develop criteria and implementation strategies for facilitating State conservation plans and strategies, local and regional wetland planning, wetland restoration and creation, and State and local permitting programs pursuant to section 404(e) or 404(g) of the Federal Water Pollution Control Act; and

(6) help develop a national strategy for the restoration of wetland ecosystems pursuant to section 6 of this Act.

(c) MEMBERSHIP.—The Committee shall be composed of 18 members as follows:

(1) The Administrator or the designee of the Administrator.

(2) The Secretary or the designee of the Secretary.

(3) The Director of the United States Fish and Wildlife Service or the designee of the Director.

(4) The Chief of the Natural Resources Conservation Service or the designee of the Chief.

(5) The Undersecretary for Oceans and Atmosphere or the designee of the Under Secretary.

(6) One individual appointed by the Administrator who will represent the National Governor's Association.

(7) One individual appointed by the Administrator who will represent the National Association of Counties.

(8) One individual appointed by the Administrator who will represent the National League of Cities.

(9) One State wetland expert from each of the 10 regions of the Environmental Protection Agency. Each member to be appointed under this paragraph shall be jointly appointed by the Governors of the States within the Environmental Protection Agency's region. If the Governors from a region cannot agree on such a representative, they will each submit a nomination to the Administrator and the Administrator will select a representative from such region.

(d) TERMS.—Each member appointed pursuant to paragraph (6), (7), (8), or (9) of subsection (c) shall be appointed for a term of 2 years.

(e) VACANCIES.—A vacancy in the Committee shall be filled, on or before the 30th day after the vacancy occurs, in the manner in which the original appointment was made.

(f) PAY.—Members shall serve without pay, but may receive travel expenses (including per diem in lieu of subsistence) in accordance with sections 5702 and 5703 of title 5, United States Code.

(g) COCHAIRPERSONS.—The Administrator and one member appointed pursuant to paragraph (6), (7), (8), or (9) of subsection (c) (selected by such members) shall serve as cochairpersons of the Committee.

(h) QUORUM.—Two-thirds of the members of the Committee shall constitute a quorum but a lesser number may hold meetings.

(i) MEETINGS.—The Committee shall hold its first meeting not later than 120 days after the date of the enactment of this Act. The Committee shall meet at least twice each year thereafter. Meetings will be opened to the public.

SEC. 805. STATE AND LOCAL WETLAND CONSERVATION PLANS AND STRATEGIES; GRANTS TO FACILITATE THE IMPLEMENTATION OF SECTION 404.

(a) STATE WETLAND CONSERVATION PLANS AND STRATEGIES.—Subject to the requirements of this section, the Administrator shall make grants to States and tribes to assist in the development and implementation of wetland conservation plans and strategies. More specific goals for such conservation plans and strategies may include:

(1) Inventorying State wetland resources, identifying individual and cumulative losses, identifying State and local programs applying to wetland resources, determining gaps in such programs, and making recommendations for filling those gaps.

(2) Developing and coordinating existing State, local, and regional programs for wetland management and protection on a watershed basis.

(3) Increasing the consistency of Federal, State, and local wetland definitions, delineation, and permitting approaches.

(4) Mapping and characterizing wetland resources on a watershed basis.

(5) Identifying sites with wetland restoration or creation potential.

(6) Establishing management strategies for reducing causes of wetland degradation and restoring wetlands on a watershed basis.

(7) Assisting regional and local governments prepare watershed plans for areas with a high percentage of lands classified as wetlands or otherwise in need of special management.

(8) Establishing and implementing State or local permitting programs under section 404(e) or 404(h) of the Federal Water Pollution Control Act.

(b) REGIONAL AND LOCAL WETLAND PLANNING, REGULATION, AND MANAGEMENT PROGRAMS.—Subject to the requirements of this section, the Administrator shall make grants to States which will, in turn, use this funding to make grants to regional and local governments to assist them in adopting and implementing wetland and watershed management programs consistent with goals stated in section 101 of the Federal Water Pollution Control Act and section 802 of this Act. Such plans shall be integrated with (where appropriate) or coordinated with planning efforts pursuant to section 319 of the Federal Water Pollution Control Act. Such programs shall, at a minimum, involve the inventory of wetland resources and the adoption of plans and policies to help achieve the goal of no net loss of wetland resources on a watershed basis. Other goals may include, but are not limited to:

(1) Integration of wetland planning and management with broader water resource and land use planning and management, including flood control, water supply, storm water management, and control of point and nonpoint source pollution.

(2) Adoption of measures to increase consistency in Federal, State, and local wetland definitions, delineation, and permitting approaches.

(3) Establishment of management strategies for restoring wetlands on a watershed basis.

(c) GRANTS TO FACILITATE THE IMPLEMENTATION OF SECTION 404.—Subject to the requirements of this section, the Administrator may make grants to States which assist the Federal Government in the implementation of the section 404 Federal Water Pollution Control program through State assumption of permitting pursuant to sections 404(g) and 404(h) of such Act through State permitting through a State programmatic general permit pursuant to section 404(e) of such Act or through monitoring and enforcement activities. In order to be eligible to receive a grant under this section a State shall provide assurances satisfactory to the Administrator that amounts received by the State in grants under this section will be used to issue regulatory permits or to enforce regulations consistent with the overall goals of section 802 and the standards and procedures of section 404(g) or 404(e) of this Act.

(d) MAXIMUM AMOUNT.—No State may receive more than $500,000 in total grants under subsections (a), (b), and (c) in any fiscal year and more than $300,000 in grants for subsection (a), (b), or (c), individually.

(e) FEDERAL SHARE.—The Federal share of the cost of activities carried out using amounts made available in grants under this section shall not exceed 75 percent.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 per fiscal year for each of fiscal years 1996, 1997, 1998, 1999, and 2000.

SEC. 806. NATIONAL COOPERATIVE WETLAND ECOSYSTEM RESTORATION STRATEGY.

(a) DEVELOPMENT.—Not later than 180 days after the date of the enactment of this Act, the Administrator, in cooperation with other Federal agencies, State, and local governments, and representatives of the private sector, shall initiate the development of a National Cooperative Wetland Ecosystem Restoration Strategy.

(b) GOALS.—The goal of the National Cooperative Wetland Ecosystem Restoration Strategy shall be to restore damaged and degraded wetland and riparian ecosystems consistent with the goals of the Water Pollution Control Amendments and the goals of section 802, and the recommendations of the National Academy of Sciences with regard to the restoration of aquatic ecosystems.

(c) FUNCTIONS.—The National Cooperative Wetland Ecosystem Restoration Strategy shall—

(1) be designed to help coordinate and promote restoration efforts by Federal, State, regional, and local governments and the private sector, including efforts authorized by the Coastal Wetlands Planning, Protection, and Restoration Act, the North American Waterfowl Management Plan, the Wetlands Reserve Program, and the wetland restoration efforts on Federal, State, local, and private lands;

(2) involve the Federal, State, and local Wetlands Coordination Committee established pursuant to section 804;

(3) inventory and evaluate existing restoration efforts and make suggestions for the establishment of new watershed specific efforts consistent with existing Federal programs and State, regional, and local wetland protection and management efforts;

(4) evaluate the role presently being played by wetland restoration in both regulatory and nonregulatory contexts and the relative success of wetland restoration in these contexts;

(5) develop criteria for identifying wetland restoration sites on a watershed basis, procedures for wetlands restoration, and ecological criteria for wetlands restoration; and

(6) identify regulatory obstacles to wetlands ecosystem restoration and recommend methods to reduce such obstacles.

SEC. 807. PERMITS FOR DISCHARGE OF DREDGED OR FILL MATERIAL.

(a) Section 404(a) (33 U.S.C. 1344) is amended by adding at the end thereof the following: "The Secretary shall, in cooperation with the Administrator, establish a permit monitoring and tracking programs on a watershed basis to monitor the cumulative impact of individual and general permits issued under this section. This program shall determine the impact of permitted activities in relationship to the no net loss goal. Results shall be reported biannually to Congress.".

(b) Paragraph (1) of section 404(e) is amended by inserting "local," before "State, regional, or nationwide basis" in the first sentence.

(c) Paragraph (2) of section 404(e) is amended by striking the period at the end and inserting "or a State or local government has failed to adequately monitor and control the individual and cumulative adverse effects of activities authorized by State or local programmatic general permits.".

(d) Section 404(e) is amended by adding at the end thereof the following new paragraph:

"(3) Consistent with the following requirements, the Secretary may, after notice and opportunity for public comment, issue State or local programmatic general permits for the purpose of avoiding unnecessary duplication of regulations by State, regional, and local regulatory programs:

"(A) The Secretary may issue a programmatic general permit based on a State, regional, or local government regulatory program if that general permit includes adequate safeguards to ensure that the State, regional, or local program will have no more than minimal cumulative impacts on the environment and will provide at least the same degree of protection for the environment, including all waters of the United States, and for Federal interests, as is provided by this section and by the Federal permitting program pursuant to section 404(a). Such safeguards shall include provisions whereby the Corps District Engineer and the Regional Administrators or Directors of the Environmental Protection Agency, the United States Fish and Wildlife Service, and the National Marine Fisheries Service (where appropriate), shall have an opportunity to review permit applications submitted to the State, regional, or local regulatory agency which would have more than minimal individual or cumulative adverse impacts on the environment, attempt to resolve any environmental concern or protect any Federal interest at issue, and, if such concern is not adequately addressed by the State, local, or regional agency, require the processing of an individual Federal permit under this section for the specific proposed activity. The Secretary shall ensure that the District Engineer will utilize this authority to protect all Federal interests including, but not limited to, national security, navigation, flood control, Federal endangered or threatened species, Federal interests under the Wild and Scenic Rivers Act, special aquatic sites of national importance, and other interests of overriding national importance. Any programmatic general permit issued under this subsection shall be consistent with the guidelines promulgated to implement subsection (b)(1).

"(B) In addition to the requirements of subparagraph (A), the Secretary shall not promulgate any local or regional programmatic general permit based on a local or regional government's regulatory program unless the responsible unit of government has also adopted a wetland and watershed management plan and is administering regulations to implement this plan. The watershed management plan shall include—

"(i) the designation of a local or regional regulatory agency which shall be responsible for issuing permits under the plan and for making reports every 2 years on implementation of the plan and on the losses and gains in functions and acres of wetland within the watershed plan area;

"(ii) mapping of—

"(I) the boundary of the plan area;

"(II) all wetlands and waters within the plan area as well as other areas proposed for protection under the plan; and

"(III) proposed wetland restoration or creation sites with a description of their intended functions upon completion and the time required for completion;

"(iii) a description of the regulatory policies and standards applicable to all wetlands and waters within the plan areas and all activities which may affect these wetlands and waters that will assure, at a minimum, no net loss of the functions and acres of wetlands within the plan area; and

"(iv) demonstration that the regulatory agency has the legal authority and scientific monitoring capability to carry out the proposed plan including the issuance, monitoring, and enforcement of permits in compliance with the plan.".

(e) Section 404(f) is amended by adding the following:

"(3)(A) For purposes of this section, the following shall not be considered navigable waters:

"(i) Irrigation ditches excavated in uplands.

"(ii) Artificially irrigated areas which would revert to uplands if the irrigation ceased.

"(iii) Artificial lakes or ponds created by excavating or diking uplands to collect and retain water, and which are used exclusively for stock watering, irrigation, or rice growing.

"(iv) Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating or diking uplands to retain water for primarily aesthetic reasons.

"(v) Temporary, water filled depressions created in uplands incidental to construction activity.

"(vi) Pits excavated in uplands for the purpose of obtaining fill, sand, gravel, aggregates, or minerals, unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States.

"(vii) Artificial stormwater detention areas and artificial sewage treatment areas which are not modified natural waters.

"(B) Subparagraph (A) shall not apply to a particular water body unless the person desiring to conduct an activity in that water body is able to demonstrate that the water body qualifies under subparagraph (A) for exemption from regulation under this section.".

SEC. 808. TECHNICAL ASSISTANCE TO PRIVATE LANDOWNERS, CODIFICATION OF REGULATIONS AND POLICIES.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(u)(1) The Secretary and the Administrator shall in cooperation with the United States Fish and Wildlife Service, Natural Resources Conservation Service, and National Marine Fisheries Service provide technical assistance to private landowners in delineation of wetlands and the planning and management of their wetlands. This assistance shall include—

"(A) the delineation of wetland boundaries within 90 days (providing on the ground conditions allow) of a request for such delineation for a project with a proposed individual permit application under this section and a total assessed value of less than $15,000; and

"(B) the provision of technical assistance to owners of wetlands in the preparation of wetland management plans for their lands to protect and restore wetlands and meet other goals of this Act, including control of nonpoint and point sources of pollution, prevention and reduction of erosion, and protection of estuaries and lakes.

"(2) The Secretary shall prepare, update on a biannual basis, and make available to the public for purchase at cost, an indexed publication containing all Federal regulations, general permits, and regulatory guidance letters relevant to the permitting of activities in wetland areas pursuant to section 404(a). The Secretary and the Administrator shall also prepare and distribute brochures and pamphlets for the public addressing—

"(A) the delineation of wetlands,

"(B) wetland permitting requirements; and

"(C) wetland restoration and other matters considered relevant.".

SEC. 809. DELINEATION.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(v) The United States Army Corps of Engineers, the United States Environmental Protection Agency, and other Federal agencies shall use the 1987 Corps of Engineers Manual for the Delineation of Jurisdictional Wetlands pursuant to this section until a new manual has been prepared and formally adopted by the Corps and the Environmental Protection Agency with input from the United States Fish and Wildlife Service, Natural Resources, Natural Resources Conservation Service, and other relevant agencies and adopted after field testing, hearing, and public comment. Any new manual shall take into account the conclusions of the National Academy of Sciences panel concerning the delineation of wetlands. The Corps in cooperation with the Environmental Protection Agency shall develop materials and conduct training courses for consultants, State, and local governments, and landowners explaining the use of the Corps 1987 wetland manual in the delineation of wetland areas. The Corps in cooperation with the Environmental Protection Agency may also, in cooperation with the States, develop supplemental criteria and procedures for identification of regional wetland types. Such criteria and procedures may include supplemental plant and soil lists and supplementary technical criteria pertaining to wetland hydrology, soils, and vegetation.".

SEC. 810. FAST TRACK FOR MINOR PERMITS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(w)(1) Not later than 6 months after the date of enactment of this subsection, the Secretary shall issue regulations to explore the review and practice of individual permits for minor activities. Minor activities include activities of 1 acre or less in size which also have minor direct, secondary, or cumulative impacts.

"(2) Permit applications for minor permits shall ordinarily be processed within 60 days of the receipt of completed application.

"(3) The Secretary shall establish fast-track field teams or other procedures in the individual offices sufficient to expedite the processing of the individual permits involving minor activities.".

SEC. 811. COMPENSATORY MITIGATION.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(x) GENERAL REQUIREMENTS.—(1) Each permit issued under this section that results in loss of wetland functions or acreage shall require compensatory mitigation. The preferred sequence of mitigation options is as set forth in subparagraph (A) and (C). However, the Secretary shall have sufficient flexibility to approve practical options that provide the most protection to the resource—

"(A) measures shall first be undertaken by the permittee to avoid any adverse effects on wetlands caused by activities authorized by the permit.

"(B) measures shall be undertaken by the permittee to minimize any such adverse effects that cannot be avoided;

"(C) measures shall then be undertaken by the permittee to compensate for adverse impacts on wetland functions, values, and acreage;

"(D) where compensatory mitigation is used, preference shall be given to in-kind restoration on the same water body and within the same local watershed;

"(E) where on-site and in-kind compensatory mitigation are impossible, impractical, would fail to work in the circumstances, or would not make ecological sense, off-site and/or out-of-kind compensatory mitigation may be permitted within the watershed including participation in cooperative mitigation ventures or mitigation banks as provided in section 404(y).

"(2) The Secretary in consultation with the Administrator shall ensure that compensable mitigation by a permitee—

"(A) is a specific, enforceable condition of the permit for which it is required;

"(B) will meet defined success criteria; and

"(C) is monitored to ensure compliance with the conditions of the permit and to determine the effectiveness of the mitigation in compensating for the adverse effects for which it is required.".

SEC. 812. COOPERATIVE MITIGATION VENTURES AND MITIGATION BANKS.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(y)(1) Not later than 1 year after the date of the enactment of this Act, the Secretary and the Administrator shall jointly issue rules for a system of cooperative mitigation ventures and wetland banks. Such rules shall, at the minimum, address the following topics:

"(A) Mitigation banks and cooperative ventures may be used on a watershed basis to compensate for unavoidable wetland losses which cannot be compensated on-site due to inadequate hydrologic conditions, excessive sedimentation, water pollution, or other problems. Mitigation banks and cooperative ventures may also be used to improve the potential success of compensatory mitigation through the use of larger projects, by locating projects in areas in more favorable short-term and long-term hydrology and proximity to other wetlands and waters, and by helping to ensure short-term and long-term project protection, monitoring, and maintenance.

"(B) Parties who may establish mitigation banks and cooperative mitigation ventures for use in specific context and for particular types of wetlands may include government agencies, nonprofits, and private individuals.

"(C) Surveys and inventories on a watershed basis of potential mitigation sites throughout a region or State shall ordinarily be required prior to the establishment of mitigation banks and cooperative ventures pursuant to this section.

"(D) Mitigation banks and cooperative mitigation ventures shall be used in a manner consistent with the sequencing requirements to mitigate unavoidable wetland impacts. Impacts should be mitigated within the watershed and water body if possible with on-site mitigation preferable as set forth in section 404(x).

"(E) The long-term security of ownership interests of wetlands and uplands on which projects are conducted shall be insured to protect the wetlands values associated with those wetlands and uplands;

"(F) Methods shall be specified to determine debits by evaluating wetland functions, values, and acreages at the sites of proposed permits for discharges or alterations pursuant to subsections (a), (c), and (g) and methods to be used to determine credits based upon functions, values, and acreages at the times of mitigation banks and cooperative mitigation ventures.

"(G) Geographic restrictions on the use of banks and cooperative mitigation ventures shall be specified. In general, mitigation banks or cooperative ventures shall be located on the same water body as impacted wetlands. If this is not possible or practical, banks or ventures shall be located as near as possible to impacted projects with preference given to the same watershed where the impact is occurring.

"(H) Compensation ratios for restoration, creation, enhancement, and preservation reflecting an overall goal of no net loss of function and the status of scientific knowledge with regard to compensation for individual wetlands, risks, costs, and other relevant factors shall be specified. A minimum restoration compensation ratio of 1:1 shall be required for restoration of lost acreage with larger compensation ratios for wetland creation, enhancement and preservation.

"(I) Fees to be charged for participation in a bank or cooperative mitigation venture shall be based upon the costs of replacing lost functions and acreage on-site and off-site; the risks of project failure, the costs of long-term maintenance, monitoring, and protection, and other relevant factors.

"(J) Responsibilities for long-term monitoring, maintenance, and protection shall be specified.

"(K) Public review of proposals for mitigation banks and cooperative mitigation ventures through one or more public hearings shall be provided.

"(2) The Secretary, in consultation with the Administrator, is authorized to establish and implement a demonstration program for creating and implementing mitigation banks and cooperative ventures and for evaluating alternative approaches for mitigation banks and cooperative mitigation ventures as a means of contributing to the goals established by section 101(a)(8) or section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403). The Secretary shall also monitor and evaluate existing banks and cooperative ventures and establish a number of such banks and cooperative ventures to test and demonstrate:

"(A) The technical feasibility of compensation for lost on-site values through off-site cooperative mitigation ventures and mitigation banks.

"(B) Techniques for evaluating lost wetland functions and values at sites for which permits are sought pursuant to section 404(a) and techniques for determining appropriate credits and debits at the sites of cooperative mitigation ventures and mitigation banks.

"(C) The adequacy of alternative institutional arrangements for establishing and administering mitigation banks and cooperative mitigation ventures.

"(D) The appropriate geographical locations of bank or cooperative mitigation ventures in compensation for lost functions and values.

"(E) Mechanisms for ensuring short-term and long-term project monitoring and maintenance.

"(F) Techniques and incentives for involving private individuals in establishing and implementing mitigation banks and cooperative mitigation ventures. Not later than 3 years after the date of the enactment of this subsection, the Secretary shall transmit to Congress a report evaluating mitigation banks and cooperative ventures. The Secretary shall also, within this time period, prepare educational materials and conduct training programs with regard to the use of mitigation banks and cooperative ventures.".

SEC. 813. WETLANDS MONITORING AND RESEARCH.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(z) The Secretary, in cooperation with the Administrator, the Director of the United States Fish and Wildlife Service, and appropriate State and local government entities, shall initiate, with opportunity for public notice and comment, a research program of wetlands and watershed management. The purposes of the research program shall include, but not be limited—

"(1) to study the functions, values and management needs of altered, artificial, and managed wetland systems including lands that were converted to production of commodity crops prior to December 23, 1985, and report to Congress within 2 years of the date of the enactment of this subsection;

"(2) to study techniques for managing and restoring wetlands within a watershed context;

"(3) to study techniques for better coordinating and integrating wetland, floodplain, stormwater, point and nonpoint source pollution controls, and water supply planning and plan implementation on a watershed basis at all levels of government; and

"(4) to establish a national wetland regulatory tracking program on a watershed basis.

This program shall track the individual and cumulative impact of permits issued pursuant to section 404(a), 404(e), and 404(h) in terms of types of permits issued, conditions, and approvals. The tracking program shall also include mitigation required in terms of the amount required, types required, and compliance.".

SEC. 814. DEFINITIONS.

Section 502 (33 U.S.C. 1362) is amended by adding at the end the following:

"(28) The term 'wetland' means those areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions.

"(29) The term 'discharge of dredged or fill material' means the act of discharging and any related act of filling, grading, draining, dredging, excavation, channelization, flooding, clearing of vegetation, driving of piling or placement of other obstructions, diversion of water, or other activities in navigable waters which impair the flow, reach, or circulation of surface water, or which result in a more than minimal change in the hydrologic regime, bottom contour, or configuration of such waters, or in the type, distribution, or diversity of vegetation in such waters.

"(30) The term 'mitigation bank' shall mean wetland restoration, creation, or enhancement projects undertaken primarily for the purpose of providing mitigation compensation credits for wetland losses from future activities. Often these activities will be, as yet, undefined.

"(31) The term 'cooperative mitigation ventures' shall mean wetland restoration, creation, or enhancement projects undertaken jointly by several parties (such as private, public, and nonprofit parties) with the

primary goal of providing compensation for wetland losses from existing or specific proposed activities. Some compensation credits may also be provided for future as yet undefined activities. Most cooperative mitigation ventures will involve at least one private and one public cooperating party.".

Conform the table of contents of the bill accordingly.

H.R. 961

OFFERED BY: MISS COLLINS OF MICHIGAN

AMENDMENT NO. 9: Page 62, after line 14, insert the following:

(d) CONSIDERATION OF CONSUMPTION PATTERNS.—Section 304(a) is further amended by adding at the end the following:

"(13) CONSIDERATION OF CONSUMPTION PATTERNS.—In developing human health and aquatic life criteria under this subsection, the Administrator shall take into account, where practicable, the consumption patterns of diverse segments of the population, including segments at disproportionately high risk, such as minority populations, children, and women of child-bearing age.".

Page 62, line 15, strike "(d)" and insert "(e)".

Page 63, line 4, strike "(e)" and insert "(f)".

Page 63, line 24, strike "(f)" and insert "(g)".

Page 64, line 4, strike "(g)" and insert "(h)".

H.R. 961

OFFERED BY: MISS COLLINS OF MICHIGAN

AMENDMENT NO. 10: Page 73, strike lines 19 through 22 and insert the following:

(c) FISH CONSUMPTION ADVISORIES.—Section 304 (33 U.S.C. 1314) is amended by adding at the end the following:

"(o) FISH CONSUMPTION ADVISORIES.—

"(1) POSTING.—Not later than 18 months after the date of the enactment of this Act, the Administrator shall propose and issue regulations establishing minimum, uniform requirements and procedures requiring States, either directly or through local authorities, to post signs, at reasonable and appropriate points of public access, on navigable waters or portions of navigable waters that significantly violate applicable water quality standards under this Act or that are subject to a fishing or shell-fishing ban, advisory, or consumption restriction (issued by a Federal, State, or local authority) due to fish or shellfish contamination.

"(2) SIGNS.—The regulations shall require the signs to be posted under this subsection—

"(A) to indicate clearly the water quality standard that is being violated or the nature and extent of the restriction on fish or shellfish consumption;

"(B) to be in English, and when appropriate, any language used by a large segment of the population in the immediate vicinity of the navigable waters;

"(C) to include a clear warning symbol; and

"(D) to be maintained until the body of water is consistently in compliance with the water quality standard or until all fish and shellfish consumption restrictions are terminated for the body of water or portion thereof.".

H.R. 961

OFFERED BY: MISS COLLINS OF MICHIGAN

Page 73, after line 18, insert the following:

(c) FISH AND SHELLFISH SAMPLINGS.—Section 304 (33 U.S.C. 1314) is amended by adding at the end the following:

"(n) FISH AND SHELLFISH SAMPLINGS; MONITORING.—Not later than 18 months after the date of the enactment of this Act, the Administrator shall propose and issue regulations to establish uniform and scientifically sound requirements and procedures for fish and shellfish sampling and analysis and uniform requirements for monitoring of navigable waters that do not meet applicable water quality standards under this Act or that are subject to a fishing or shell-fishing ban, advisory, or consumption restriction (issued by a Federal, State, or local authority) due to fish or shellfish contamination.".

Page 73, line 19, strike "(c)" and insert "(d)".

H.R. 961

OFFERED BY: MISS COLLINS OF MICHIGAN

AMENDMENT NO. 12: Page 203, after line 8, insert the following:

SEC. 410. ENVIRONMENTAL JUSTICE REVIEW.

Section 402 (32 U.S.C. 1342) is further amended by adding at the end the following:

"(u) ENVIRONMENTAL JUSTICE REVIEW.—No permit may be issued under this section unless the Administrator or the State, as the case may be, first reviews the proposed permit to identify and reduce disproportionately high and adverse impacts to the health of, or environmental exposures of, minority and low-income populations.".

Redesignate subsequent sections of the bill accordingly. Conform the table of contents of the bill accordingly.

H.R. 961

OFFERED BY: MISS COLLINS OF MICHIGAN

AMENDMENT NO. 13: Page 213, after line 14, insert the following:

SEC. 508. DATA COLLECTION.

Section 516 (33 U.S.C. 1375) is amended by inserting after subsection (e) the following:

"(f) DATA COLLECTION.—

"(1) IN GENERAL.—The Administrator shall, on an ongoing basis—

"(A) collect, maintain, and analyze data necessary to assess and compare the levels and sources of water pollution to which minority and low-income populations are disproportionately exposed; and

"(B) for waters receiving discharges in violation of permits issued under section 402 or waters with levels of pollutants exceeding applicable water quality standards under this Act, collect data on the frequency and volume of discharges of each pollutant for which a violation occurs into waters adjacent to or used by minority and low-income communities.

"(2) PUBLICATION.—The Administrator shall publish summaries of the data collected under this section annually.".

Redesignate subsequent sections of the bill accordingly. Conform the table of contents of the bill accordingly.

Page 236, strike lines 13 and 14.

Page 236, line 15, strike "(k)" and insert "(j)".

H.R. 961

OFFERED BY: MR. CRANE

AMENDMENT NO. 14: Page 311, strike line 16 and all that follows through line 9 on page 312.

H.R. 961

OFFERED BY: MR. EMERSON

AMENDMENT NO. 15: Insert the following new section into H.R. 961:

SEC. . FEDERAL POWER ACT PART I PROJECTS.

Section 511(a) of the Federal Water Pollution Control Act (33 U.S.C. §1371) is amended by adding after "subject to section 10 of the Act of March 3, 1899," the following, and by renumbering the remaining paragraph accordingly:

"(3) applying to hydropower projects within the jurisdiction of the Federal Energy Regulatory Commission or its successors under the authority of Part I of the Federal Power Act (16 U.S.C. §§791 et seq.);".

H.R. 961

OFFERED BY: MR. ENGLISH

AMENDMENT NO. 16: Page 284, strike lines 10 through 18.

Page 284, line 19, strike "(3)" and insert "(2)".

H.R. 961

OFFERED BY: MR. ENGLISH

AMENDMENT NO. 17: Page 249, line 13, strike "20 percent" and insert "30 percent".

H.R. 961

OFFERED BY: MR. FRANKS OF NEW JERSEY

AMENDMENT NO. 18: Page 323, strike line 1 and all that follows through line 23 on page 326 and insert the following:

TITLE IX—NAVIGATIONAL DREDGING

SEC. 901. REFERENCES TO ACT.

Except as otherwise expressly provided, whenever in this title 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 Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.).

SEC. 902. ENVIRONMENTAL PROTECTION AGENCY PERMITS.

Section 102(c) (33 U.S.C. 1412(c)) is amended—

(1) in the first sentence of paragraph (3) by striking "the Administrator, in conjunction with the Secretary," and inserting "the Secretary, in conjunction with the Administrator,"; and

(2) in the second sentence of paragraph (3) by striking "the Administrator and the Secretary" and inserting "the Secretary and the Administrator".

SEC. 903. CORPS OF ENGINEERS PERMITS.

(a) DISPOSAL SITES.—Section 103(b) (33 U.S.C. 1413(b)) is amended—

(1) in the matter preceding paragraph (1) by striking ", with the concurrence of the Administrator,"; and

(2) in paragraph (3) by striking "Administrator" and inserting "Secretary".

(b) CONSULTATION WITH THE ADMINISTRATOR.—Section 103(c) (33 U.S.C. 1413(c)) is amended to read as follows:

"(c) CONSULTATION WITH THE ADMINISTRATOR.—Prior to issuing a permit to any person under this section, the Secretary shall first consult with the Administrator.".

SEC. 904. PENALTIES.

Section 105 (33 U.S.C. 1415) is amended—

(1) in the first sentence by inserting "or, with respect to violations of section 103, the Secretary" before the period at the end;

(2) in the fourth, fifth, and sixth sentences by inserting "or the Secretary, as the case may be," after "Administrator" each place it appears; and

(3) in subsection (g)(2)(C) by inserting "or the Secretary, as the case may be," after "the Administrator" the first place it appears.

SEC. 905. ANNUAL REPORT.

Section 112 (33 U.S.C. 1421) is amended by striking "with the concurrence of the Administrator".

SEC. 906. REFERENCE TO COMMITTEE.

Section 104(i)(3) (33 U.S.C. 1414(i)(3)) is amended by striking "Merchant Marine and Fisheries" and inserting "Transportation and Infrastructure".

Conform the table of contents of the bill accordingly.

H.R. 961

OFFERED BY: MR. FRANKS OF NEW JERSEY

AMENDMENT NO. 19: Page 101, line 18, before the period insert the following:

except that a coastal State may submit a portion of its management program relating to the coastal areas of the State at an earlier date in which case the Administrator shall approve or disapprove such portion under subsection (d) within 6 months of the date of such submission

H.R. 961

OFFERED BY: MR. FRANKS OF NEW JERSEY

AMENDMENT NO. 20: Page 108, line 7, after the first period insert the following:

Such rules and regulations shall provide for priority consideration in the award of grants to coastal States under this section to a coastal State which receives approval of its management program, or any portion of such program relating to the coastal zones of the State, on or before December 31, 1995.

H.R. 961

OFFERED BY: MR. FRANKS OF NEW JERSEY

AMENDMENT NO. 21: Page 97, line 22, before the closing quotation marks insert the following:

and, in watersheds of impaired or threatened waters in coastal zones, with coastal zones being defined as the federally approved State coastal management programs under the Coastal Zone Management Act of 1972, to implement model management practices and measures within 5 years of the date of the enactment of the Clean Water Amendments of 1995

H.R. 961

OFFERED BY: MR. FRELINGHUYSEN

Amendment No. 22: Page 305, after line 4, insert the following:

"(8) TREATMENT OF EXISTING PROGRAMS.—Any State which has received approval to administer a program pursuant to this subsection before the date of the enactment of the Comprehensive Wetlands Conservation and Management Act of 1995 shall not be required to reapply for approval and shall be permitted to continue administering such program.

H.R. 961

OFFERED BY: MR. FRELINGHUYSEN

AMENDMENT NO. 23: In the matter proposed to be inserted as section 404(l) of the Federal Water Pollution Control Act by section 803 of the bill (as amended by Mr. Shuster's amendment) strike paragraph (8) and insert the following:

"(8) TREATMENT OF EXISTING PROGRAMS.—Any State which has received approval to administer a program pursuant to this subsection before the date of the enactment of the Comprehensive Wetlands Conservation and Management Act of 1995 shall not be required to reapply for approval and shall be permitted to continue administering such program.

H.R. 961

OFFERED BY: MR. FRELINGHUYSEN

Amendment No. 24: Page 305, after line 4, insert the following:

"(8) TREATMENT OF EXISTING PROGRAMS.—Any State which has received approval to administer a program pursuant to this subsection before the date of the enactment of the Comprehensive Wetlands Conservation and Management Act of 1995 shall not be required to reapply for approval and shall be permitted to continue administering such program.

H.R. 961

OFFERED BY: MR. GILCHREST

AMENDMENT NO. 25: Page 243, strike line 9 and all that follows through line 7 on page 249 and insert the following:

"(c) WETLANDS CLASSIFICATION.—The Secretary shall issue regulations for the classification of wetlands to the extent practicable based on the best available science. Requirements of this title based on the classification of wetlands as type A, type B, or type C wetlands shall not become effective until regulations are issued under this subsection.

Page 282, line 11, strike "subparagraphs (B) and (C)" and insert "subparagraph (B)".

Page 282, strike line 12 and all that follows through line 22 on page 283.

Page 283, strike line 23 and all that follows through "any" on line 25 and insert the following:

"(B) NORMAL CIRCUMSTANCES.—Any

Page 311, line 17, strike "section," and insert "section and".

Page 311, lines 18 through 20, strike ", and no exception shall be available under subsection (g)(1)(B),".

H.R. 961

OFFERED BY: MR. GILCHREST

AMENDMENT NO. 26: Page 309, strike lines 8 through 12.

Page 309, line 13, strike "(10)" and insert "(9)".

Page 312, line 10, strike "(11)" and insert "(10)".

H.R. 961

OFFERED BY: MR. LIPINSKI

AMENDMENT NO. 27: Pages 231 and 232, strike the table and insert the following:

	Percentage of sums authorized:
"States:	
Alabama	0.7736
Alaska	0.2500
Arizona	1.1526
Arkansas	0.3853
California	9.3957
Colorado	0.6964
Connecticut	1.3875
Delaware	0.2500
District of Columbia	0.3203
Florida	3.4696
Georgia	2.0334
Hawaii	0.2629
Idaho	0.2531
Illinois	5.6615
Indiana	3.1304
Iowa	0.6116
Kansas	0.8749
Kentucky	1.3662
Louisiana	1.0128
Maine	0.6742
Maryland	1.6701
Massachusetts	4.3755
Michigan	3.8495
Minnesota	1.3275
Mississippi	0.6406
Missouri	1.7167
Montana	0.2500
Nebraska	0.4008
Nevada	0.2500
New Hampshire	0.4791
New Jersey	4.7219
New Mexico	0.2500
New York	14.7435
North Carolina	2.5920
North Dakota	0.2500
Ohio	4.9828
Oklahoma	0.6273
Oregon	1.2483
Pennsylvania	4.2431
Rhode Island	0.4454
South Carolina	0.7480
South Dakota	0.2500
Tennessee	1.4767
Texas	4.6773
Utah	0.2937
Vermont	0.2722
Virginia	2.4794
Washington	2.2096
West Virginia	1.4346
Wisconsin	1.4261
Wyoming	0.2500
Puerto Rico	1.0866
Northern Marianas	0.0308
American Samoa	0.0908
Guam	0.0657
Palau	0.1295
Virgin Islands	0.0527".

H.R. 961

OFFERED BY: MR. MCINTOSH

AMENDMENT NO. 28: Page 99, line 5, strike the closing quotation marks and the final period.

Page 99, after line 5, insert the following:

"(J) An assurance that the State will not take any action under the program limiting the use of any portion of private property in a manner that diminishes the fair market value of that portion by 20 percent or more without providing just compensation to the property owner.".

H.R. 961

OFFERED BY: MR. MILLER OF CALIFORNIA

AMENDMENT NO. 29: Title III of the bill is amended—

(a) on page 33, by striking line 7 and all that follows through line 10 on page 34;

(b) on page 62, by striking line 21 and all that follows through line 3 on page 63;

(c) on page 64, by striking line 4 and all that follows through line 14;

(d) on page 77, by striking line 1 and all that follows through line 23 on page 80;

(e) on page 83, by striking line 1 and all that follows through line 13;

(f) on page 93, by striking line 7 and all that follows through line 22 on page 95;

(g) on page 99, by striking line 12 and all that follows through line 10 on page 101;

(h) on page 121, by striking line 22 and all that follows through line 2 on page 122;

(i) on page 167, by striking line 12 and all that follows through line 14 on page 169; and

(j) renumber all sections, subsections, paragraphs, and subparagraphs accordingly.

H.R. 961

OFFERED BY: MR. MINETA

AMENDMENT NO. 30: Page 133, strike line 15, and all that follows through line 9 on page 170 and insert the following:

SEC. 322. MUNICIPAL STORMWATER MANAGEMENT PROGRAMS.

(a) STATE PROGRAMS.—Title III (33 U.S.C. 1311 et seq.) is further amended by adding at the end the following new section:

"SEC. 322. MUNICIPAL STORMWATER MANAGEMENT PROGRAMS.

"(a) PURPOSE.—The purpose of this section is to assist States in the development and implementation of municipal stormwater control programs in an expeditious and cost effective manner so as to enable the goals and requirements of this Act to be met in each State no later than 15 years after the date of approval of the municipal stormwater management program of the State. It is recognized that State municipal stormwater management programs need to be built on a foundation that voluntary pollution prevention initiatives represent an approach most likely to succeed in achieving the objectives of this Act.

"(b) STATE ASSESSMENT REPORTS.—

"(1) CONTENTS.—After notice and opportunity for public comment, the Governor of each State, consistent with or as part of the assessment required by section 319, shall prepare and submit to the Administrator for approval, a report which—

"(A) identifies those navigable waters within the State which, without additional action to control pollution from municipal stormwater discharges, cannot reasonably be expected to attain or maintain applicable water quality standards or the goals and requirements of this Act;

"(B) identifies those categories and subcategories of municipal stormwater discharges that add significant pollution to each portion of the navigable waters identified under subparagraph (A) in amounts which contribute to such portion not meeting such water quality standards or such goals and requirements;

"(C) describes the process, including intergovernmental coordination and public participation, for identifying measures to control pollution from each category and subcategory of municipal stormwater discharges identified in subparagraph (B) and to reduce, to the maximum extent practicable, the level of pollution resulting from such discharges; and

"(D) identifies and describes State and local programs for controlling pollution added from municipal stormwater discharges to, and improving the quality of, each such portion of the navigable waters.

"(2) INFORMATION USED IN PREPARATION.—In developing, reviewing, and revising the report required by this subsection, the State—

"(A) may rely upon information developed pursuant to sections 208, 303(e), 304(f), 305(b), 314, 319, 320, and 321 and subsection (h) of this section, information developed from any group stormwater permit application process in effect under section 402(p) of this Act and such other information as the State determines is appropriate; and

"(B) may utilize appropriate elements of the waste treatment management plans developed pursuant to sections 208(b) and 303, to the extent such elements are consistent with and fulfill the requirements of this section.

"(3) REVIEW AND REVISION.—Not later than 18 months after the date of the enactment of the Clean Water Amendments of 1995, and every 5 years thereafter, the State shall review, revise, and submit to the Administrator the report required by this subsection.

"(c) STATE MANAGEMENT PROGRAMS.—

"(1) IN GENERAL.—In substantial consultation with local governments and after notice and opportunity for public comment, the Governor of each State for the State or in combination with the Governors of adjacent States shall prepare and submit to the Administrator for approval a municipal stormwater management program based on available information which the State proposes to implement in the first 5 fiscal years beginning after the date of submission of such management program for controlling pollution added from municipal stormwater discharges to the navigable waters within the boundaries of the State and improving the quality of such waters.

"(2) SPECIFIC CONTENTS.—Each management program proposed for implementation under this subsection shall include the following:

"(A) IDENTIFICATION OF MODEL MANAGEMENT PRACTICES AND MEASURES.—Identification of the model management practices and measures which will be undertaken to reduce pollutant loadings resulting from municipal stormwater discharges designated under subsection (b)(1)(B), taking into account the impact of the practice and measure on ground water quality.

"(B) IDENTIFICATION OF PROGRAMS AND RESOURCES.—Identification of programs and resources necessary (including, as appropriate, nonregulatory programs or regulatory programs, enforceable policies and mechanisms, technical assistance, financial assistance, education, training, technology transfer, and demonstration projects) to manage municipal stormwater discharges to the degree necessary to provide for reasonable further progress toward the goal of attainment of water quality standards which contain the stormwater criteria established under subsection (h) for designated uses of receiving waters identified under subsection (b)(1)(A) taking into consideration specific watershed conditions, by not later than the last day of the 15-year period beginning on the date of approval of the State program.

"(C) PROGRAM FOR REDUCING POLLUTANT LOADINGS.—A program for municipal stormwater discharges identified under subsection (b)(1)(B) to reduce pollutant loadings from categories and subcategories of municipal stormwater discharges.

"(D) SCHEDULE.—A schedule containing interim goals and milestones for making reasonable progress toward the attainment of standards as set forth in subparagraph (B) established for the designated uses of receiving waters, taking into account specific watershed conditions, which may be demonstrated by one or any combination of improvements in water quality (including biological indicators), documented implementation of voluntary stormwater discharge control measures, or adoption of enforceable stormwater discharge control measures.

"(E) CERTIFICATION OF ADEQUATE AUTHORITY.—

"(i) IN GENERAL.—A certification by the Attorney General of the State or States (or the chief attorney of any State water pollution control agency that has authority under State law to make such certification) that the laws of the State or States, as the case may be, provide adequate authority to implement such management program or, if there is not such adequate authority, a list of such additional authorities as will be necessary to implement such management program.

"(ii) COMMITMENT.—A schedule for seeking, and a commitment by the State or States to seek, such additional authorities as expeditiously as practicable.

"(F) IDENTIFICATION OF FEDERAL FINANCIAL ASSISTANCE PROGRAMS.—An identification of Federal financial assistance programs and Federal development projects for which the State will review individual assistance applications or development projects for their effect on water quality pursuant to the procedures set forth in Executive Order 12372 as in effect on September 17, 1983, to determine whether such assistance applications or development projects would be consistent with the program prepared under this subsection; for the purposes of this subparagraph, identification shall not be limited to the assistance programs or development projects subject to Executive Order 12372 but may include any programs listed in the most recent Catalog of Federal Domestic Assistance which may have an effect on the purposes and objectives of the State's municipal stormwater management program.

"(G) MONITORING.—A description of the monitoring of navigable waters or other assessment which will be carried out under the program for the purposes of monitoring and assessing the effectiveness of the program, including the attainment of interim goals and milestones.

"(H) IDENTIFICATION OF CERTAIN INCONSISTENT FEDERAL ACTIVITIES.—An identification of activities on Federal lands in the State that are inconsistent with the State management program.

"(I) IDENTIFICATION OF GOALS AND MILESTONES.—An identification of goals and milestones for progress in attaining water quality standards, including a projected date for attaining such standards as expeditiously as practicable but not later than 15 years after the date of approval of the State program for each of the waters listed pursuant to subsection (b).

"(3) UTILIZATION OF LOCAL AND PRIVATE EXPERTS.—In developing and implementing a management program under this subsection, a State shall, to the maximum extent practicable, involve local public and private agencies and organizations which have expertise in stormwater management.

"(4) DEVELOPMENT ON WATERSHED BASIS.—A State shall, to the maximum extent practicable, develop and implement a stormwater management program under this subsection on a watershed-by-watershed basis within such State.

"(d) ADMINISTRATIVE PROVISIONS.—

"(1) COOPERATION REQUIREMENT.—Any report required by subsection (b) and any management program and report required by subsection (c) shall be developed in cooperation with local, substate, regional, and interstate entities which are responsible for implementing municipal stormwater management programs.

"(2) TIME PERIOD FOR SUBMISSION OF MANAGEMENT PROGRAMS.—Each management program shall be submitted to the Administrator within 30 months of the issuance by the Administrator of the final guidance under subsection (l) and every 5 years thereafter. Each program submission after the initial submission following the date of the enactment of the Clean Water Amendments of 1995 shall include a demonstration of reasonable further progress toward the goal of attaining water quality standards as set forth in subsection (c)(2) established for designated uses of receiving waters taking into account specific watershed conditions by not later than the date referred to in subsection (b)(2)(B), including a documentation of the degree to which the State has achieved the interim goals and milestones contained in the previous program submission. Such demonstration shall take into account the adequacy of Federal funding under this section.

"(3) TRANSITION.—

"(A) IN GENERAL.—Permits issued pursuant to section 402(p) for discharges from municipal storm sewers, as in effect on the day before the date of the enactment of this section, shall remain in effect until the effective date of a State municipal stormwater management program under this section. Stormwater dischargers shall continue to implement any stormwater management practices and measures required under such permits until such practices and measures are modified pursuant to this subparagraph or pursuant to a State municipal stormwater management program. Prior to the effective date of a State municipal stormwater management program, municipal stormwater dischargers may submit for approval proposed revised stormwater management practices and measures to the State, in the case of a State with an approved program under

section 402, or the Administrator. Upon notice of approval by the State or the Administrator, the municipal stormwater discharger shall implement the revised stormwater management practices and measures which may be voluntary pollution prevention activities. A municipal stormwater discharger operating under a permit continued in effect under this subparagraph shall not be subject to citizens suits under section 505.

"(B) ANTIBACKSLIDING.—Section 402(o) shall not apply to any activity carried out in accordance with this paragraph.

"(e) APPROVAL OR DISAPPROVAL OF REPORTS OR MANAGEMENT PROGRAMS.—

"(1) DEADLINE.—Subject to paragraph (2), not later than 180 days after the date of submission to the Administrator of any report or revised report or management program under this section, the Administrator shall either approve or disapprove such report or management program, as the case may be. The Administrator may approve a portion of a management program under this subsection. If the Administrator does not disapprove a report, management program, or portion of a management program in such 180-day period, such report, management program, or portion shall be deemed approved for purposes of this section.

"(2) PROCEDURE FOR DISAPPROVAL.—If, after notice and opportunity for public comment and consultation with appropriate Federal and State agencies and other interested persons, the Administrator determines that—

"(A) the proposed management program or any portion thereof does not meet the requirements of subsection (b) of this section or is not likely to satisfy, in whole or in part, the goals and requirements of this Act;

"(B) adequate authority does not exist, or adequate resources are not available, to implement such program or portion; or

"(C) the practices and measures proposed in such program or portion will not result in reasonable progress toward the goal of attainment of applicable water quality standards as set forth in subsection (c)(2) established for designated uses of receiving waters taking into consideration specific watershed conditions as expeditiously as possible but not later than 15 years after approval of a State municipal stormwater management program under this section;

the Administrator shall within 6 months of the receipt of the proposed program notify the State of any revisions or modifications necessary to obtain approval. The State shall have an additional 6 months to submit its revised management program, and the Administrator shall approve or disapprove such revised program within 3 months of receipt.

"(3) FAILURE OF STATE TO SUBMIT REPORT.—If a Governor of a State does not submit a report or revised report required by subsection (b) within the period specified by subsection (d)(2), the Administrator shall, within 18 months after the date on which such report is required to be submitted under subsection (b), prepare a report for such State which makes the identifications required by paragraphs (1)(A) and (1)(B) of subsection (b). Upon completion of the requirement of the preceding sentence and after notice and opportunity for a comment, the Administrator shall report to Congress of the actions of the Administrator under this section.

"(4) FAILURE OF STATE TO SUBMIT MANAGEMENT PROGRAM.—

"(A) PROGRAM MANAGEMENT BY ADMINISTRATOR.—Subject to paragraph (5), if a State fails to submit a management program or revised management program under subsection (c) or the Administrator does not approve such management program, the Administrator shall prepare and implement a management program for controlling pollution added from municipal stormwater discharges to the navigable waters within the State and improving the quality of such waters in accordance with subsection (c).

"(B) NOTICE AND HEARING.—If the Administrator intends to disapprove a program submitted by a State the Administrator shall first notify the Governor of the State, in writing, of the modifications necessary to meet the requirements of this section. The Administrator shall provide adequate public notice and an opportunity for a public hearing for all interested parties.

"(C) STATE REVISION OF ITS PROGRAM.—If, after taking into account the level of funding actually provided as compared with the level authorized, the Administrator determines that a State has failed to demonstrate reasonable further progress toward the attainment of water quality standards as required, the State shall revise its program within 12 months of that determination in a manner sufficient to achieve attainment of applicable water quality standards by the deadline established by this section. If a State fails to make such a program revision or the Administrator does not approve such a revision, the Administrator shall prepare and implement a municipal stormwater management program for the State.

"(5) LOCAL MANAGEMENT PROGRAMS; TECHNICAL ASSISTANCE.—If a State fails to submit a management program under subsection (c) or the Administrator does not approve such a management program, a local public agency or organization which has expertise in, and authority to, control water pollution resulting from municipal stormwater sources in any area of such State which the Administrator determines is of sufficient geographic size may, with approval of such State, request the Administrator to provide, and the Administrator shall provide, technical assistance to such agency or organization in developing for such area a management program which is described in subsection (c) and can be approved pursuant to this subsection. After development of such management program, such agency or organization shall submit such management program to the Administrator for approval.

"(f) INTERSTATE MANAGEMENT CONFERENCE.—

"(1) CONVENING OF CONFERENCE; NOTIFICATION; PURPOSE.—

"(A) CONVENING OF CONFERENCE.—If any portion of the navigable waters in any State which is implementing a management program approved under this section is not meeting applicable water quality standards or the goals and requirements of this Act as a result, in whole or in part, of pollution from stormwater in another State, such State may petition the Administrator to convene, and the Administrator shall convene, a management conference of all States which contribute significant pollution resulting from stormwater to such portion.

"(B) NOTIFICATION.—If, on the basis of information available, the Administrator determines that a State is not meeting applicable water quality standards or the goals and requirements of this Act as a result, in whole or in part, of significant pollution from stormwater in another State, the Administrator shall notify such States.

"(C) TIME LIMIT.—The Administrator may convene a management conference under this paragraph not later than 180 days after giving such notification under subparagraph (B), whether or not the State which is not meeting such standards requests such conference.

"(D) PURPOSE.—The purpose of the conference shall be to develop an agreement among the States to reduce the level of pollution resulting from stormwater in the portion of the navigable waters and to improve the water quality of such portion.

"(E) PROTECTION OF WATER RIGHTS.—Nothing in the agreement shall supersede or abrogate rights to quantities of water which have been established by interstate water compacts, Supreme Court decrees, or State water laws.

"(F) LIMITATIONS.—This subsection shall not apply to any pollution which is subject to the Colorado River Basin Salinity Control Act. The requirement that the Administrator convene a management conference shall not be subject to the provisions of section 505 of this Act.

"(2) STATE MANAGEMENT PROGRAM REQUIREMENT.—To the extent that the States reach agreement through such conference, the management programs of the States which are parties to such agreements and which contribute significant pollution to the navigable waters or portions thereof not meeting applicable water quality standards or goals and requirements of this Act will be revised to reflect such agreement. Such management programs shall be consistent with Federal and State law.

"(g) GRANTS FOR STORMWATER RESEARCH.—

"(1) IN GENERAL.—To determine the most cost-effective and technologically feasible means of improving the quality of the navigable waters and to develop the criteria required pursuant to subsection (g), the Administrator shall establish an initiative through which the Administrator shall fund State and local demonstration programs and research to—

"(A) identify adverse impacts of stormwater discharges on receiving waters;

"(B) identify the pollutants in stormwater which cause impact; and

"(C) test innovative approaches to address the impacts of source controls and model management practices and measures for runoff from municipal storm sewers.

Persons conducting demonstration programs and research funded under this subsection shall also take into account the physical nature of episodic stormwater flows, the varying pollutants in stormwater, the actual risk the flows pose to the designated beneficial uses, and the ability of natural ecosystems to accept temporary stormwater events.

"(2) AWARD OF FUNDS.—The Administrator shall award the demonstration and research program funds taking into account regional and population variations.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $20,000,000 per fiscal year for fiscal years 1996 through 2000. Such sums shall remain available until expended.

"(h) DEVELOPMENT OF STORMWATER CRITERIA.—

"(1) IN GENERAL.—To reflect the episodic character of stormwater which results in significant variances in the volume, hydraulics, hydrology, and pollutant load associated with stormwater discharges, the Administrator shall establish, as an element of the water quality standards established for the designated uses of the navigable waters, stormwater criteria which protect the navigable waters from impairment of the designated beneficial uses caused by stormwater

discharges. The criteria shall be technologically and financially feasible and may include performance standards, guidelines, guidance, and model management practices and measures and treatment requirements, as appropriate, and as identified in subsection (g)(1).

"(2) INFORMATION TO BE USED IN DEVELOPMENT.—The stormwater discharge criteria to be established under this subsection—

"(A) shall be developed from—

"(i) the findings and conclusions of the demonstration programs and research conducted under subsection (g);

"(ii) the findings and conclusions of the research and monitoring activities of stormwater dischargers performed in compliance with permit requirements of this Act; and

"(iii) other relevant information, including information submitted to the Administrator under the industrial group permit application process in effect under section 402 of this Act;

"(B) shall be developed in consultation with persons with expertise in the management of stormwater (including officials of State and local government, industrial and commercial stormwater dischargers, and public interest groups); and

"(C) shall be established as an element of the water quality standards that are developed and implemented under this Act by not later than December 31, 2008.

"(i) COLLECTION OF INFORMATION.—The Administrator shall collect and make available, through publications and other appropriate means, information pertaining to model management practices and measures and implementation methods, including, but not limited to—

"(1) information concerning the costs and relative efficiencies of model management practices and measures for reducing pollution from stormwater discharges; and

"(2) available data concerning the relationship between water quality and implementation of various management practices to control pollution from stormwater discharges.

"(j) REPORTS OF ADMINISTRATOR.—

"(1) BIENNIAL REPORTS.—Not later than January 1, 1996, and biennially thereafter, the Administrator shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, a report for the preceding fiscal year on the activities and programs implemented under this section and the progress made in reducing pollution in the navigable waters resulting from stormwater discharges and improving the quality of such waters.

"(2) CONTENTS.—Each report submitted under paragraph (1), at a minimum shall—

"(A) describe the management programs being implemented by the States by types of affected navigable waters, categories and subcategories of stormwater discharges, and types of measures being implemented;

"(B) describe the experiences of the States in adhering to schedules and implementing the measures under subsection (c);

"(C) describe the amount and purpose of grants awarded pursuant to subsection (g);

"(D) identify, to the extent that information is available, the progress made in reducing pollutant loads and improving water quality in the navigable waters;

"(E) indicate what further actions need to be taken to attain and maintain in those navigable waters (i) applicable water quality standards, and (ii) the goals and requirements of this Act;

"(F) include recommendations of the Administrator concerning future programs (including enforcement programs) for controlling pollution from stormwater; and

"(G) identify the activities and programs of departments, agencies, and instrumentalities of the United States that are inconsistent with the municipal stormwater management programs implemented by the States under this section and recommended modifications so that such activities and programs are consistent with and assist the States in implementation of such management programs.

"(k) GUIDANCE ON MODEL STORMWATER MANAGEMENT PRACTICES AND MEASURES.—

"(1) IN GENERAL.—The Administrator, in consultation with appropriate Federal, State, and local departments and agencies, and after providing notice and opportunity for public comment, shall publish guidance to identify model management practices and measures which may be undertaken, at the discretion of the State or appropriate entity, under a management program established pursuant to this section. In preparing such guidance, the Administrator shall consider integration of a municipal stormwater management program of a State with, and the relationship of such program to, the nonpoint source management program of the State under section 319.

"(2) PUBLICATION.—The Administrator shall publish proposed guidance under this subsection not later than 6 months after the date of the enactment of this subsection and shall publish final guidance under this subsection not later than 18 months after such date of enactment. The Administrator shall periodically review and revise the final guidance upon adequate notice and opportunity for public comment at least once every 3 years after its publication.

"(3) MODEL MANAGEMENT PRACTICES AND MEASURES DEFINED.—For the purposes of this subsection, the term "model management practices and measures" means economically achievable measures for the control of pollutants from stormwater discharges which reflect the most cost-effective degree of pollutant reduction achievable through the application of the best available practices, technologies, processes, siting criteria, operating methods, or other alternatives.

"(l) ENFORCEMENT WITH RESPECT TO MUNICIPAL STORMWATER DISCHARGERS VIOLATING STATE MANAGEMENT PROGRAMS.—Municipal stormwater dischargers that do not comply with State management program requirements under subsection (c) are subject to applicable enforcement actions under sections 309 and 505 of this Act.

"(m) ENTRY AND INSPECTION.—In order to carry out the objectives of this section, an authorized representative of a State, upon presentation of his or her credentials, shall have a right of entry to, upon, or through any property at which a stormwater discharge or records required to be maintained under the State municipal stormwater management program are located.

"(n) LIMITATION ON DISCHARGES REGULATED UNDER WATERSHED MANAGEMENT PROGRAM.—Municipal stormwater discharges regulated under section 321 in a manner consistent with this section shall not be subject to this section.".

(b) CONFORMING AMENDMENTS TO INDUSTRIAL STORMWATER DISCHARGE PROGRAM.—Section 402(p) (33 U.S.C 1342(p)) is amended—

(1) in the subsection heading by striking "MUNICIPAL AND";

(2) in paragraph (1) by striking "1994" and inserting "2001";

(3) by adding at the end of the paragraph (1) the following: "This subsection does not apply to municipal stormwater discharges which are covered by section 322.";

(4) in paragraph (2) by striking subparagraphs (C) and (D) and by redesignating subparagraph (E) as subparagraph (C);

(5) in paragraph (3)—

(A) by striking the heading for subparagraph (A);

(B) by moving the text of subparagraph (A) after the paragraph heading; and

(C) by striking subparagraph (B);

(6) in paragraph (4)—

(A) by striking the heading for subparagraph (A);

(B) by moving the text of subparagraph (A) after the paragraph heading;

(C) by striking "and (2)(C)"; and

(D) by striking subparagraph (B);

(7) by striking paragraph (5);

(8) by redesignating paragraph (6) as paragraph (5); and

(9) in paragraph (5) as so redesignated—

(A) by striking "1993" and inserting "2000"; and

(B) by inserting after "paragraph (2)" the following: "and other than municipal stormwater discharges".

(c) DEFINITIONS.—Section 502 (33 U.S.C. 1362) is amended by adding at the end the following:

"(25) The term 'stormwater' means runoff from rain, snow melt, or any other precipitation-generated surface runoff.

"(26) The term 'stormwater discharge' means a discharge from any conveyance which is used for the collecting and conveying of stormwater to navigable waters and which is associated with a municipal storm sewer system or industrial, commercial, oil, gas, or mining activities or construction activities.".

H.R. 961

OFFERED BY: MR. MINETA

AMENDMENT NO. 31: Page 65, strike line 2 and all that follows through line 9 on page 68.

Page 68, line 10, strike "(c)" and insert "(a)".

Page 69, line 7, strike "(d)" and insert "(b)".

H.R. 961

OFFERED BY: MR. MINETA

AMENDMENT NO. 32: Page 284, strike lines 10 through 18.

Page 284, line 19, strike "(3)" and insert "(2)".

H.R. 961

OFFERED BY: MR. MINETA

AMENDMENT NO. 33: Page 32, strike line 19 and all that follows through line 6 on page 33.

Page 33, line 7, strike "(c)" and insert "(b)".

Page 33, strike line 16 and all that follows though line 10 on page 34.

Pages 34 through 47, strike section 302 of the bill.

Redesignate subsequent sections of title III of the bill accordingly. Conform the table of contents of the bill accordingly.

Page 47, strike line 20 and all that follows through line 8 on page 48 and insert the following:

SEC. 303. REVISION OF STATE WATER QUALITY STANDARDS.

Section 303(c)(1) is amended by striking

Conform the table of contents of the bill accordingly.

Page 48, strike line 16 and all that follows through line 10 on page 52.

Page 64, strike lines 4 through 14.

Pages 73 through 80, strike sections 311 and 312 of the bill.

Redesignate subsequent sections of title III of the bill accordingly. Conform the table of contents of the bill accordingly.

Pages 93 through 95, strike section 318 of the bill.

Redesignate subsequent sections of title III of the bill accordingly. Conform the table of contents of the bill accordingly.

Page 130, line 2, after the period insert closing quotation marks and a period.

Page 130, strike lines 3 through 25.

Page 131, strike lines 5 through 22 and insert the following:

"(r) SYNCHRONIZED PERMIT TERMS.—Notwith-* * *

H.R. 961

OFFERED BY: MR. MINETA

AMENDMENT NO. 34: Page 181, strike line 17 and all that follows through line 9 on page 182.

Page 184, strike line 10 and all that follows through line 21 on page 185.

Page 204, strike line 11 and all that follows through line 13 on page 207.

Redesignate the remaining sections of title IV of the bill accordingly. Conform the table of contents of the bill accordingly.

H.R. 961

OFFERED BY: MR. MINETA

AMENDMENT NO. 35: Page 208, strike lines 20 through 24.

Page 209, strike lines 1 through 17.

Redesignate subsequent sections of title V of the bill accordingly. Conform the table of contents of the bill accordingly.

H.R. 961

OFFERED BY: MR. MINETA

AMENDMENT NO. 36:

Page 170, line 19, strike "issuing".

Page 170, line 20, before "any" insert "issuing".

Page 170, line 24, strike "or".

Page 171, line 1, before "any" insert "issuing".

Page 171, line 3, strike the period and insert a semicolon.

Page 171, after line 3, insert the following:

"(3) granting under section 301(g) a modification of the requirements of section 301(b)(2)(A);

"(4) issuing a permit under section 402 which under section 301(p)(5) modifies the requirements of section 301, 302, 306, or 307;

"(5) extending under section 301(k) a deadline for a point source to comply with any limitation under section 301(b)(1)(A), 301(b)(2)(A), or 301(b)(2)(E) or otherwise modifying under section 301(k) the conditions of a permit under section 402;

"(6) issuing a permit under section 402 which modifies under section 301(q) the requirements of section 301(b), 306, or 307;

"(7) issuing a permit under section 402 which modifies under section 301(r) the requirements of section 301(b), 306, or 307;

"(8) renewing, reissuing, or modifying a permit to which section 401(o)(1) applies if the permittee has received a permit modification under section 301(q) or 301(r) or the exception under section 402(o)(2)(F) applies;

"(9) extending under section 307(e) the deadline for compliance with applicable national categorical pretreatment standards or otherwise modifying under section 307(e) pretreatment requirements of section 307(b);

"(10) waiving or modifying under section 307(f) pretreatment requirements of section 307(b);

"(11) allowing under section 307(g) any person that introduces silver into a publicly owned treatment works to comply with a code of management practices in lieu of complying with any pretreatment requirement for silver;

"(12) establishing under section 316(b)(3) a standard other than best technology available for existing point sources;

"(13) approving a pollutant transfer pilot project under section 321(g)(1); or

"(14) issuing a permit pursuant to section 402(r)(1) with a limitation that does not meet applicable water quality standards.

H.R. 961

OFFERED BY: MR. MINETA

AMENDMENT NO. 37:

Page 172, line 14, insert "similar" before "risks".

Page 172, line 15, before the period insert the following: "regulated by the Environmental Protection Agency resulting from comparable activities and exposure pathways".

Page 172, after line 15, insert the following:

Comparisons under paragraph (7) should consider relevant distinctions among risks such as the voluntary or involuntary nature of risks and the preventability and nonpreventability of risks.

Page 173, line 18, after the period insert closing quotation marks and a period.

Page 173, strike line 19 and all that follows through page 175, line 17.

Page 176, lines 10 and 11, strike "the requirement or guidance maximizes net benefits to society" and insert "the incremental benefits to human health, public welfare, and the environment of the requirement or guidance will likely justify, and be reasonably related to, the incremental costs incurred by State, local, and tribal governments, the Federal Government, and other public and private entities".

Page 178, line 4, insert "and benefits" after "costs".

Page 179, strike line 3 and all that follows through page 180, line 22.

Page 180, line 23, strike "(g)" and insert "(f)".

H.R. 961

OFFERED BY: MS. MOLINARI

AMENDMENT NO. 38:

Page 247, line 3, before the semicolon at the end insert the following:

(other than prior converted cropland within a watershed providing public, unfiltered drinking water supplies)

H.R. 961

OFFERED BY: MR. NADLER

AMENDMENT NO. 39: Page 50, strike line 19 and all that follows through line 10 on page 52.

H.R. 961

OFFERED BY: MR. OBERSTAR

AMENDMENT NO. 40: Page 100, strike line 5 and all that follows through the first period on line 10 on page 101.

Page 102, line 1, strike "Such demonstration" and all that follows through the first period on line 3.

Page 114, strike line 17 and all that follows through line 4 on page 115.

Page 115, line 5, strike "(n)" and insert "(m)".

Page 117, line 4, strike "(o)" and insert "(n)".

Page 117, line 6, strike "(q)" and insert "(p)".

Page 117, line 10, strike "(p)" and insert "(o)".

Page 117, line 12, strike "(r)" and insert "(q)".

H.R. 961

OFFERED BY: MR. PALLONE

AMENDMENT NO. 41: Page 81, after line 1, insert the following:

(a) FINDING WITH RESPECT TO HARM CAUSED BY VIOLATIONS.—Section 101 (33 U.S.C. 1251) is further amended by adding at the end the following:

"(i) FINDING WITH RESPECT TO HARM CAUSED BY VIOLATIONS.—Congress finds that a discharge which results in a violation of this Act or a regulation, standard, limitation, requirement, or order issued pursuant to this Act interferes with the restoration and maintenance of the chemical, physical, and biological integrity of any waters into which the discharge flows (either directly or through a publicly owned treatment works), including any waters into which the receiving waters flow, and, therefore, harms those who use or enjoy such waters and those who use or enjoy nearby lands or aquatic resources associated with those waters.

"(j) FINDING WITH RESPECT TO CITIZEN SUITS.—Congress finds that citizen suits are a valuable means of enforcement of this Act and urges the Administrator to take actions to encourage such suits, including providing information concerning violators to citizen groups to assist them in bringing suits, providing expert witnesses and other evidence with respect to such suits, and filing amicus curiae briefs on important issues related to such suits.".

(b) VIOLATIONS OF REQUIREMENTS OF LOCAL CONTROL AUTHORITIES.—Section 307(d) (33 U.S.C. 1317(d)) is amended by striking the first sentence and inserting the following: "After the date on which (1) any effluent standard or prohibition or pretreatment standard or requirement takes effect under this section or any requirement imposed in a pretreatment program under section 402(a)(3) or 402(b)(8) of this Act takes effect, it shall be unlawful for any owner or operator of any source to operate such source in violation of the effluent standard, prohibition, pretreatment standard, or requirement.".

(c) INSPECTIONS, MONITORING, AND PROVIDING INFORMATION.—

(1) APPLICABILITY OF REQUIREMENTS.—Section 308(a) (33 U.S.C. 1318(a)) is amended by striking "the owner or operator of any point source" and inserting "a person subject to a requirement of this Act".

(2) PUBLIC ACCESS TO INFORMATION.—The first sentence of section 308(b) is amended—

(A) by inserting "(including information contained in the Permit Compliance System of the Environmental Protection Agency)" after "obtained under this section";

(B) by inserting "made" after "shall be"; and

(C) by inserting "by computer telecommunication and other means" after "public" the first place it appears.

(3) PUBLIC INFORMATION.—Section 308 is further amended by adding at the end the following:

"(e) PUBLIC INFORMATION.—

"(1) POSTING OF NOTICE OF POLLUTED WATERS.—At each major point of public access (including, at a minimum, beaches, parks, recreation areas, marinas, and boat launching areas) to a body of navigable water that does not meet an applicable water quality standard or that is subject to a fishing and shell fishing ban, advisory, or consumption restriction (issued by a Federal, State, or local authority) due to fish or shellfish contamination, the State within which boundaries all or any part of such body of water lies shall, either directly or through local authorities, post and maintain a clearly visible sign which—

"(A) indicates the water quality standard that is being violated or the nature and extent of the restriction on fish or shellfish consumption, as the case may be;

"(B) includes (i) information on the environmental and health effects associated with the failure to meet such standard or with the consumption of fish or shellfish subject to the restriction, and (ii) a phone number for obtaining additional information relating to the violation and restriction; and

"(C) will be maintained until the body of water is in compliance with the water quality standard or until all fish and shellfish consumption restrictions are terminated with respect to the body of water, as the case may be.

"(2) NOTICE OF DISCHARGES TO NAVIGABLE WATERS.—Except for permits issued to municipalities for discharges composed entirely of stormwater under section 402 of this Act, each permit issued under section 402 by the Administrator or by a State shall ensure compliance with the following requirements:

"(A) Every permittee shall conspicuously maintain at all public entrances to the facility a clearly visible sign which indicates that the facility discharges pollutants into navigable waters and the location of such discharges; the name, business address, and phone number of the permittee; the permit number; and a location at which a copy of the permit and public information required by this paragraph is maintained and made available for inspection or a phone number for obtaining such information.

"(B) Each permittee which is a publicly owned treatment works shall include in each quarterly mailing of a bill to each customer of the treatment works information which indicates that the treatment works discharges pollutants into the navigable waters and the location of each of such discharges; the name, business address and phone number of the permittee; the permit number; a location at which a copy of the permit and public information required by this paragraph is maintained and made available for inspection or a phone number for obtaining such information; and a list of all violations of the requirements of the permit by the treatment works over the preceding 12-month period.

"(3) REGULATIONS.—

"(A) ISSUANCE.—The Administrator—

"(i) not later than 6 months after the date of the enactment of this subsection, shall propose regulations to carry out this subsection; and

"(ii) not later than 18 months after such date of enactment, shall issue such regulations.

"(B) CONTENT.—The regulations issued to carry out this subsection shall establish—

"(i) uniform requirements and procedures for identifying and posting bodies of water under paragraph (1);

"(ii) minimum information to be included in signs posted and notices issued pursuant to this subsection;

"(iii) uniform requirements and procedures for fish and shellfish sampling and analysis;

"(iv) uniform requirements for determining the nature and extent of fish and shellfish bans, advisories, and consumption restrictions which—

"(I) address cancer and noncancer human health risks;

"(II) take into account the effects of all fish and shellfish contaminants, including the cumulative and synergistic effects;

"(III) assure the protection of subpopulations who consume higher than average amounts of fish and shellfish or are particularly susceptible to the effects of such contamination;

"(IV) address race, gender, ethnic composition, or social and economic factors, based on the latest available studies of national or regional consumption by and impacts on such subpopulations unless more reliable site-specific data is available;

"(V) are based on a margin of safety that takes into account the uncertainties in human health impacts from such contamination; and

"(VI) evaluate assessments of health risks of contaminated fish and shellfish that are used in pollution control programs developed by the Administrator under this Act.".

(4) STATE REPORTS.—Section 305(b)(1) (33 U.S.C. 1315(b)(1)) is amended—

(A) by striking "and" at the end of subparagraph (D);

(B) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(C) by adding at the end the following:

"(F) a list identifying bodies of water for which signs were posted under section 308(e)(1) in the preceding year.".

(d) CIVIL PENALTIES.—

(1) ENFORCEMENT OF LOCAL PRETREATMENT REQUIREMENTS.—

(A) COMPLIANCE ORDERS.—

(i) INITIAL ACTION.—Section 309(a)(1) (33 U.S.C. 1319(a)(1)) is amended by inserting after "of this Act," the following: "or is in violation of any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act,".

(ii) ISSUANCE OF ORDERS.—Section 309(a)(3) is amended by inserting before "he shall" the following: "or is in violation of any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act,".

(B) CRIMINAL PENALTIES.—Section 309(c)(3)(A) is amended by inserting before "and who knows" the following: "or knowingly violates any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act,".

(C) ADMINISTRATIVE PENALTIES.—Section 309(g)(1) is amended by inserting after "or by a State," the following: "or has violated any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act or an order issued by the Administrator under subsection (a) of this section,".

(2) TREATMENT OF SINGLE OPERATIONAL UPSETS.—

(A) CRIMINAL PENALTIES.—Section 309(c) is amended by striking paragraph (5) and redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(B) CIVIL PENALTIES.—Section 309(d) is amended by striking the last sentence.

(C) ADMINISTRATIVE PENALTIES.—Section 309(g)(3) is amended by striking the last sentence.

(3) USE OF CIVIL PENALTIES FOR MITIGATION PROJECTS.—

(A) IN GENERAL.—Section 309(d) is amended by inserting after the second sentence the following: "The court may, in the court's discretion, order that a civil penalty be used for carrying out mitigation projects which are consistent with the purposes of this Act and which enhance the public health or environment.".

(B) CONFORMING AMENDMENT.—Section 505(a) (33 U.S.C. 1365(a)) is amended by inserting before the period at the end of the last sentence the following: ", including ordering the use of a civil penalty for carrying out mitigation projects".

(4) DETERMINATION OF AMOUNT OF PENALTIES.—

(A) CIVIL PENALTIES.—Section 309(d) (33 U.S.C. 1319(d)) is amended by inserting "the amount of any penalty previously imposed on the violator by a court or administrative agency for the same violation or violations," after "economic impact of the penalty on the violator,".

(B) ADMINISTRATIVE PENALTIES.—Section 309(g)(3) is amended—

(i) by striking "or savings"; or

(ii) by inserting "the amount of any penalty previously imposed on the violator by a court or administrative agency for the same violation or violations," after "resulting from the violation,".

(5) LIMITATION ON DEFENSES.—Section 309(g)(1) is amended by adding at the end the following: "In a proceeding to assess or review a penalty under this subsection, the adequacy of consultation between the Administrator or the Secretary, as the case may be, and the State shall not be a defense to assessment or enforcement of such penalty.".

(6) AMOUNTS OF ADMINISTRATIVE CIVIL PENALTIES.—

(A) GENERAL RULE.—Section 309(g)(2) is amended to read as follows:

"(2) AMOUNT OF PENALTIES; NOTICE; HEARING.—

"(A) MAXIMUM AMOUNT OF PENALTIES.—The amount of a civil penalty under paragraph (1) may not exceed $25,000 per violation per day for each day during which the violation continues.

"(B) WRITTEN NOTICE.—Before issuing an order assessing a civil penalty under this subsection, the Administrator shall give to the person to be assessed the penalty written notice of the Administrator's proposal to issue the order and the opportunity to request, within 30 days of the date the notice is received by such person, a hearing on the proposed order.

"(C) HEARINGS NOT ON THE RECORD.—If the proposed penalty does not exceed $25,000, the hearing shall not be subject to section 554 or 556 of title 5, United States Code, but shall provide a reasonable opportunity to be heard and to present evidence.

"(D) HEARINGS ON THE RECORD.—If the proposed penalty exceeds $25,000, the hearing shall be on the record in accordance with section 554 of title 5, United States Code. The Administrator may issue rules for discovery procedures for hearings under this subparagraph.".

(B) CONFORMING AMENDMENTS.—Section 309(g) is amended—

(i) in paragraph (1) by striking "class I civil penalty or a class II";

(ii) in the second sentence of paragraph (4)(C) by striking "(2)(A) in the case of a class I civil penalty and paragraph (2)(B) in the case of a class II civil penalty" and inserting "(2)"; and

(iii) in the first sentence of paragraph (8) by striking "assessment—" and all that follows through "by filing" and inserting "assessment in the United States District Court for the District of Columbia or in the district in which the violation is alleged to have occurred by filing".

(7) STATE ENFORCEMENT ACTIONS AS BAR TO FEDERAL ENFORCEMENT ACTIONS.—Section 309(g)(6)(A) is amended—

(A) by inserting "or" after the comma at the end of clause (i);

(B) by striking clause (ii); and

(C) in clause (iii)—

(i) by striking "or the State"; and

(ii) by striking "or such comparable State law, as the case may be,".

(8) RECOVERY OF ECONOMIC BENEFIT.—Section 309 is amended by adding at the end the following:

"(h) RECOVERY OF ECONOMIC BENEFIT.—

"(1) GENERAL RULE.—Notwithstanding any other provision of this section, any civil penalty assessed and collected under this section must be in an amount which is not less than the amount of the economic benefit (if any) resulting from the violation for which the penalty is assessed.

"(2) REGULATIONS.—Not later than 2 years after the date of the enactment of this subsection, the Administrator shall issue regulations establishing a methodology for calculating the economic benefits or savings resulting from violations of this Act. Pending issuance of such regulations, this subsection shall be in effect and economic benefits shall be calculated for purposes of paragraph (1) on a case-by-case basis.".

(9) LIMITATION ON COMPROMISES.—Section 309 is further amended by adding at the end the following:

"(i) LIMITATION ON COMPROMISES OF CIVIL PENALTIES.—Notwithstanding any other provision of this section, the amount of a civil penalty assessed under this section may not be compromised below the amount determined by adding—

"(1) the minimum amount required for recovery of economic benefit under subsection (h), to

"(2) 50 percent of the difference between the amount of the civil penalty assessed and such minimum amount.".

(10) MINIMUM AMOUNT FOR SERIOUS VIOLATIONS.—Section 309 is further amended by adding at the end the following:

"(j) MINIMUM CIVIL PENALTIES FOR SERIOUS VIOLATIONS AND SIGNIFICANT NONCOMPLIERS.—

"(1) SERIOUS VIOLATIONS.—Notwithstanding any other provision of this section (other than paragraph (2)), the minimum civil penalty which shall be assessed and collected under this section from a person—

"(A) for a discharge from a point source of a hazardous pollutant which exceeds or otherwise violates any applicable effluent limitation established by or under this Act by 20 percent or more, or

"(B) for a discharge from a point source of a pollutant (other than a hazardous pollutant) which exceeds or otherwise violates any applicable effluent limitation established by or under this Act by 40 percent or more,

shall be $1,000 for the first such violation in a 180-day period.

"(2) SIGNIFICANT NONCOMPLIERS.—Notwithstanding any other provision of this section, the minimum civil penalty which shall be assessed and collected under this section from a person—

"(A) for the second or more discharge in a 180-day period from a point source of a hazardous pollutant which exceeds or otherwise violates any applicable effluent limitation established by or under this Act by 20 percent or more,

"(B) for the second or more discharge in a 180-day period from a point source of a pollutant (other than a hazardous pollutant) which exceeds or otherwise violates any applicable effluent limitation established by or under this Act by 40 percent or more,

"(C) for the fourth or more discharge in a 180-day period from a point source of any pollutant which exceeds or otherwise violates the same effluent limitation, or

"(D) for not filing in a 180-day period 2 or more reports in accordance with section 402(r)(1),

shall be $5,000 for each of such violations.

"(3) MANDATORY INSPECTIONS FOR SIGNIFICANT NONCOMPLIERS.—The Administrator shall identify any person described in paragraph (2) as a significant noncomplier and shall conduct an inspection described in section 402(q) of this Act of the facility at which the violations were committed. Such inspections shall be conducted at least once in the 180-day period following the date of the most recent violation which resulted in such person being identified as a significant noncomplier.

"(4) ANNUAL REPORTING.—The Administrator shall transmit to Congress and to the Governors of the States, and shall publish in the Federal Register, on an annual basis a list of all persons identified as significant noncompliers under paragraph (3) in the preceding calendar year and the violations which resulted in such classifications.

"(5) HAZARDOUS POLLUTANT DEFINED.—For purposes of this subsection, the term 'hazardous pollutant' has the meaning the term 'hazardous substance' has under subsection (c)(7) of this section.".

(11) STATE PROGRAM.—Section 402(b)(7) (33 U.S.C. 1342(b)(7)) is amended to read as follows:

"(7) To abate violations of the permit or the permit program which shall include, beginning on the last day of the 2-year period beginning on the date of the enactment of the Clean Water Compliance and Enforcement Improvement Amendments Act of 1995, a penalty program comparable to the Federal penalty program under section 309 of this Act and which shall include at a minimum criminal, civil, and civil administrative penalties, and may include other ways and means of enforcement, which the State demonstrates to the satisfaction of the Administrator are equally effective as the Federal penalty program;".

(12) FEDERAL PROCUREMENT COMPLIANCE INCENTIVE.—Section 508(a) (33 U.S.C. 1368(a)) is amended by inserting after the second comma "or who is identified under section 309(j)(3) of this Act,".

(e) NATIONAL POLLUTANT DISCHARGE ELIMINATION PERMITS.—

(1) WITHDRAWAL OF STATE PROGRAM APPROVAL.—Section 402(b) (33 U.S.C. 1342(b)) is amended by striking "unless he determines that adequate authority does not exist:" and inserting the following: "only when he determines that adequate authority exists and shall withdraw program approval whenever he determines that adequate authority no longer exists:".

(2) JUDICIAL REVIEW OF RULINGS ON APPLICATIONS FOR STATE PERMITS.—Section 402(b)(3) is amended by inserting "and to ensure that any interested person who participated in the public comment process and any other person who could obtain judicial review of that action under any other applicable law has the right to judicial review of such ruling" before the semicolon at the end.

(3) INSPECTIONS FOR MAJOR INDUSTRIAL AND MUNICIPAL DISCHARGERS.—Section 402(b) is amended—

(A) by striking "and" at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting a semicolon; and

(C) by adding at the end the following:

"(10) To ensure that any permit for a discharge from a major industrial or municipal facility, as defined by the Administrator by regulation, includes conditions under which such facility will be subject to at least annual inspections by the State in accordance with subsection (q) of this section;".

(4) MONTHLY REPORTS FOR SIGNIFICANT INDUSTRIAL USERS OF POTWS.—Section 402(b) is further amended by adding at the end the following:

"(11) To ensure that any permit for a discharge from a publicly owned treatment works in the State includes conditions under which the treatment works will require any significant industrial user of the treatment works, as defined by the Administrator by regulation, to prepare and submit to the Administrator, the State, and the treatment works a monthly discharge monitoring report as a condition to using the treatment works;".

(5) PERMITS REQUIRED FOR INTRODUCTION OF POLLUTANTS INTO POTWS.—Section 402(b) is further amended by adding at the end the following:

"(12) To ensure that, after the last day of the 2-year period beginning on the date of the enactment of this paragraph, any significant industrial user, or other source designated by the Administrator, introducing a pollutant into a publicly owned treatment works has, and operates in accordance with, a permit issued by the treatment works or the State for introduction of such pollutant; and".

(6) GRANTING OF AUTHORITY TO POTWS FOR INSPECTIONS AND PENALTIES.—Section 402(b) is further amended by adding at the end the following:

"(13) To ensure that the State will grant to publicly owned treatment works in the State, not later than 3 years after the date of the enactment of this paragraph, authority, power, and responsibility to conduct inspections under subsection (q) of this section and to assess and collect civil penalties and civil administrative penalties under paragraph (7) of this subsection.".

(7) INSPECTION.—Section 402 is amended by adding at the end the following:

"(r) INSPECTION.—

"(1) GENERAL RULE.—Each permit for a discharge into the navigable waters or introduction of pollutants into a publicly owned treatment works issued under this section shall include conditions under which the effluent being discharged will be subject to random inspections in accordance with this subsection by the Administrator or the State, in the case of a State permit program under this section.

"(2) MINIMUM STANDARDS.—The Administrator shall establish minimum standards for inspections under this subsection. Such standards shall require, at a minimum, the following:

"(A) An annual representative sampling by the Administrator or the State, in the case of a State permit program under this section, of the effluent being discharged; except that if the discharge is not from a major industrial or municipal facility such sampling shall be conducted at least once every 3 years.

"(B) An analysis of all samples collected under subparagraph (A) by a Federal or State owned and operated laboratory or a State approved laboratory, other than one that is being used by the permittee or that is directly or indirectly owned, operated, or managed by the permittee.

"(C) An evaluation of the maintenance record of any treatment equipment of the permittee.

"(D) An evaluation of the sampling techniques used by the permittee.

"(E) A random check of discharge monitoring reports of the permittee for each 12-month period for the purpose of determining whether or not such reports are consistent with the applicable analyses conducted under subparagraph (B).

"(F) An inspection of the sample storage facilities and techniques of the permittee.".

(8) REPORTING.—Section 402 is further amended by adding at the end the following:

"(s) REPORTING.—

"(1) GENERAL RULE.—Each person holding a permit issued under this section which is determined by the Administrator to be a major industrial or municipal discharger of pollutants into the navigable waters shall prepare and submit to the Administrator a monthly discharge monitoring report. Any other person holding a permit issued under this section shall prepare and submit to the Administrator quarterly discharge monitoring reports or more frequent discharge monitoring reports if the Administrator requires. Such reports shall contain, at a minimum, such information as the Administrator shall require by regulation.

"(2) REPORTING OF HAZARDOUS DISCHARGES.—

"(A) GENERAL RULE.—If a discharge from a point source for which a permit is issued under this section exceeds an effluent limitation contained in such permit which is based on an acute water quality standard or any other discharge which may cause an exceedance of an acute water quality standard or otherwise is likely to cause injury to persons or damage to the environment or to pose a threat to human health and the environment, the person holding such permit shall notify the Administrator, in writing, of such discharge not later than 2 hours after the later of the time at which such discharge commenced or the time at which the permittee knew or had reason to know of such discharge.

"(B) SPECIAL RULE FOR HAZARDOUS POLLUTANTS.—If a discharge described in subparagraph (A) is of a hazardous pollutant (as defined in section 309(j) of this Act), the person holding such permit shall provide the Administrator with such additional information on the discharge as may be required by the Administrator. Such additional information shall be provided to the Administrator within 24 hours after the later of the time at which such discharge commenced or the time at which the permittee became aware of such discharge. Such additional information shall include, at a minimum, an estimate of the danger posed by the discharge to the environment, whether the discharge is continuing, and the measures taken or being taken (i) to remediate the problem caused by the discharge and any damage to the environment, and (ii) to avoid a repetition of the discharge.

"(3) SIGNATURE.—All reports filed under paragraph (1) must be signed by the highest ranking official having day-to-day managerial and operational responsibility for the facility at which the discharge occurs or, in the absence of such person, by another responsible high ranking official at such facility. Such highest ranking official shall be responsible for the accuracy of all information contained in such reports; except that such highest ranking official may file with the Administrator amendments to any such report if the report was signed in the absence of the highest ranking official by another high ranking official and if such amendments are filed within 7 days of the return of the highest ranking official.".

(9) LIMITATION ON ISSUANCE OF PERMITS TO SIGNIFICANT NONCOMPLIERS.—Section 402 is further amended by adding at the end the following:

"(t) SIGNIFICANT NONCOMPLIERS.—No permit may be issued under this section to any person (other than a publicly owned treatment works) identified under section 309(j)(3) of this Act or to any other person owned or controlled by the identified person, owning or controlling the identified person, or under common control with the identified person, until the Administrator or the State or States in which the violation or violations occur determines that the condition or conditions giving rise to such violation or violations have been corrected. No permit application submitted after the date of the enactment of this subsection may be approved unless the application includes a list of all violations of this Act by a person identified under section 309(j) of this Act during the 3-year period preceding the date of submission of the application and evidence indicating whether the underlying cause of each such violation has been corrected.".

(10) APPLICABILITY.—The amendments made by this subsection shall apply to permits issued before, on, or after the date of the enactment of this Act; except that—

(A) with respect to permits issued before such date of enactment to a major industrial or municipal discharger, such amendments shall take effect on the last day of the 1-year period beginning on such date of enactment; and

(B) with respect to all other permits issued before such date of enactment, such amendments shall take effect on the last day of the 2-year period beginning on such date of enactment.

(f) EXPIRED STATE PERMITS.—Section 402(d) (33 U.S.C. 1342(d)) is amended by adding at the end the following:

"(5) EXPIRED STATE PERMITS.—In any case in which—

"(A) a permit issued by a State for a discharge has expired,

"(B) the permittee has submitted an application to the State for a new permit for the discharge, and

"(C) the State has not acted on the application before the last day of the 18-month period beginning on the date the permit expired,

the Administrator may issue a permit for the discharge under subsection (a).".

(g) COMPLIANCE SCHEDULE.—Section 302(b)(2)(B) (33 U.S.C. 1312(b)(2)(B)) is amended by adding at the end the following: "The Administrator may only issue a permit pursuant to this subparagraph for a period exceeding 2 years if the Administrator makes the findings described in clauses (i) and (ii) of this subparagraph on the basis of a public hearing.".

(h) EMERGENCY POWERS.—Section 504 (33 U.S.C. 1364) is amended to read as follows:

"SEC. 504. COMMUNITY PROTECTION.

"(a) ISSUANCE OF ORDERS; COURT ACTION.—Notwithstanding any other provision of this Act, whenever the Administrator finds that, because of an actual or threatened direct or indirect discharge of a pollutant, there may be an imminent and substantial endangerment to the public health or welfare (including the livelihood of persons) or the environment, the Administrator may issue such orders or take such action as may be necessary to protect public health or welfare or the environment and commence a suit (or cause it to be commenced) in the United States district court for the district where the discharge or threat occurs. Such court may grant such relief to abate the threat and to protect against the endangerment as the public interest and the equities require, enforce, and adjudge penalties for disobedience to orders of the Administrator issued under this section, and grant other relief according to the public interest and the equities of the case.

"(b) ENFORCEMENT OF ORDERS.—Any person who, without sufficient cause, violates or fails to comply with an order of the Administrator issued under this section, shall be liable for civil penalties to the United States in an amount not to exceed $25,000 per day for each day on which such violation or failure occurs or continues.".

(i) CITIZEN SUITS.—

(1) SUITS FOR PAST VIOLATIONS.—Section 505 (33 U.S.C. 1365) is amended—

(A) in subsection (a)(1) by inserting "to have violated or" after "who is alleged";

(B) in subsection (b)(1)(A)(ii) by striking "occurs" and inserting "has occurred or is occurring"; and

(C) in subsection (f)(6) by inserting "has been or" after "which".

(2) TIME LIMIT.—Section 505(b)(1)(A) is amended by striking "60 days" and inserting "30 days".

(3) EFFECT OF JUDGMENTS ON CITIZEN SUITS.—Section 505(b) is further amended—

(A) in paragraph (1)(B)—

(i) by striking ", or a State"; and

(ii) by striking "right." and inserting "right and may obtain costs of litigation under subsection (d), or"; and

(B) by adding at the end the following: "The notice under paragraph (1)(A) need set forth only violations which have been specifically identified in the discharge monitoring reports of the alleged violator. An action by a State under subsection (a)(1) may be brought at any time. No judicial action by the Administrator or a State shall bar an action for the same violation under subsection (a)(1) unless the action is by the Administrator and meets the requirements of this paragraph. No administrative action by the Administrator or a State shall bar a pending action commenced after February 4, 1987, for the same violation under subsection (a)(1) unless the action by the Administrator or a State meets the requirements of section 309(g)(6) of this Act.".

(4) CONSENT JUDGMENTS.—Section 505(c)(3) is amended by adding at the end the following: "Consent judgments entered under this section may provide that the civil penalties included in the consent judgment be used for carrying out mitigation projects in accordance with section 309(d).".

(5) PRETREATMENT REQUIREMENTS.—Section 505(f)(4) is amended by striking "or pretreatment standards" and inserting "or pretreatment standard or requirement described in section 307(d)".

(6) EFFLUENT STANDARD DEFINITION.—Section 505(f)(6) is amended by inserting "narrative or mathematical" before "condition".

(7) DEFINITION OF CITIZEN.—Section 505(g) is amended to read as follows:

"(g) CITIZEN DEFINED.—For purposes of this section, the term 'citizen' means a person or persons having an interest (including a recreational, aesthetic, environmental, health, or economic interest) which is, has been, or may be adversely affected and includes a person who uses or enjoys the waters into which the discharge flows (either directly or through a publicly owned treatment works), who uses or enjoys aquatic resources or nearby lands associated with the waters, or who would use or enjoy the waters, aquatic resources, or nearby lands if they were less polluted.".

(8) OFFERS OF JUDGMENT.—Section 505 is further amended by adding at the end the following:

"(i) APPLICABILITY OF OFFERS OF JUDGMENT.—Offers of judgment pursuant to Rule 68 of the Federal Rules of Civil Procedure shall not be applicable to actions brought under subsection (a)(1) of this section.".

(j) ISSUANCE OF SUBPOENAS.—Section 509(a)(1) (33 U.S.C. 1369(a)(1)) is amended by striking "obtaining information under section 305 of this Act, or carrying out section 507(e) of this Act," and inserting "carrying out this Act,".

(k) JUDICIAL REVIEW OF EPA ACTIONS.—Section 509(b)(1) (33 U.S.C. 1369(b)(1)) is amended—

(1) by inserting after the comma at the end of clause (D) "including a decision to deny a petition by interested person to veto an individual permit issued by a State,";

(2) by inserting after the comma at the end of clause (E) "including a decision not to include any pollutant in such effluent limitation or other limitation if the Administrator has or is made aware of information indicating that such pollutant is present in any discharge subject to such limitation,"; and

(3) by striking "and (G)" and inserting the following: "(G) in issuing or approving any water quality standard under section 303(c) or 303(d), (H) in issuing any water quality criterion under section 304(a), including a decision not to address any effect of the pollutant subject to such criterion if the Administrator has or is made aware of information indicating that such effect may occur, and (J)".

(l) NATIONAL CLEAN WATER TRUST FUND.—

(1) IN GENERAL.—Title V (33 U.S.C. 1361–1377) is amended by redesignating section 519 as section 522 and by inserting after section 518 the following new section:

"SEC. 519. NATIONAL CLEAN WATER TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Clean Water Trust Fund'.

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Clean Water Trust Fund amounts equivalent to the penalties collected under section 309 of this Act and the penalties collected under section 505(a) of this Act (excluding any amounts ordered to be used to carry out mitigation projects under section 309 or 505(a), as the case may be).

"(c) ADMINISTRATION OF TRUST FUND.—The Administrator shall administer the Clean Water Trust Fund. The Administrator may use moneys in the Fund to carry out inspections and enforcement activities pursuant to this Act. In addition, the Administrator may make such amounts of money in the Fund as the Administrator determines appropriate available to carry out title VI of this Act.".

(2) CONFORMING AMENDMENT TO STATE REVOLVING FUND PROGRAM.—Section 607 (33 U.S.C. 1387) is amended—

(A) by inserting "(a) IN GENERAL.—" before "There is"; and

(B) by adding at the end the following:

"(b) TREATMENT OF TRANSFERS FROM CLEAN WATER TRUST FUND.—For purposes of this title, amounts made available from the Clean Water Trust Fund under section 519 of this Act to carry out this title shall be treated as funds authorized to be appropriated to carry out this title and as funds made available under this title.".

(m) APPLICABILITY.—Sections 101(h), 309(g)(6)(A), 505(a)(1), 505(b), 505(g), and 505(i) of the Federal Water Pollution Control Act, as inserted or amended by this section, shall be applicable to all cases pending under such Act on the date of the enactment of this Act and all cases brought on or after such date of enactment relating to violations which occurred before such date of amendment.

Redesignate subsequent subsections of section 313 of the bill accordingly.

Page 81, line 4, strike "(h)" and insert "(k)".

Page 131, line 5, strike "(r)" and insert "(u)".

Page 188, line 21 strike "(s)" and insert "(v)".

Page 192, line 6, strike "(t)" and insert "(w)".

Page 216, line 11, strike "by" and all that follows through "518" on line 13 and insert "by inserting after section 519".

Page 216, line 14, strike "519" and insert "520".

Page 217, line 7, strike "before" and all that follows through the comma on line 8 and insert "after section 520".

Page 217, line 9, strike "520" and insert "521".

Page 321, line 3, strike "(8)" and insert "(7)".

H.R. 961

OFFERED BY: MR. PALLONE

AMENDMENT NO. 42: Page 240, line 23, after the semicolon insert "and"

Page 241, line 5, strike the semicolon and all that follows through the period on line 9 and insert a period.

Page 242, line 4, after the semicolon insert "and".

Page 242, line 7, strike the semicolon and all that follows through the period on line 11 and insert a period.

Page 276, line 10, strike the comma and all that follows through the comma on line 11.

Page 292, line 17, after the semicolon insert "and".

Page 292, strike lines 18 through 20.

Page 292, line 21, strike "(G)" and insert "(F)".

Page 292, strike line 24, and all that follows through line 6 on page 294.

Page 294, line 7, strike "(3)" and insert "(2)".

Page 295, line 3, strike "(4)" and insert "(3)".

Page 295, line 16, strike "(5)" and insert "(4)".

Page 315, strike lines 11 through 15.

Page 315, line 16, strike "(K)" and insert "(J)".

Page 315, line 19, strike "(L)" and insert "(K)".

Page 315, line 21, strike "(M)" and insert "(L)".

Page 316, line 14, strike "(N)" and insert "(M)".

H.R. 961

OFFERED BY: MR. PALLONE

AMENDMENT NO. 43: Strike title IX of the bill (pages 323 through 326).

H.R. 961

OFFERED BY: MR. PALLONE

AMENDMENT NO. 44: Page 72, strike line 20 and all that follows through line 18 on page 73 and insert the following:

(b) BEACHES ENVIRONMENTAL ASSESSMENT, CLOSURE, AND HEALTH.—

(1) WATER QUALITY CRITERIA AND STANDARDS.—

(A) ISSUANCE OF CRITERIA.—Section 304(a) (33 U.S.C. 1314(a)) is further amended by adding at the end the following:

"(13) COASTAL RECREATION WATERS.—(A) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall issue within 18 months after the effective date of this paragraph (and review and revise from time to time thereafter) water quality criteria for pathogens in coastal recreation waters. Such criteria shall—

"(i) be based on the best available scientific information;

"(ii) be sufficient to protect public health and safety in case of any reasonably anticipated exposure to pollutants as a result of swimming, bathing, or other body contact activities; and

"(iii) include specific numeric criteria calculated to reflect public health risks from short-term increases in pathogens in coastal recreation waters resulting from rainfall, malfunctions of wastewater treatment works, and other causes.

"(B) For purposes of this paragraph, the term 'coastal recreation waters' means Great Lakes and marine coastal waters commonly used by the public for swimming, bathing, or other similar primary contact purposes.".

(B) STANDARDS.—

(i) ADOPTION BY STATES.—A State shall adopt water quality standards for coastal recreation waters which, at a minimum, are consistent with the criteria published by the Administrator under section 304(a)(13) of the Federal Water Pollution Control Act not later than 3 years following the date of such publication. Such water quality standards shall be developed in accordance with the requirements of section 303(c) of the Federal Water Pollution Control Act. A State shall incorporate such standards into all appropriate programs into which such State would incorporate water quality standards adopted under section 303(c) of the Federal Water Pollution Control Act.

(ii) FAILURE OF STATES TO ADOPT.—If a State has not complied with subparagraph (A) by the last day of the 3-year period beginning on the date of publication of criteria under section 304(a)(13) of the Federal Water Pollution Control Act, the Administrator shall promulgate water quality standards for coastal recreation waters for the State under applicable provisions of section 303 of the Federal Water Pollution Control Act. The water quality standards for coastal recreation waters shall be consistent with the criteria published by the Administrator under such section 304(a)(13). The State shall use the standards issued by the Administrator in implementing all programs for which water quality standards for coastal recreation waters are used.

(2) COASTAL BEACH WATER QUALITY MONITORING.—Title IV (33 U.S.C. 1341–1345) is amended by adding at the end thereof the following new section:

"SEC. 406. COASTAL BEACH WATER QUALITY MONITORING.

"(a) MONITORING.—Not later than 9 months after the date on which the Administrator publishes revised water quality criteria for coastal recreation waters under section 304(a)(13), the Administrator shall publish regulations specifying methods to be used by States to monitor coastal recreation waters, during periods of use by the public, for compliance with applicable water quality standards for those waters and protection of the public safety. Monitoring requirements established pursuant to this subsection shall, at a minimum—

"(1) specify the frequency of monitoring based on the periods of recreational use of such waters;

"(2) specify the frequency of monitoring based on the extent and degree of use during such periods;

"(3) specify the frequency of monitoring based on the proximity of coastal recreation waters to pollution sources;

"(4) specify methods for detecting short-term increases in pathogens in coastal recreation waters;

"(5) specify the conditions and procedures under which discrete areas of coastal recreation waters may be exempted by the Administrator from the monitoring requirements of this subsection, if the Administrator determines that an exemption will not impair—

"(A) compliance with the applicable water quality standards for those waters; and

"(B) protection of the public safety; and

"(6) require, if the State has an approved coastal zone management program under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), that each coastal zone management agency of the State provide technical assistance to local governments within the State for ensuring that coastal recreation waters and beaches are as free as possible from floatable materials.

"(b) NOTIFICATION REQUIREMENTS.—Regulations published pursuant to subsection (a) shall require States to notify local governments and the public of violations of applicable water quality standards for State coastal recreation waters. Notification pursuant to this subsection shall include, at a minimum—

"(1) prompt communication of the occurrence, nature, and extent of such a violation, to a designated official of a local government having jurisdiction over land adjoining the coastal recreation waters for which a violation is identified; and

"(2) posting of signs, for the period during which the violation continues, sufficient to give notice to the public of a violation of an applicable water quality standard for such waters and the potential risks associated with body contact recreation in such waters.

"(c) FLOATABLE MATERIALS MONITORING PROCEDURES.—The Administrator shall—

"(1) issue guidance on uniform assessment and monitoring procedures for floatable materials in coastal recreation waters; and

"(2) specify the conditions under which the presence of floatable material shall constitute a threat to public health and safety.

"(d) DELEGATION OF RESPONSIBILITY.—A State may delegate responsibility for monitoring and posting of coastal recreation waters pursuant to this section to local government authorities.

"(e) REVIEW AND REVISION OF REGULATIONS.—The Administrator shall review and revise regulations published pursuant to this section periodically.

"(f) DEFINITIONS.—For the purposes of this section—

"(1) the term 'coastal recreation waters' means Great Lakes and marine coastal waters commonly used by the public for swimming, bathing, or other similar body contact purposes; and

"(2) the term 'floatable materials' means any matter that may float or remain suspended in the water column and includes plastic, aluminum cans, wood, bottles, and paper products.".

(3) STUDY TO IDENTIFY INDICATORS OF HUMAN-SPECIFIC PATHOENS IN COASTAL RECREATION WATERS.—

(A) STUDY.—The Administrator, in co-operation with the Under Secretary of Commerce for Oceans and Atmosphere, shall conduct an ongoing study to provide additional information to the current base of knowledge for use for developing better indicators for directly detecting in coastal recreation waters the presence of bacteria and viruses which are harmful to human health.

(B) REPORT.—Not later than 4 years after the date of the enactment of this Act, and periodically thereafter, the Administrator shall submit to the Congress a report describing the findings of the study under this paragraph, including—

(i) recommendations concerning the need for additional numerical limits or conditions and other actions needed to improve the quality of coastal recreation waters;

(ii) a description of the amounts and types of floatable materials in coastal waters and on coastal beaches and of recent trends in the amounts and types of such floatable materials; and

(iii) an evaluation of State efforts to implement this section, including the amendments made by this section.

(4) GRANTS TO STATES.—

(1) GRANTS.—The Administrator may make grants to States for use in fulfilling requirements established pursuant to paragraphs (1) and (2) (including any amendments made by such paragraphs).

(B) COST SHARING.—The total amount of grants to a State under this paragraph for a fiscal year shall not exceed 50 percent of the cost to the State of implementing requirements established pursuant to such paragraphs.

(5) DEFINITIONS.—In this subsection—

(A) the term "coastal recreation waters" means Great Lakes and marine coastal waters commonly used by the public for swimming, bathing, or other similar body contact purposes; and

(B) the term "floatable materials" means any matter that may float or remain suspended in the water column and includes plastic, aluminum cans, wood, bottles, and paper products.

(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator—

(A) for use in making grants to States under paragraph (4) not more than $3,000,000 for each of the fiscal years 1996 and 1997; and

(B) for carrying out the other provisions of this subsection not more than $1,000,000 for each of the fiscal years 1996 and 1997.

Page 204, line 14, strike "406" and insert "407".

H.R. 961

OFFERED BY: MR. PALLONE

AMENDMENT NO. 45: Strike section 309 of the bill (pages 65 through 70).

Redesignate subsequent sections of title III of the bill accordingly and conform the table of contents of the bill.

H.R. 961

OFFERED BY: MR. RIGGS

AMENDMENT NO. 45: Insert at the appropriate place in title IV the following new section:

" DISCHARGE VOLUME.—Section 402(o)(2) (33 U.S.C. 1342(o)(2)) is amended in the first sentence by inserting ", or a change in the volume of wastewater discharge," after the word "pollutant".

H.R. 961

OFFERED BY: MR. RIGGS

AMENDMENT NO. 47: Insert at the appropriate place in title IV the following new section:

" DISCHARGE VOLUME.—Section 402(o)(2) (33 U.S.C. 1342(o)(2)) is amended in the first sentence by inserting "the concentration or loading of" after the words "applicable to".

H.R. 961

OFFERED BY: MR. RIGGS

AMENDMENT NO. 48: On page 276, strike lines 3 through 7 and insert in lieu thereof the following:

"ponds, wastewater management facilities (including pipelines, dikes and berms) that are used by concentrated animal feeding or municipal wastewater reuse operations, or irrigation canals and ditches or the maintenance of drainage ditches;".

H.R. 961

Amendment in the Nature of a Substitute

OFFERED BY: MR. SAXTON

AMENDMENT NO. 49: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Clean Water Amendments of 1995".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Definition.
Sec. 3. Amendment of Federal Water Pollution Control Act.

TITLE I—RESEARCH AND RELATED PROGRAMS

Sec. 101. Research, investigations, training, and information.
Sec. 102. State management assistance.
Sec. 103. Mine water pollution control.
Sec. 104. Water sanitation in rural and Native Alaska villages.
Sec. 105. Authorization of appropriations for Chesapeake program.
Sec. 106. Great Lakes management.

TITLE II—CONSTRUCTION GRANTS

Sec. 201. Uses of funds.
Sec. 202. Administration of closeout of construction grant program.
Sec. 203. Sewage collection systems.
Sec. 204. Value engineering review.
Sec. 205. Grants for wastewater treatment.

TITLE III—STANDARDS AND ENFORCEMENT

Sec. 301. Arid areas.
Sec. 302. Secondary treatment.
Sec. 303. Federal facilities.
Sec. 304. National estuary program.
Sec. 305. Nonpoint source management programs.
Sec. 306. Coastal zone management.
Sec. 307. Comprehensive watershed management.
Sec. 308. Revision of effluent limitations.

TITLE IV—PERMITS AND LICENSES

Sec. 401. Waste treatment systems for concentrated animal feeding operations.
Sec. 402. Municipal and industrial stormwater discharges.
Sec. 403. Intake credits.
Sec. 404. Combined sewer overflows.
Sec. 405. Abandoned mines.
Sec. 406. Beneficial use of biosolids.

TITLE V—GENERAL PROVISIONS

Sec. 501. Publicly owned treatment works defined.
Sec. 502. Implementation of water pollution laws with respect to vegetable oil.
Sec. 503. Needs estimate.
Sec. 504. Food processing and food safety.
Sec. 505. Audit dispute resolution.

TITLE VI—STATE WATER POLLUTION CONTROL REVOLVING FUNDS

Sec. 601. General authority for capitalization grants.
Sec. 602. Capitalization grant agreements.
Sec. 603. Water pollution control revolving loan funds.
Sec. 604. Allotment of funds.
Sec. 605. Authorization of appropriations.
Sec. 606. State nonpoint source water pollution control revolving funds.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Technical amendments.

Sec. 702. John A. Blatnik National Fresh Water Quality Research Laboratory.
Sec. 703. Wastewater service for colonias.
Sec. 704. Savings in municipal drinking water costs.

TITLE VIII—WETLANDS CONSERVATION AND MANAGEMENT

Sec. 801. Short title.
Sec. 802. Findings and purposes.
Sec. 803. State, local, and landowner technical assistance and cooperative training.
Sec. 804. Federal, State, and Local Government Coordinating Committee.
Sec. 805. State and local wetland conservation plans and strategies; grants to facilitate the implementation of section 404.
Sec. 806. National cooperative wetland ecosystem restoration strategy.
Sec. 807. Permits for discharge of dredged or fill material.
Sec. 808. Technical assistance to private landowners, codification of regulations and policies.
Sec. 809. Delineation.
Sec. 810. Fast track for minor permits.
Sec. 811. Compensatory mitigation.
Sec. 812. Cooperative mitigation ventures and mitigation banks.
Sec. 813. Wetlands monitoring and research.
Sec. 814. Administrative appeals.
Sec. 815. Cranberry production.
Sec. 816. State classification systems.
Sec. 817. Definitions.

TITLE IX—MISCELLANEOUS

Sec. 901. Obligations and expenditures subject to appropriations.

SEC. 2. DEFINITION.

In this Act, the term "Administrator" means the Administrator of the Environmental Protection Agency.

SEC. 3. AMENDMENT OF FEDERAL WATER POLLUTION CONTROL ACT.

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 Federal Water Pollution Control Act (33 U.S.C. 1251–1387).

TITLE I—RESEARCH AND RELATED PROGRAMS

SEC. 101. RESEARCH, INVESTIGATIONS, TRAINING, AND INFORMATION.

(a) NATIONAL PROGRAMS.—Section 104(a) (33 U.S.C. 1254(a)) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following:

"(7) in cooperation with appropriate Federal, State, and local agencies, conduct, promote, and encourage to the maximum extent feasible, in watersheds that may be significantly affected by nonpoint sources of pollution, monitoring and measurement of water quality by means and methods that will help to identify the relative contributions of particular nonpoint sources.".

(b) GRANTS TO LOCAL GOVERNMENTS.—Section 104(b)(3) (33 U.S.C. 1254(b)(3)) is amended by inserting "local governments," after "interstate agencies,".

(c) TECHNICAL ASSISTANCE FOR RURAL AND SMALL TREATMENT WORKS.—Section 104(b) (33 U.S.C. 1254(b)) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting a semicolon; and

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

"(8) make grants to nonprofit organizations to provide technical assistance and training to rural and small publicly owned treatment works to enable such treatment works to achieve and maintain compliance with the requirements of this Act; and

"(9) disseminate information to rural, small, and disadvantaged communities with respect to the planning, design, construction, and operation of treatment works.".

(d) WASTEWATER TREATMENT IN IMPOVERISHED COMMUNITIES.—Section 104(q) (33 U.S.C. 1254(q)) is amended by adding at the end the following:

"(5) SMALL IMPOVERISHED COMMUNITIES.—

"(A) GRANTS.—The Administrator may make grants to States to provide assistance for planning, design, and construction of publicly owned treatment works to provide wastewater services to rural communities of 3,000 or less that are not currently served by any sewage collection or water treatment system and are severely economically disadvantaged, as determined by the Administrator.

"(B) AUTHORIZATION.—There is authorized to be appropriated to carry out this paragraph $50,000,000 per fiscal year for fiscal years 1996 through 2000.".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 104(u) (33 U.S.C. 1254(u)) is amended—

(1) by striking "and" before "(6)"; and

(2) by inserting before the period at the end the following: "; and (7) not to exceed $50,000,000 per fiscal year for each of fiscal years 1996 through 2000 for carrying out the provisions of subsections (b)(3), (b)(8), and (b)(9), except that not less than 20 percent of the sums appropriated pursuant to this clause shall be available for carrying out the provisions of subsections (b)(8) and (b)(9)".

SEC. 102. STATE MANAGEMENT ASSISTANCE.

Section 106(a) (33 U.S.C. 1256(a)) is amended—

(1) by striking "and" before "$75,000,000";

(2) by inserting after "1990" the following: ", such sums as may be necessary for each of fiscal years 1991 through 1995, and $150,000,000 per fiscal year for each of fiscal years 1996 through 2000"; and

(3) by adding at the end the following: "States or interstate agencies receiving grants under this section may use such funds to finance, with other States or interstate agencies, studies and projects on interstate issues relating to such programs.".

SEC. 103. MINE WATER POLLUTION CONTROL.

Section 107 (33 U.S.C. 1257) is amended to read as follows:

"SEC. 107. MINE WATER POLLUTION CONTROL.

"(a) ACIDIC AND OTHER TOXIC MINE DRAINAGE.—The Administrator shall establish a program to demonstrate the efficacy of measures for abatement of the causes and treatment of the effects of acidic and other toxic mine drainage within qualified hydrologic units affected by past coal mining practices for the purpose of restoring the biological integrity of waters within such units.

"(b) GRANTS.—

"(1) IN GENERAL.—Any State or Indian tribe may apply to the Administrator for a grant for any project which provides for abatement of the causes or treatment of the effects of acidic or other toxic mine drainage within a qualified hydrologic unit affected by past coal mining practices.

"(2) APPLICATION REQUIREMENTS.—An application submitted to the Administrator under this section shall include each of the following:

"(A) An identification of the qualified hydrologic unit.

"(B) A description of the extent to which acidic or other toxic mine drainage is affecting the water quality and biological resources within the hydrologic unit.

"(C) An identification of the sources of acidic or other toxic mine drainage within the hydrologic unit.

"(D) An identification of the project and the measures proposed to be undertaken to abate the causes or treat the effects of acidic or other toxic mine drainage within the hydrologic unit.

"(E) The cost of undertaking the proposed abatement or treatment measures.

"(c) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of the cost of a project receiving grant assistance under this section shall be 50 percent.

"(2) LANDS, EASEMENTS, AND RIGHTS-OF-WAY.—Contributions of lands, easements, and rights-of-way shall be credited toward the non-Federal share of the cost of a project under this section but not in an amount exceeding 25 percent of the total project cost.

"(3) OPERATION AND MAINTENANCE.—The non-Federal interest shall bear 100 percent of the cost of operation and maintenance of a project under this section.

"(d) PROHIBITED PROJECTS.—No acidic or other toxic mine drainage abatement or treatment project may receive assistance under this section if the project would adversely affect the free-flowing characteristics of any river segment within a qualified hydrologic unit.

"(e) APPLICATIONS FROM FEDERAL ENTITIES.—Any Federal entity may apply to the Administrator for a grant under this section for the purposes of an acidic or toxic mine drainage abatement or treatment project within a qualified hydrologic unit located on lands and waters under the administrative jurisdiction of such entity.

"(f) APPROVAL.—The Administrator shall approve an application submitted pursuant to subsection (b) or (e) after determining that the application meets the requirements of this section.

"(g) QUALIFIED HYDROLOGIC UNIT DEFINED.—For purposes of this section, the term 'qualified hydrologic unit' means a hydrologic unit—

"(1) in which the water quality has been significantly affected by acidic or other toxic mine drainage from past coal mining practices in a manner which adversely impacts biological resources; and

"(2) which contains lands and waters eligible for assistance under title IV of the Surface Mining and Reclamation Act of 1977.".

SEC. 104. WATER SANITATION IN RURAL AND NATIVE ALASKA VILLAGES.

(a) IN GENERAL.—Section 113 (33 U.S.C. 1263) is amended by striking the section heading and designation and subsections (a) through (f) and inserting the following:

"SEC. 113. ALASKA VILLAGE PROJECTS AND PROGRAMS.

"(a) GRANTS.—The Administrator is authorized to make grants—

"(1) for the development and construction of facilities which provide sanitation services for rural and Native Alaska villages;

"(2) for training, technical assistance, and educational programs relating to operation and maintenance for sanitation services in rural and Native Alaska villages; and

"(3) for reasonable costs of administering and managing grants made and programs and projects carried out under this section; except that not to exceed 4 percent of the amount of any grant made under this section may be made for such costs.

"(b) FEDERAL SHARE.—A grant under this section shall be 50 percent of the cost of the program or project being carried out with such grant.

"(c) SPECIAL RULE.—The Administrator shall award grants under this section for project construction following the rules specified in subpart H of part 1942 of title 7 of the Code of Federal Regulations.

"(d) GRANTS TO STATE FOR BENEFIT OF VILLAGES.—Grants under this section may be made to the State for the benefit of rural Alaska villages and Alaska Native villages.

"(e) COORDINATION.—In carrying out activities under this subsection, the Administrator is directed to coordinate efforts between the State of Alaska, the Secretary of Housing and Urban Development, the Secretary of Health and Human Services, the Secretary of the Interior, the Secretary of Agriculture, and the recipients of grants.

"(f) FUNDING.—There is authorized to be appropriated $25,000,000 for fiscal years beginning after September 30, 1995, to carry out this section.".

(b) CONFORMING AMENDMENT.—Section 113(g) is amended by inserting after "(g)" the following: "DEFINITIONS.—".

SEC. 105. AUTHORIZATION OF APPROPRIATIONS FOR CHESAPEAKE PROGRAM.

Section 117(d) (33 U.S.C. 1267(d)) is amended—

(1) in paragraph (1), by inserting "such sums as may be necessary for fiscal years 1991 through 1995, and $3,000,000 per fiscal year for each of fiscal years 1996 through 2000" after "1990,"; and

(2) in paragraph (2), by inserting "such sums as may be necessary for fiscal years 1991 through 1995, and $18,000,000 per fiscal year for each of fiscal years 1996 through 2000" after "1990,".

SEC. 106. GREAT LAKES MANAGEMENT.

(a) GREAT LAKES RESEARCH COUNCIL.—

(1) IN GENERAL.—Section 118 (33 U.S.C. 1268) is amended—

(A) in subsection (a)(3)—

(i) by striking subparagraph (E) and inserting the following:

"(E) 'Council' means the Great Lakes Research Council established by subsection (d)(1);";

(ii) by striking "and" at the end of subparagraph (I);

(iii) by striking the period at the end of subparagraph (J) and inserting "; and"; and

(iv) by adding at the end the following:

"(K) 'Great Lakes research' means the application of scientific or engineering expertise to explain, understand, and predict a physical, chemical, biological, or socioeconomic process, or the interaction of 1 or more of the processes, in the Great Lakes ecosystem.";

(B) by striking subsection (d) and inserting the following:

"(d) GREAT LAKES RESEARCH COUNCIL.—

"(1) ESTABLISHMENT OF COUNCIL.—There is established a Great Lakes Research Council.

"(2) DUTIES OF COUNCIL.—The Council—

"(A) shall advise and promote the coordination of Federal Great Lakes research activities to avoid unnecessary duplication and ensure greater effectiveness in achieving protection of the Great Lakes ecosystem through the goals of the Great Lakes Water Quality Agreement;

"(B) not later than 1 year after the date of the enactment of this subparagraph and biennially thereafter and after providing opportunity for public review and comment, shall prepare and provide to interested parties a document that includes—

"(i) an assessment of the Great Lakes research activities needed to fulfill the goals of the Great Lakes Water Quality Agreement;

"(ii) an assessment of Federal expertise and capabilities in the activities needed to fulfill the goals of the Great Lakes Water Quality Agreement, including an inventory of Federal Great Lakes research programs, projects, facilities, and personnel; and

"(iii) recommendations for long-term and short-term priorities for Federal Great Lakes research, based on a comparison of the assessments conducted under clauses (i) and (ii);

"(C) shall identify topics for and participate in meetings, workshops, symposia, and conferences on Great Lakes research issues;

"(D) shall make recommendations for the uniform collection of data for enhancing Great Lakes research and management protocols relating to the Great Lakes ecosystem;

"(E) shall advise and cooperate in—

"(i) improving the compatible integration of multimedia data concerning the Great Lakes ecosystem; and

"(ii) any effort to establish a comprehensive multimedia data base for the Great Lakes ecosystem; and

"(F) shall ensure that the results, findings, and information regarding Great Lakes research programs conducted or sponsored by the Federal Government are disseminated in a timely manner, and in useful forms, to interested persons, using to the maximum extent practicable mechanisms in existence on the date of the dissemination, such as the Great Lakes Research Inventory prepared by the International Joint Commission.

"(3) MEMBERSHIP.—

"(A) IN GENERAL.—The Council shall consist of 1 research manager with extensive knowledge of, and scientific expertise and experience in, the Great Lakes ecosystem from each of the following agencies and instrumentalities:

"(i) The Agency.

"(ii) The National Oceanic and Atmospheric Administration.

"(iii) The National Biological Service.

"(iv) The United States Fish and Wildlife Service.

"(v) Any other Federal agency or instrumentality that expends $1,000,000 or more for a fiscal year on Great Lakes research.

"(vi) Any other Federal agency or instrumentality that a majority of the Council membership determines should be represented on the Council.

"(B) NONVOTING MEMBERS.—At the request of a majority of the Council membership, any person who is a representative of a Federal agency or instrumentality not described in subparagraph (A) or any person who is not a Federal employee may serve as a nonvoting member of the Council.

"(4) CHAIRPERSON.—The chairperson of the Council shall be a member of the Council from an agency specified in clause (i), (ii), or (iii) of paragraph (3)(A) who is elected by a majority vote of the members of the Council. The chairperson shall serve as chairperson for a period of 2 years. A member of the Council may not serve as chairperson for more than 2 consecutive terms.

"(5) EXPENSES.—While performing official duties as a member of the Council, a member shall be allowed travel or transportation expenses under section 5703 of title 5, United States Code.

"(6) INTERAGENCY COOPERATION.—The head of each Federal agency or instrumentality that is represented on the Council—

"(A) shall cooperate with the Council in implementing the recommendations developed under paragraph (2);

"(B) on written request of the chairperson of the Council, may make available, on a reimbursable basis or otherwise, such personnel, services, or facilities as may be necessary to assist the Council in carrying out the duties of the Council under this section; and

"(C) on written request of the chairperson, shall furnish data or information necessary to carry out the duties of the Council under this section.

"(7) INTERNATIONAL COOPERATION.—The Council shall cooperate, to the maximum extent practicable, with the research coordination efforts of the Council of Great Lakes Research Managers of the International Joint Commission.

"(8) REIMBURSEMENT FOR REQUESTED ACTIVITIES.—Each Federal agency or instrumentality represented on the Council may reimburse another Federal agency or instrumentality or a non-Federal entity for costs associated with activities authorized under this subsection that are carried out by the other agency, instrumentality, or entity at the request of the Council.

"(9) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council.

"(10) EFFECT ON OTHER LAW.—Nothing in this subsection affects the authority of any Federal agency or instrumentality, under any law, to undertake Great Lakes research activities.";

(C) in subsection (e)—

(i) in paragraph (1) by striking "the Program Office and the Research Office shall prepare a joint research plan" and inserting "the Program Office, in consultation with the Council, shall prepare a research plan"; and

(ii) in paragraph (3)(A) by striking "the Research Office, the Agency for Toxic Substances and Disease Registry, and Great Lakes States" and inserting "the Council, the Agency for Toxic Substances and Disease Registry, and Great Lakes States,"; and

(D) in subsection (h)—

(i) by adding "and" at the end of paragraph (1);

(ii) by striking "; and" at the end of paragraph (2) and inserting a period; and

(iii) by striking paragraph (3).

(2) CONFORMING AMENDMENT.—The second sentence of section 403(a) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1447b(a)) is amended by striking "Great Lakes Research Office authorized under" and inserting "Great Lakes Research Council established by".

(b) CONSISTENCY OF PROGRAMS WITH FEDERAL GUIDANCE.—Section 118(c)(2)(C) (33 U.S.C. 1268(c)(2)(C)) is amended by adding at the end the following: "For purposes of this section, a State's standards, policies, and procedures shall be considered consistent with such guidance if the standards, policies, and procedures are based on scientifically defensible judgments and policy choices made by the State after consideration of the guidance and provide an overall level of protection comparable to that provided by the guidance, taking into account the specific circumstances of the State's waters.".

(c) REAUTHORIZATION OF ASSESSMENT AND REMEDIATION OF CONTAMINATED SEDIMENTS PROGRAM.—Section 118(c)(7) is amended by adding at the end the following:

"(D) REAUTHORIZATION OF ASSESSMENT AND REMEDIATION OF CONTAMINATED SEDIMENTS PROGRAM.—

"(i) IN GENERAL.—The Administrator, acting through the Program Office, in consultation and cooperation with the Assistant Secretary of the Army having responsibility for civil works, shall conduct at least 3 pilot projects involving promising technologies and practices to remedy contaminated sediments (including at least 1 full-scale demonstration of a remediation technology) at sites in the Great Lakes System, as the Administrator determines appropriate.

"(ii) SELECTION OF SITES.—In selecting sites for the pilot projects, the Administrator shall give priority consideration to—

"(I) the Ashtabula River in Ohio;

"(II) the Buffalo River in New York;

"(III) Duluth and Superior Harbor in Minnesota;

"(IV) the Fox River in Wisconsin;

"(V) the Grand Calumet River in Indiana; and

"(VI) Saginaw Bay in Michigan.

"(iii) DEADLINES.—In carrying out this subparagraph, the Administrator shall—

"(I) not later than 18 months after the date of the enactment of this subparagraph, identify at least 3 sites and the technologies and practices to be demonstrated at the sites (including at least 1 full-scale demonstration of a remediation technology); and

"(II) not later than 5 years after such date of enactment, complete at least 3 pilot projects (including at least 1 full-scale demonstration of a remediation technology).

"(iv) ADDITIONAL PROJECTS.—The Administrator, acting through the Program Office, in consultation and cooperation with the Assistant Secretary of the Army having responsibility for civil works, may conduct additional pilot- and full-scale pilot projects involving promising technologies and practices at sites in the Great Lakes System other than the sites selected under clause (i).

"(v) EXECUTION OF PROJECTS.—The Administrator may cooperate with the Assistant Secretary of the Army having responsibility for civil works to plan, engineer, design, and execute pilot projects under this subparagraph.

"(vi) NON-FEDERAL CONTRIBUTIONS.—The Administrator may accept non-Federal contributions to carry out pilot projects under this subparagraph.

"(vii) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subparagraph $3,500,000 for each of fiscal years 1996 through 2000.

"(E) TECHNICAL INFORMATION AND ASSISTANCE.—

"(i) IN GENERAL.—The Administrator, acting through the Program Office, may provide technical information and assistance involving technologies and practices for remediation of contaminated sediments to persons that request the information or assistance.

"(ii) TECHNICAL ASSISTANCE PRIORITIES.—In providing technical assistance under this subparagraph, the Administrator, acting through the Program Office, shall give special priority to requests for integrated assessments of, and recommendations regarding, remediation technologies and practices for contaminated sediments at Great Lakes areas of concern.

"(iii) COORDINATION WITH OTHER DEMONSTRATIONS.—The Administrator shall—

"(I) coordinate technology demonstrations conducted under this subparagraph with other federally assisted demonstrations of contaminated sediment remediation technologies; and

"(II) share information from the demonstrations conducted under this subparagraph with the other demonstrations.

"(iv) OTHER SEDIMENT REMEDIATION ACTIVITIES.—Nothing in this subparagraph limits the authority of the Administrator to carry out sediment remediation activities under other laws.

"(v) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subparagraph $1,000,000 for each of fiscal years 1996 through 2000.".

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) RESEARCH AND MANAGEMENT.—Section 118(e)(3)(B) (33 U.S.C. 1268(e)(3)(B)) is amended by inserting before the period at the end the following: ", such sums as may be necessary for fiscal year 1995, and $4,000,000 per fiscal year for each of fiscal years 1996, 1997, and 1998".

(2) GREAT LAKES PROGRAMS.—Section 118(h) (33 U.S.C. 1268(h)) is amended—

(A) by striking "and" before "$25,000,000"; and

(B) by inserting before the period at the end of the first sentence the following: ", such sums as may be necessary for fiscal years 1992 through 1995, and $17,500,000 per fiscal year for each of fiscal years 1996 through 2000".

TITLE II—CONSTRUCTION GRANTS

SEC. 201. USES OF FUNDS.

(a) NONPOINT SOURCE PROGRAM.—Section 201(g)(1) (33 U.S.C. 1281(g)(1)) is amended by striking the period at the end of the first sentence and all that follows through the period at the end of the last sentence and inserting the following: "and for any purpose for which a grant may be made under sections 319(h) and 319(i) of this Act (including any innovative and alternative approaches for the control of nonpoint sources of pollution).".

(b) RETROACTIVE ELIGIBILITY.—Section 201(g)(1) is further amended by adding at the end the following: "The Administrator, with the concurrence of the States, shall develop procedures to facilitate and expedite the retroactive eligibility and provision of grant funding for facilities already under construction.".

SEC. 202. ADMINISTRATION OF CLOSEOUT OF CONSTRUCTION GRANT PROGRAM.

Section 205(g)(1) (33 U.S.C. 1285(g)(1)) is amended by adding at the end the following: "The Administrator may negotiate an annual budget with a State for the purpose of administering the closeout of the State's construction grants program under this title. Sums made available for administering such closeout shall be subtracted from amounts remaining available for obligation under the State's construction grant program under this title.".

SEC. 203. SEWAGE COLLECTION SYSTEMS.

Section 211(a) (33 U.S.C. 1291(a)) is amended—

(1) in clause (1) by striking "an existing collection system" and inserting "a collection system existing on the date of the enactment of the Clean Water Amendments of 1995"; and

(2) in clause (2)—

(A) by striking "an existing community" and inserting "a community existing on such date of enactment"; and

(B) by striking "sufficient existing" and inserting "sufficient capacity existing on such date of enactment".

SEC. 204. VALUE ENGINEERING REVIEW.

Section 218(c) (33 U.S.C. 1298(c)) is amended by striking "$10,000,000" and inserting "$25,000,000".

SEC. 205. GRANTS FOR WASTEWATER TREATMENT.

(a) COASTAL LOCALITIES.—The Administrator shall make grants under title II of the Federal Water Pollution Control Act to appropriate instrumentalities for the purpose of construction of treatment works (including combined sewer overflow facilities) to serve coastal localities. No less than $10,000,000 of the amount of such grants shall be used for water infrastructure improvements in New Orleans, no less than $3,000,000 of the amount of such grants shall be used for water infrastructure improvements in Bristol County, Massachusetts, and no less than ⅓ of the amount of such grants shall be used to assist localities that meet both of the following criteria:

(1) NEED.—A locality that has over $2,000,000,000 in category I treatment needs documented and accepted in the Environmental Protection Agency's 1992 Needs Survey database as of February 4, 1993.

(2) HARDSHIP.—A locality that has wastewater user charges, for residential use of 7,000 gallons per month based on Ernst & Young National Water and Wastewater 1992 Rate Survey, greater than 0.65 percent of 1989 median household income for the metropolitan statistical area in which such locality is located as measured by the Bureau of the Census.

(b) FEDERAL SHARE.—Notwithstanding section 202(a)(1) of the Federal Water Pollution Control Act, the Federal share of grants under subsection (a) shall be 80 percent of the cost of construction, and the non-Federal share shall be 20 percent of the cost of construction.

(c) SMALL COMMUNITIES.—The Administrator shall make grants to States for the purpose of providing assistance for the construction of treatment works to serve small communities as defined by the State; except that the term "small communities" may not include any locality with a population greater than 75,000. Funds made available to carry out this subsection shall be allotted by the Administrator to the States in accordance with the allotment formula contained in section 604(a) of the Federal Water Pollution Control Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for making grants under this section $300,000,000 for fiscal year 1996. Such sums shall remain available until expended and shall be equally divided between subsections (a) and (c) of this section. Such authorization of appropriation shall take effect only if the total amount appropriated for fiscal year 1996 to carry out title VI of the Federal Water Pollution Control Act is at least $3,000,000,000.

TITLE III—STANDARDS AND ENFORCEMENT

SEC. 301. ARID AREAS.

(a) CONSTRUCTED WATER CONVEYANCES.—Section 303(c)(2) (33 U.S.C. 1313(c)(2)) is amended by adding at the end the following:

"(D) STANDARDS FOR CONSTRUCTED WATER CONVEYANCES.—

"(i) RELEVANT FACTORS.—If a State exercises jurisdiction over constructed water conveyances in establishing standards under this section, the State may consider the following:

"(I) The existing and planned uses of water transported in a conveyance system.

"(II) Any water quality impacts resulting from any return flow from a constructed water conveyance to navigable waters and the need to protect downstream users.

"(III) Management practices necessary to maintain the conveyance system.

"(IV) State or regional water resources management and water conservation plans.

"(V) The authorized purpose for the constructed conveyance.

"(ii) RELEVANT USES.—If a State adopts or reviews water quality standards for constructed water conveyances, it shall not be required to establish recreation, aquatic life, or fish consumption uses for such systems if the uses are not existing or reasonably foreseeable or such uses impede the authorized uses of the conveyance system.".

(b) CRITERIA AND GUIDANCE FOR EPHEMERAL AND EFFLUENT-DEPENDENT STREAMS.—Section 304(a) (33 U.S.C. 1314(a)) is amended by adding at the end the following:

"(9) CRITERIA AND GUIDANCE FOR EPHEMERAL AND EFFLUENT-DEPENDENT STREAMS.—

"(A) DEVELOPMENT.—Not later than 2 years after the date of the enactment of this paragraph, and after providing notice and opportunity for public comment, the Administrator shall develop and publish—

"(i) criteria for ephemeral and effluent-dependent streams; and

"(ii) guidance to the States on development and adoption of water quality standards applicable to such streams.

"(B) FACTORS.—The criteria and guidance developed under subparagraph (A) shall take into account the limited ability of ephemeral and effluent-dependent streams to support aquatic life and certain designated uses, shall include consideration of the role the discharge may play in maintaining the flow or level of such waters, and shall promote the beneficial use of reclaimed water pursuant to section 101(a)(10).".

(c) FACTORS REQUIRED TO BE CONSIDERED BY ADMINISTRATOR.—Section 303(c)(4) is amended by adding at the end the following: "In revising or adopting any new standard for ephemeral or effluent-dependent streams under this paragraph, the Administrator shall consider the factors referred to in section 304(a)(9)(B).".

(d) DEFINITIONS.—Section 502 (33 U.S.C. 1362) is amended by adding at the end the following:

"(21) The term 'effluent-dependent stream' means a stream or a segment thereof—

"(A) with respect to which the flow (based on the annual average expected flow, determined by calculating the average mode over a 10-year period) is primarily attributable to the discharge of treated wastewater;

"(B) that, in the absence of a discharge of treated wastewater and other primary anthropogenic surface or subsurface flows, would be an ephemeral stream; or

"(C) that is an effluent-dependent stream under applicable State water quality standards.

"(22) The term 'ephemeral stream' means a stream or segments thereof that flows periodically in response to precipitation, snowmelt, or runoff.

"(23) The term 'constructed water conveyance' means a manmade water transport system constructed for the purpose of transporting water in a waterway that is not and never was a natural perennial waterway.".

SEC. 302. SECONDARY TREATMENT.

(a) COASTAL DISCHARGES.—Section 304(d) (33 U.S.C. 1314(d)) is amended by adding at the end the following:

"(5) COASTAL DISCHARGES.—For purposes of this subsection, any municipal wastewater treatment facility shall be deemed the equivalent of a secondary treatment facility if each of the following requirements is met:

"(A) The facility employs chemically enhanced primary treatment.

"(B) The facility, on the date of the enactment of this paragraph, discharges through an ocean outfall into an open marine environment greater than 4 miles offshore into a depth greater than 300 feet.

"(C) The facility's discharge is in compliance with all local and State water quality standards for the receiving waters.

"(D) The facility's discharge will be subject to an ocean monitoring program acceptable to relevant Federal and State regulatory agencies.".

(b) MODIFICATION OF SECONDARY TREATMENT REQUIREMENTS.—

(1) IN GENERAL.—Section 301 (33 U.S.C. 1311) is amended by adding at the end the following:

"(s) MODIFICATION OF SECONDARY TREATMENT REQUIREMENTS.—

"(1) IN GENERAL.—The Administrator, with the concurrence of the State, shall issue a 10-year permit under section 402 which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of any pollutant from a publicly owned treatment works into marine waters which are at least 150 feet deep through an ocean outfall which discharges at least 1 mile offshore, if the applicant demonstrates that—

"(A) there is an applicable ocean plan and the facility's discharge is in compliance with all local and State water quality standards for the receiving waters;

"(B) the facility's discharge will be subject to an ocean monitoring program determined to be acceptable by relevant Federal and State regulatory agencies;

"(C) the applicant has an Agency approved pretreatment plan in place; and

"(D) the applicant, at the time such modification becomes effective, will be discharging effluent which has received at least chemically enhanced primary treatment and achieves a monthly average of 75 percent removal of suspended solids.

"(2) DISCHARGE OF ANY POLLUTANT INTO MARINE WATERS DEFINED.—For purposes of this subsection, the term 'discharge of any pollutant into marine waters' means a discharge into deep waters of the territorial sea or the waters of the contiguous zone, or into saline estuarine waters where there is strong tidal movement.

"(3) DEADLINE.—On or before the 90th day after the date of submittal of an application for a modification under paragraph (1), the Administrator shall issue to the applicant a modified permit under section 402 or a written determination that the application does not meet the terms and conditions of this subsection.

"(4) EFFECT OF FAILURE TO RESPOND.—If the Administrator does not respond to an application for a modification under paragraph (1) on or before the 90th day referred to in paragraph (3), the application shall be deemed approved and the modification sought by the applicant shall be in effect for the succeeding 10-year period.".

(2) EXTENSION OF APPLICATION DEADLINE.—Section 301(j) (33 U.S.C. 1311(j)) is amended by adding at the end the following:

"(6) EXTENSION OF APPLICATION DEADLINE.—In the 365-day period beginning on the date of the enactment of this paragraph, municipalities may apply for a modification pursuant to subsection (s) of the requirements of subsection (b)(1)(B) of this section.".

(c) MODIFICATIONS FOR SMALL SYSTEM TREATMENT TECHNOLOGIES.—Section 301 (33 U.S.C. 1311) is amended by adding at the end the following:

"(t) MODIFICATIONS FOR SMALL SYSTEM TREATMENT TECHNOLOGIES.—The Administrator, with the concurrence of the State, or a State with an approved program under section 402 may issue a permit under section 402 which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of any pollutant from a publicly owned treatment works serving a community of 20,000 people or fewer if the applicant demonstrates to the satisfaction of the Administrator that—

"(1) the effluent from such facility originates primarily from domestic users; and

"(2) such facility utilizes a properly constructed and operated alternative treatment system (including recirculating sand filter systems, constructed wetlands, and oxidation lagoons) which is equivalent to secondary treatment or will provide in the receiving waters and watershed an adequate level of protection to human health and the environment and contribute to the attainment of water quality standards.".

(d) PUERTO RICO.—Section 301 (33 U.S.C. 1311) is further amended by adding at the end the following:

"(u) PUERTO RICO.—

"(1) STUDY BY GOVERNMENT OF PUERTO RICO.—Not later than 3 months after the date of the enactment of this section, the Government of Puerto Rico may, after consultation with the Administrator, initiate a study of the marine environment of Anasco Bay off the coast of the Mayaguez region of Puerto Rico to determine the feasibility of constructing a deepwater outfall for the publicly owned treatment works located at Mayaguez, Puerto Rico. Such study shall recommend one or more technically feasible locations for the deepwater outfall based on the effects of such outfall on the marine environment.

"(2) APPLICATION FOR MODIFICATION.—Notwithstanding subsection (j)(1)(A), not later than 18 months after the date of the enactment of this section, an application may be submitted for a modification pursuant to subsection (h) of the requirements of subsection (b)(1)(B) of this section by the owner of the publicly owned treatment works at Mayaguez, Puerto Rico, for a deepwater outfall at a location recommended in the study conducted pursuant to paragraph (1).

"(3) INITIAL DETERMINATION.—On or before the 90th day after the date of submittal of an application for modification under paragraph (2), the Administrator shall issue to the applicant a draft initial determination regarding the modification of the existing permit.

"(4) FINAL DETERMINATION.—On or before the 270th day after the date of submittal of an application for modification under paragraph (2), the Administrator shall issue a final determination regarding such modification.

"(5) EFFECTIVENESS.—If a modification is granted pursuant to an application submitted under this subsection, such modification shall be effective only if the new deepwater outfall is operational within 5 years after the date of the enactment of this subsection. In all other aspects, such modification shall be effective for the period applicable to all modifications granted under subsection (h).".

SEC. 303. FEDERAL FACILITIES.

(a) APPLICATION OF CERTAIN PROVISIONS.—Section 313(a) (33 U.S.C. 1323(a)) is amended by striking all preceding subsection (b) and inserting the following:

"SEC. 313. FEDERAL FACILITIES POLLUTION CONTROL.

"(a) APPLICABILITY OF FEDERAL, STATE, INTERSTATE, AND LOCAL LAWS.—

"(1) IN GENERAL.—Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government—

"(A) having jurisdiction over any property or facility, or

"(B) engaged in any activity resulting, or which may result, in the discharge or runoff of pollutants,

and each officer, agent, or employee thereof in the performance of his official duties, shall be subject to, and comply with, all Federal, State, interstate, and local requirements, administrative authority, and process and sanctions respecting the control and abatement of water pollution in the same manner and to the same extent as any nongovernmental entity, including the payment of reasonable service charges.

"(2) TYPES OF ACTIONS COVERED.—Paragraph (1) shall apply—

"(A) to any requirement whether substantive or procedural (including any recordkeeping or reporting requirement, any requirement respecting permits, and any other requirement),

"(B) to the exercise of any Federal, State, or local administrative authority, and

"(C) to any process and sanction, whether enforced in Federal, State, or local courts or in any other manner.

"(3) PENALTIES AND FINES.—The Federal, State, interstate, and local substantive and procedural requirements, administrative authority, and process and sanctions referred to in paragraph (1) include all administrative orders and all civil and administrative penalties and fines, regardless of whether such penalties or fines are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations.

"(4) SOVEREIGN IMMUNITY.—

"(A) WAIVER.—The United States hereby expressly waives any immunity otherwise applicable to the United States with respect to any requirement, administrative authority, and process and sanctions referred to in paragraph (1) (including any injunctive relief, any administrative order, any civil or administrative penalty or fine referred to in paragraph (3), or any reasonable service charge).

"(B) PROCESSING FEES.—The reasonable service charges referred to in this paragraph include fees or charges assessed in connection with the processing and issuance of permits, renewal of permits, amendments to permits, review of plans, studies, and other documents, and inspection and monitoring of facilities, as well as any other nondiscriminatory charges that are assessed in connection with a Federal, State, interstate, or local water pollution regulatory program.

"(5) EXEMPTIONS.—

"(A) GENERAL AUTHORITY OF PRESIDENT.—The President may exempt any effluent source of any department, agency, or instrumentality in the executive branch from compliance with any requirement to which paragraph (1) applies if the President determines it to be in the paramount interest of the United States to do so; except that no exemption may be granted from the requirements of section 306 or 307 of this Act.

"(B) LIMITATION.—No exemptions shall be granted under subparagraph (A) due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation.

"(C) TIME PERIOD.—Any exemption under subparagraph (A) shall be for a period not in excess of 1 year, but additional exemptions may be granted for periods of not to exceed 1 year upon the President's making a new determination.

"(D) MILITARY PROPERTY.—In addition to any exemption of a particular effluent source, the President may, if the President determines it to be in the paramount interest of the United States to do so, issue regulations exempting from compliance with the requirements of this section any weaponry, equipment, aircraft, vessels, vehicles, or other classes or categories of property, and access to such property, which are owned or operated by the Armed Forces of the United States (including the Coast Guard) or by the National Guard of any State and which are uniquely military in nature. The President shall reconsider the need for such regulations at 3-year intervals.

"(E) REPORTS.—The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with the President's reason for granting such exemption.

"(6) VENUE.—Nothing in this section shall be construed to prevent any department, agency, or instrumentality of the Federal Government, or any officer, agent, or employee thereof in the performance of official duties, from removing to the appropriate Federal district court any proceeding to which the department, agency, or instrumentality or officer, agent, or employee thereof is subject pursuant to this section, and any such proceeding may be removed in accordance with chapter 89 of title 28, United States Code.

"(7) PERSONAL LIABILITY OF FEDERAL EMPLOYEES.—No agent, employee, or officer of the United States shall be personally liable for any civil penalty under any Federal, State, interstate, or local water pollution law with respect to any act or omission within the scope of the official duties of the agent, employee, or officer.

"(8) CRIMINAL SANCTIONS.—An agent, employee, or officer of the United States shall be subject to any criminal sanction (including any fine or imprisonment) under any Federal or State water pollution law, but no department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to any such sanction.".

(b) FUNDS COLLECTED BY A STATE.—Section 313 (33 U.S.C. 1323) is further amended by adding at the end the following:

"(c) LIMITATION ON STATE USE OF FUNDS.—Unless a State law in effect on the date of the enactment of this subsection or a State constitution requires the funds to be used in a different manner, all funds collected by a State from the Federal Government in penalties and fines imposed for the violation of a substantive or procedural requirement referred to in subsection (a) shall be used by a State only for projects designed to improve or protect the environment or to defray the costs of environmental protection or enforcement.".

(c) ENFORCEMENT.—Section 313 is further amended by adding at the end the following:

"(d) FEDERAL FACILITY ENFORCEMENT.—

"(1) ADMINISTRATIVE ENFORCEMENT BY EPA.—The Administrator may commence an administrative enforcement action against any department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government pursuant to the enforcement authorities contained in this Act.

"(2) PROCEDURE.—The Administrator shall initiate an administrative enforcement action against a department, agency, or instrumentality under this subsection in the same manner and under the same circumstances as an action would be initiated against any other person under this Act. The amount of any administrative penalty imposed under this subsection shall be determined in accordance with section 309(d) of this Act.

"(3) VOLUNTARY SETTLEMENT.—Any voluntary resolution or settlement of an action under this subsection shall be set forth in an administrative consent order.

"(4) CONFERRAL WITH EPA.—No administrative order issued to a department, agency, or instrumentality under this section shall become final until such department, agency, or instrumentality has had the opportunity to confer with the Administrator.".

(d) LIMITATION ON ACTIONS AND RIGHT OF INTERVENTION.—Section 313 is further amended by adding at the end the following:

"(e) LIMITATION ON ACTIONS AND RIGHT OF INTERVENTION.—Any violation with respect to which the Administrator has commenced and is diligently prosecuting an action under this subsection, or for which the Administrator has issued a final order and the violator has either paid a penalty or fine assessed under this subsection or is subject to an enforceable schedule of corrective actions, shall not be the subject of an action under section 505 of this Act. In any action under this subsection, any citizen may intervene as a matter of right.".

(e) DEFINITION OF PERSON.—Section 502(5) (33 U.S.C. 1362(5)) is amended by inserting before the period at the end the following: "and includes any department, agency, or instrumentality of the United States".

(f) DEFINITION OF RADIOACTIVE MATERIALS.—Section 502 (33 U.S.C. 1362) is amended by adding at the end the following:

"(24) The term 'radioactive materials' includes source materials, special nuclear materials, and byproduct materials (as such terms are defined under the Atomic Energy Act of 1954) which are used, produced, or managed at facilities not licensed by the Nuclear Regulatory Commission; except that such term does not include any material which is discharged from a vessel or other facility covered by Executive Order 12344 (42 U.S.C. 7158 note; relating to the Naval Nuclear Propulsion Program).".

(g) CONFORMING AMENDMENTS.—Section 313(b) (33 U.S.C. 1323(b)) is amended—

(1) by striking "(b)(1)" and inserting the following:

"(b) WASTEWATER FACILITIES.—

"(1) COOPERATION FOR USE OF WASTEWATER CONTROL SYSTEMS.—";

(2) in paragraph (2) by inserting "LIMITATION ON CONSTRUCTION.—" before "Construction"; and

(3) by moving paragraphs (1) and (2) 2 ems to the right.

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall only apply to violations occurring after such date of enactment.

SEC. 304. NATIONAL ESTUARY PROGRAM.

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

(1) The Nation's estuaries are a vital natural resource to which many regional economies are closely tied.

(2) Many of the Nation's estuaries are under a severe threat from point source pollution and polluted run-off (nonpoint source pollution) and from habitat alteration and destruction.

(3) Only through expanded investments in waste water treatment and other water and sediment pollution control and prevention efforts can the environmental and economic values of the Nation's estuaries be restored and protected.

(4) The National Estuary Program created under the Federal Water Pollution Control

Act has significantly advanced the Nation's understanding of the declining condition of the Nation's estuaries.

(5) The National Estuary Program has also provided precise information about the corrective and preventative measures required to reverse the degradation of water and sediment quality and to halt the alteration and destruction of vital habitat in the Nation's estuaries.

(6) The level of funding available to States, municipalities, and the Environmental Protection Agency for implementation of approved conservation and management plans is inadequate, and additional financial resources must be provided.

(7) Funding for implementation of approved conservation and management plans should be provided under the State revolving loan fund program authorized by title VI of the Federal Water Pollution Control Act.

(8) Authorization levels for State revolving loan fund capitalization grants should be increased by an amount necessary to ensure the achievement of the goals of the Federal Water Pollution Control Act.

(b) TECHNICAL AMENDMENT.—Section 320(a)(2)(B) (33 U.S.C. 1330(a)(2)(B)) is amended to read as follows:

"(B) PRIORITY CONSIDERATION.—The Administrator shall give priority consideration under this section to Long Island Sound, New York and Connecticut; Narragansett Bay, Rhode Island; Buzzards Bay, Massachusetts; Massachusetts Bay, Massachusetts (including Cape Cod Bay and Boston Harbor); Puget Sound, Washington; New York-New Jersey Harbor, New York and New Jersey; Delaware Bay, Delaware and New Jersey; Delaware Inland Bays, Delaware; Albemarle Sound, North Carolina; Sarasota Bay, Florida; San Francisco Bay, California; Santa Monica Bay, California; Galveston Bay, Texas; Barataria-Terrebonne Bay estuary complex, Louisiana; Indian River Lagoon, Florida; Charlotte Harbor, Florida; Barnegat Bay, New Jersey; and Peconic Bay, New York.".

(c) GRANTS.—Section 320(g)(2) (33 U.S.C. 1330(g)(2)) is amended by inserting "and implementation monitoring" after "development".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 320(i) (33 U.S.C. 1330(i)) is amended by striking "1987" and all that follows through "1991" and inserting the following: "1987 through 1991, such sums as may be necessary for fiscal years 1992 through 1995, and $19,000,000 per fiscal year for each of fiscal years 1996 through 2000".

SEC. 305. NONPOINT SOURCE MANAGEMENT PROGRAMS.

(a) REVIEW AND REVISION.—Section 319(b) (33 U.S.C. 1329(b)) is amended by adding at the end the following:

"(5) REVIEW AND REVISION.—Not later than 18 months after the date of the enactment of this paragraph, the State shall review and revise the report required by this subsection and submit such revised report to the Administrator for approval.".

(b) APPROVAL OR DISAPPROVAL OF MANAGEMENT PROGRAMS.—Section 319(d)(1) (33 U.S.C. 1329(d)(1)) is amended by inserting "or revised management program" after "management program" each place it appears.

(c) GRANTS FOR PROTECTING GROUND WATER QUALITY.—Section 319(i)(3) (33 U.S.C. 1329(i)(3)) is amended by striking "$150,000" and inserting "$500,000".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 319(j) (33 U.S.C. 1329(j)) is amended—

(1) by striking "and" before "$130,000,000";

(2) by inserting after "1991" the following: ", such sums as may be necessary for fiscal years 1992 through 1995, $100,000,000 for fiscal year 1996, $150,000,000 for fiscal year 1997, $200,000,000 for fiscal year 1998, $250,000,000 for fiscal year 1999, and $300,000,000 for fiscal year 2000"; and

(3) by striking "$7,500,000" and inserting "$25,000,000".

(e) AGRICULTURAL INPUTS.—Section 319 (33 U.S.C. 1329) is amended by adding at the end the following:

"(o) AGRICULTURAL INPUTS.—For the purposes of this Act, any land application of livestock manure shall not be considered a point source and shall be subject to enforcement only under this section.".

SEC. 306. COASTAL ZONE MANAGEMENT.

Section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1451 note) is amended—

(1) in subsection (a)(1)—

(A) by inserting "(A)" after "PROGRAM DEVELOPMENT.—"; and

(B) by adding at the end the following:

"(B) A State that has not received Federal approval for the State's core coastal management program pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) shall have 30 months from the date of approval of such program to submit a Coastal Nonpoint Pollution Program pursuant to this section. Any such State shall also be eligible for any extension of time for submittal of the State's nonpoint program that may be received by a State with a federally approved coastal management program.";

(2) in subsection (b), in the matter preceding paragraph (1), by striking "to protect coastal waters generally" and inserting "to restore and protect coastal waters where the State has determined that coastal waters are threatened or significantly degraded";

(3) in subsection (b)(3)—

(A) by striking "The implementation" and inserting "A schedule for the implementation"; and

(B) by inserting ", and no less often than once every 5 years," after "from time to time";

(4) in subsection (b) by adding at the end the following:

"(7) IDENTIFICATION OF PRIORITY AREAS.—A prioritization of the areas in the State in which management measures will be implemented.";

(5) in subsection (c) by adding at the end the following:

"(5) CONDITIONAL APPROVAL.—The Secretary and Administrator may grant conditional approval to a State's program where the State requests additional time to complete the development of its program. During the period during which the State's program is subject to conditional approval, the penalty provisions of paragraphs (3) and (4) shall not apply.";

(6) in subsection (h)(1) by striking ", 1993, and 1994" and inserting "through 2000"; and

(7) in subsection (h)(2)(B)(iv) by striking "fiscal year 1995" and inserting "each of fiscal years 1995 through 2000".

SEC. 307. COMPREHENSIVE WATERSHED MANAGEMENT.

(a) IN GENERAL.—Title III (33 U.S.C. 1300–1330) is amended by adding at the end the following:

"SEC. 321. COMPREHENSIVE WATERSHED MANAGEMENT.

"(a) FINDINGS, PURPOSE, AND DEFINITIONS.—

"(1) FINDINGS.—Congress finds that comprehensive watershed management will further the goals and objectives of this Act by—

"(A) identifying more fully water quality impairments and the pollutants, sources, and activities causing the impairments;

"(B) integrating water protection quality efforts under this Act with other natural resource protection efforts, including Federal efforts to define and protect ecological systems (including the waters and the living resources supported by the waters);

"(C) defining long-term social, economic, and natural resource objectives and the water quality necessary to attain or maintain the objectives;

"(D) increasing, through citizen participation in the watershed management process, public support for improved water quality;

"(E) identifying priority water quality problems that need immediate attention; and

"(F) identifying the most cost-effective measures to achieve the objectives of this Act.

"(2) PURPOSE.—The purpose of this section is to encourage comprehensive watershed management in maintaining and enhancing water quality, in restoring and protecting living resources supported by the waters, and in ensuring waters of a quality sufficient to meet human needs, including water supply and recreation.

"(3) DEFINITIONS.—In this section, the following definitions apply:

"(A) ECOSYSTEM.—The term 'ecosystem' means the community of plants and animals (including humans) and the environment (including surface water, the ground water with which it interacts, and riparian areas) upon which that community depends.

"(B) ENVIRONMENTAL OBJECTIVES.—The term 'environmental objectives' means the goals specified by States or State-designated watershed management entities to protect, restore, and maintain water resources and aquatic ecosystems within a watershed, including applicable water quality standards and wetlands protection goals established under the Act.

"(C) STATE.—The term 'State' includes Indian tribes eligible under section 518(e).

"(b) STATE WATERSHED PROGRAM.—

"(1) SUBMITTAL.—A State, at any time, may submit to the Administrator for approval a watershed management program for the State.

"(2) APPROVAL.—The Administrator shall approve a State watershed program submitted under paragraph (1) if the program, at a minimum, contains the following elements:

"(A) An identification of the State agency generally responsible for overseeing and approving watershed management plans and a designation of watershed management entities and lead responsibilities for such entities. Such entities may include other State agencies and sub-State agencies.

"(B) A description of the scope of the program. In determining the scope of the program, the State may choose to address all watersheds within the State over a period of time or to concentrate efforts on selected watersheds. Within each watershed, the issues to be addressed should be based on a comprehensive analysis of the problems within the watershed. The scope of the program may expand over a period of time both in terms of the number of watersheds and the issues addressed by the program.

"(C) An identification of watershed management units for which watershed management plans will be developed. In selecting such units, the State shall consider those waters in the State that are water quality threatened or impaired or are otherwise in need of special protection. To the extent

practicable, the boundaries of each watershed management unit shall be consistent with United States Geological Service hydrological units.

"(D) A description of activities required of watershed management entities (as specified under subsection (f)(1)) and a description of the State's approval process for watershed management plans.

"(E) A specification of an effective public participation process, including procedures to encourage the public to participate in developing and implementing watershed management plans.

"(F) An identification of the statewide environmental objectives that will be pursued in each watershed. Such objectives, at a minimum, shall include State water quality standards and goals under this Act, and, as appropriate, other objectives such as habitat restoration and biological diversity.

"(2) DEADLINE.—The Administrator, after consultation with other Federal agencies, shall approve or disapprove a State watershed program submitted under paragraph (1) on or before the 180th day following the date of the submittal. If a State watershed program is disapproved, the State may modify and resubmit its program under paragraph (1).

"(3) ANNUAL REPORT.—A State with an approved watershed program under this subsection shall provide to the Administrator an annual report summarizing the status of the program, including a description of any modifications to the program. An annual report submitted under this section may be used by the State to satisfy reporting requirements under sections 106, 314, 319, and 320.

"(4) EFFECTIVE PERIOD OF APPROVALS.—An approval of a State watershed program under paragraph (2) shall remain in effect for a 5-year period beginning on the date of the approval and may be renewed by the Administrator.

"(5) WITHDRAWAL OF APPROVAL.—Whenever the Administrator determines after public hearing that a State is not administering a watershed program approved under paragraph (2) in accordance with requirements of this section, he shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed 90 days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

"(c) DESIGNATION OF ADDITIONAL WATERSHED MANAGEMENT UNITS AND ENTITIES.—A State with an approved watershed program under this section may modify such program at any time in order to designate additional watershed management units and entities, including lead responsibilities, for the purpose of developing and implementing watershed management plans.

"(d) ELIGIBLE WATERSHED MANAGEMENT AND PLANNING ACTIVITIES.—The following watershed management activities are eligible to receive assistance from the Administrator under sections 205(j), 319(h), and 604(b):

"(1) Characterizing waters and land uses.

"(2) Identifying problems within a watershed.

"(3) Selecting short-term and long-term goals for watershed management.

"(4) Developing and implementing measures and practices to meet identified goals.

"(5) Identifying and coordinating projects and activities necessary to restore and maintain water quality or meet other environmental objectives within the watershed.

"(6) Identifying the appropriate institutional arrangements to carry out an approved watershed management plan.

"(7) Updating an approved watershed management plan.

"(8) Any other activities deemed appropriate by the Administrator.

"(e) SUPPORT FOR WATERSHED MANAGEMENT AND PLANNING.—

"(1) INTERAGENCY COMMITTEE.—There is established an interagency committee to support comprehensive watershed management and planning. The President shall appoint the members of the committee. The members shall include a representative from each Federal agency that carries out programs and activities that may have a significant impact on water quality or other natural resource values that may be appropriately addressed through comprehensive watershed management.

"(2) USE OF OTHER FUNDS UNDER THIS ACT.—The planning and implementation activities carried out by a management entity pursuant to this section may be carried out with funds made available through the State pursuant to sections 205(j), 319(h), and 604(b).

"(f) APPROVED PLANS.—

"(1) MINIMUM REQUIREMENTS.—A State with an approved watershed program may approve a watershed management plan when such plan satisfies the following conditions:

"(A) If the watershed includes waters that are not meeting applicable water quality standards under this Act at the time of submission, the plan—

"(i) identifies the environmental objectives of the plan including, at a minimum, State water quality standards and goals under this Act, and any other environmental objectives the planning entity deems appropriate;

"(ii) identifies the stressors, pollutants, and sources causing the impairment;

"(iii) identifies actions necessary to achieve the environmental objectives of the plan, including source reduction of pollutants to achieve any allocated load reductions consistent with the requirements of section 303(d) and the priority for implementing such actions;

"(iv) contains an implementation plan, with schedules, milestones, projected completion dates, and the identification of those persons responsible for implementing the actions, demonstrating that water quality standards will be attained as expeditiously as practicable, but not later than deadlines in applicable sections of this Act and all other environmental objectives identified in the watershed management plan will be attained as expeditiously as practicable;

"(v) contains an effective public participation process in the development and implementation of the plan;

"(vi) specifies a process to monitor and evaluate progress toward meeting environmental objectives; and

"(vii) specifies a process to revise the plan as needed.

"(B) For those waters in the watershed attaining water quality standards at the time of submission (including threatened waters), the plan identifies those projects and activities necessary to maintain water quality standards and attain or maintain other environmental objectives in the future.

"(2) TERMS OF PLAN AND PLAN APPROVAL.—Each plan submitted and approved under this subsection shall extend for a period of not less than 5 years and include a planning and implementation schedule with milestones and completion dates within that period. The approval by the State of a plan shall apply for a period not exceed 5 years. A revised and updated plan may be submitted prior to the expiration of the period specified in the preceding sentence for approval pursuant to the same conditions and requirements that apply to an initial plan for a watershed that is approved pursuant to this subsection.

"(g) INCENTIVES FOR WATERSHED MANAGEMENT.—

"(1) POINT SOURCE PERMITS.—

"(A) IN GENERAL.—Notwithstanding section 301(b)(1)(C), a permit may be issued under section 402 with a limitation that does not meet water quality standards, if—

"(i) the receiving water is in a watershed with an approved watershed plan;

"(ii) the plan includes enforceable requirements under State or local law for nonpoint source pollutant load reductions that in combination with point source requirements will meet water quality standards prior to the expiration of plan; and

"(iii) the point source does not have a history of significant noncompliance with its permit effluent limitations, as determined by the Administrator or the State (in the case with an approved permit under section 402).

"(B) SYNCHRONIZED PERMIT TERMS.—Notwithstanding section 402(b)(1)(B), the term of a permit issued under section 402 may be extended by 5 years if the discharge is located in a watershed planning area for which a watershed management plan is to be developed.

"(C) 10-YEAR PERMIT TERMS.—Notwithstanding section 402(b)(1)(B), the term of a permit issued under section 402 may be extended to 10 years for any point source located in a watershed management unit for which a watershed management plan has been approved if the plan provides for the attainment and maintenance of water quality standards (including designated uses) in the affected waters and unless receiving waters are not meeting water quality standards due to the point source discharge. Such permits may be revised at any time if necessary to meet water quality standards.

"(2) NONPOINT SOURCE CONTROLS.—Not later than 30 months after the date of the enactment of this section, a State with an approved watershed program under this section may make a showing to the Administrator that nonpoint source management practices different from those established in national guidance issued by the Administrator under section 319 will attain water quality standards as expeditiously as practicable and not later than the deadlines established by this Act. If the Administrator is satisfied with such showing, then the Administrator may approve the State's nonpoint source management program that relies on such practices as meeting the requirements of section 319. Alternative watershed nonpoint source control practices must be identified in the watershed management plan adopted under subsection (f)(2) of this section.

"(3) FUNDING.—The Administrator may provide assistance to a State with an approved watershed management program under this section in the form of a multipurpose grant that would provide for single application, workplan and review, matching, oversight, and end-of-year closeout requirements for grant funding under sections 104(b)(3), 104(g), 106, 314(b), 319, 320, and 604(b). A State with an approved multipurpose grant may focus activities funded under such sections on a priority basis consistent with State-approved watershed management plans.

"(h) GUIDANCE.—Not later than 12 months after the date of the enactment of this section, and after consultation with other appropriate agencies, the Administrator shall

issue guidance on recommended provisions to be included in State watershed programs and State-approved watershed management plans.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator for providing grants to States to assist such States in carrying out activities under this section $25,000,000 per fiscal year for each of fiscal years 1996 through 2000.".

(b) CONFORMING AMENDMENT.—Section 401(a)(1) (33 U.S.C. 1341(a)(1)) is amended by inserting "and with the provisions of a management plan approved by a State under section 321 of this Act" before the period at the end of the first sentence.

SEC. 308. REVISION OF EFFLUENT LIMITATIONS.

(a) ELIMINATION OF REQUIREMENT FOR ANNUAL REVISION.—Section 304(b) (33 U.S.C. 1314(b)) is amended in the matter preceding paragraph (1) by striking "and, at least annually thereafter," and inserting "and thereafter shall".

(b) SPECIAL RULE.—Section 304(b) (33 U.S.C. 1314(b)) is amended by striking the period at the end of the first sentence and inserting the following: "; except that guidelines issued under paragraph (1)(A) addressing pollutants identified pursuant to subsection (a)(4) shall not be revised after February 15, 1995, to be more stringent unless such revised guidelines meet the requirements of paragraph (4)(A).".

TITLE IV—PERMITS AND LICENSES

SEC. 401. WASTE TREATMENT SYSTEMS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS.

Section 402(a) is amended by adding at the end the following:

"(6) CONCENTRATED ANIMAL FEEDING OPERATIONS.—For purposes of this section, waste treatment systems, including retention ponds or lagoons, used to meet the requirements of this Act for concentrated animal feeding operations, are not waters of the United States. An existing concentrated animal feeding operation that uses a natural topographic impoundment or structure on the effective date of this Act, which is not hydrologically connected to any other waters of the United States, as a waste treatment system or wastewater retention facility may continue to use that natural topographic feature for waste storage regardless of its size, capacity, or previous use.".

SEC. 402. MUNICIPAL AND INDUSTRIAL STORMWATER DISCHARGES.

(a) DEADLINES.—Section 402(p) (33 U.S.C. 1343(p)) is amended—

(1) in paragraph (1) by striking "1994" and inserting "2005"; and

(2) in paragraph (6) by striking "1993" and inserting "2005".

(b) PROHIBITION ON NUMERIC EFFLUENT LIMITATIONS FOR MUNICIPAL DISCHARGES.—Section 402(p)(3) is amended by adding at the end the following:

"(C) PROHIBITION ON NUMERIC EFFLUENT LIMITATIONS FOR MUNICIPAL DISCHARGES.—Permits for municipal separate storm sewers shall not include numeric effluent limitations.".

SEC. 403. INTAKE CREDITS.

Section 402 (33 U.S.C. 1342) is amended by adding at the end the following:

"(q) INTAKE CREDITS.—

"(1) IN GENERAL.—Notwithstanding any provision of this Act, in any effluent limitation or other limitation imposed under the permit program established by the Administrator under this section, any State permit program approved under this section (including any program for implementation under section 118(c)(2)), any standards established under section 307(a), or any program for industrial users established under section 307(b), the Administrator, as applicable, shall or the State, as applicable, may provide credits for pollutants present in or caused by intake water such that an owner or operator of a point source is not required to remove, reduce, or treat the amount of any pollutant in an effluent below the amount of such pollutant that is present in or caused by the intake water for such facility—

"(A)(i) if the source of the intake water and the receiving waters into which the effluent is ultimately discharged are the same;

"(ii) if the source of the intake water meets the maximum contaminant levels or treatment techniques for drinking water contaminants established pursuant to the Safe Drinking Water Act for the pollutant of concern; or

"(iii) if, at the time the limitation or standard is established, the level of the pollutant in the intake water is the same as or lower than the amount of the pollutant in the receiving waters, taking into account analytical variability; and

"(B) if, for conventional pollutants, the constituents of the conventional pollutants in the intake water are the same as the constituents of the conventional pollutants in the effluent.

"(2) ALLOWANCE FOR INCIDENTAL AMOUNTS.—In determining whether the condition set forth in paragraph (1)(A)(i) is being met, the Administrator shall or the State may, as appropriate, make allowance for incidental amounts of intake water from sources other than the receiving waters.

"(3) CREDIT FOR NONQUALIFYING POLLUTANTS.—The Administrator shall or a State may provide point sources an appropriate credit for pollutants found in intake water that does not meet the requirement of paragraph (1).

"(4) MONITORING.—Nothing in this section precludes the Administrator or a State from requiring monitoring of intake water, effluent, or receiving waters to assist in the implementation of this section.".

SEC. 404. COMBINED SEWER OVERFLOWS.

Section 402 (33 U.S.C. 1342) is amended by adding at the end the following:

"(r) COMBINED SEWER OVERFLOWS.—

"(1) REQUIREMENT FOR PERMITS.—Each permit issued pursuant to this section for a discharge from a combined storm and sanitary sewer shall conform with the combined sewer overflow control policy signed by the Administrator on April 11, 1994.

"(2) TERM OF PERMIT.—

"(A) COMPLIANCE DEADLINE.—Notwithstanding any compliance schedule under section 301(b), or any permit limitation under section 402(b)(1)(B), the Administrator (or a State with a program approved under subsection (b)) may issue a permit pursuant to this section for a discharge from a combined storm and sanitary sewer, that includes a schedule for compliance with a long-term control plan under the control policy referred to in paragraph (1), for a term not to exceed 15 years.

"(B) EXTENSION.—Notwithstanding the compliance deadline specified in subparagraph (A), the Administrator or a State with a program approved under subsection (b) shall extend, on request of an owner or operator of a combined storm and sanitary sewer and subject to subparagraph (C), the period of compliance beyond the last day of the 15-year period—

"(i) if the Administrator or the State determines that compliance by such last day is not within the economic capability of the owner or operator; and

"(ii) if the owner or operator demonstrates to the satisfaction of the Administrator or the State reasonable further progress towards compliance with a long-term control plan under the control policy referred to in paragraph (1).

"(C) LIMITATIONS ON EXTENSIONS.—

"(i) EXTENSION NOT APPROPRIATE.—Notwithstanding subparagraph (B), the Administrator or the State need not grant an extension of the compliance deadline specified in subparagraph (A) if the Administrator or the State determines that such an extension is not appropriate.

"(ii) NEW YORK-NEW JERSEY.—Prior to granting an extension under subparagraph (B) with respect to a combined sewer overflow discharge originating in the State of New York or New Jersey and affecting the other of such States, the Administrator or the State from which the discharge originates, as the case may be, shall provide written notice of the proposed extension to the other State and shall not grant the extension unless the other State approves the extension or does not disapprove the extension within 90 days of receiving such written notice.

"(3) SAVINGS CLAUSE.—Any consent decree or court order entered by a United States district court, or administrative order issued by the Administrator, before the date of the enactment of this subsection establishing any deadlines, schedules, or timetables, including any interim deadlines, schedules, or timetables, for the evaluation, design, or construction of treatment works for control or elimination of any discharge from a municipal combined storm and sanitary sewer system shall be modified upon motion or request by any party to such consent decree or court order, to extend to December 31, 2009, at a minimum, any such deadlines, schedules, or timetables, including any interim deadlines, schedules, or timetables as is necessary to conform to the policy referred to in paragraph (1) or otherwise achieve the objectives of this subsection. Notwithstanding the preceding sentence, the period of compliance with respect to a discharge referred to in paragraph (2)(C)(ii) may only be extended in accordance with paragraph (2)(C)(ii).".

SEC. 405. ABANDONED MINES.

Section 402 (33 U.S.C. 1342) is further amended by inserting after subsection (o) the following:

"(p) PERMITS FOR REMEDIATING PARTY ON ABANDONED OR INACTIVE MINED LANDS.—

"(1) APPLICABILITY.—Subject to this subsection, including the requirements of paragraph (3), the Administrator, with the concurrence of the concerned State or Indian tribe, may issue a permit to a remediating party under this section for discharges associated with remediation activity at abandoned or inactive mined lands which modifies any otherwise applicable requirement of sections 301(b), 302, and 403, or any subsection of this section (other than this subsection).

"(2) APPLICATION FOR A PERMIT.—A remediating party who desires to conduct remediation activities on abandoned or inactive mined lands from which there is or may be a discharge of pollutants to waters of the United States or from which there could be a significant addition of pollutants from nonpoint sources may submit an application to the Administrator. The application shall consist of a remediation plan and any other information requested by the Administrator to clarify the plan and activities.

"(3) REMEDIATION PLAN.—The remediation plan shall include (as appropriate and applicable) the following:

"(A) Identification of the remediating party, including any persons cooperating with the concerned State or Indian tribe with respect to the plan, and a certification that the applicant is a remediating party under this section.

"(B) Identification of the abandoned or inactive mined lands addressed by the plan.

"(C) Identification of the waters of the United States impacted by the abandoned or inactive mined lands.

"(D) A description of the physical conditions at the abandoned or inactive mined lands that are causing adverse water quality impacts.

"(E) A description of practices, including system design and construction plans and operation and maintenance plans, proposed to reduce, control, mitigate, or eliminate the adverse water quality impacts and a schedule for implementing such practices and, if it is an existing remediation project, a description of practices proposed to improve the project, if any.

"(F) An analysis demonstrating that the identified practices are expected to result in a water quality improvement for the identified waters.

"(G) A description of monitoring or other assessment to be undertaken to evaluate the success of the practices during and after implementation, including an assessment of baseline conditions.

"(H) A schedule for periodic reporting on progress in implementation of major elements of the plan.

"(I) A budget and identified funding to support the activities described in the plan.

"(J) Remediation goals and objectives.

"(K) Contingency plans.

"(L) A description of the applicant's legal right to enter and conduct activities.

"(M) The signature of the applicant.

"(N) Identification of the pollutant or pollutants to be addressed by the plan.

"(4) PERMITS.—

"(A) CONTENTS.—Permits issued by the Administrator pursuant to this subsection shall—

"(i) provide for compliance with and implementation of a remediation plan which, following issuance of the permit, may be modified by the applicant after providing notification to and opportunity for review by the Administrator;

"(ii) require that any modification of the plan be reflected in a modified permit;

"(iii) require that if, at any time after notice to the remediating party and opportunity for comment by the remediating party, the Administrator determines that the remediating party is not implementing the approved remediation plan in substantial compliance with its terms, the Administrator shall notify the remediating party of the determination together with a list specifying the concerns of the Administrator;

"(iv) provide that, if the identified concerns are not resolved or a compliance plan approved within 180 days of the date of the notification, the Administrator may take action under section 309 of this Act;

"(v) provide that clauses (iii) and (iv) not apply in the case of any action under section 309 to address violations involving gross negligence (including reckless, willful, or wanton misconduct) or intentional misconduct by the remediating party or any other person;

"(vi) not require compliance with any limitation issued under sections 301(b), 302, and 403 or any requirement established by the Administrator under any subsection of this section (other than this subsection); and

"(vii) provide for termination of coverage under the permit without the remediating party being subject to enforcement under sections 309 and 505 of this Act for any remaining discharges—

"(I) after implementation of the remediation plan;

"(II) if a party obtains a permit to mine the site; or

"(III) upon a demonstration by the remediating party that the surface water quality conditions due to remediation activities at the site, taken as a whole, are equal to or superior to the surface water qualities that existed prior to initiation of remediation.

"(B) LIMITATIONS.—The Administrator shall only issue a permit under this section, consistent with the provisions of this subsection, to a remediating party for discharges associated with remediation action at abandoned or inactive mined lands if the remediation plan demonstrates with reasonable certainty that the actions will result in an improvement in water quality.

"(C) PUBLIC PARTICIPATION.—The Administrator may only issue a permit or modify a permit under this section after complying with subsection (b)(3).

"(D) EFFECT OF FAILURE TO COMPLY WITH PERMIT.—Failure to comply with terms of a permit issued pursuant to this subsection shall not be deemed to be a violation of an effluent standard or limitation issued under this Act.

"(E) LIMITATIONS ON STATUTORY CONSTRUCTION.—This subsection shall not be construed—

"(i) to limit or otherwise affect the Administrator's powers under section 504; or

"(ii) to preclude actions pursuant to section 309 or 505 for any violations of sections 301(a), 302, 402, and 403 that may have existed for the abandoned or inactive mined land prior to initiation of remediation covered by a permit issued under this subsection, unless such permit covers remediation activities implemented by the permit holder prior to issuance of the permit.

"(5) DEFINITIONS.—In this subsection the following definitions apply:

"(A) REMEDIATING PARTY.—The term 'remediating party' means—

"(i) the United States (on non-Federal lands), a State or its political subdivisions, or an Indian tribe or officers, employees, or contractors thereof; and

"(ii) any person acting in cooperation with a person described in clause (i), including a government agency that owns abandoned or inactive mined lands for the purpose of conducting remediation of the mined lands or that is engaging in remediation activities incidental to the ownership of the lands.

Such term does not include any person who, before or following issuance of a permit under this section, directly benefited from or participated in any mining operation (including exploration) associated with the abandoned or inactive mined lands.

"(B) ABANDONED OR INACTIVE MINED LANDS.—The term 'abandoned or inactive mined lands' means lands that were formerly mined and are not actively mined or in temporary shutdown at the time of submission of the remediation plan and issuance of a permit under this section.

"(C) MINED LANDS.—The term 'mined lands' means the surface or subsurface of an area where mining operations, including exploration, extraction, processing, and beneficiation, have been conducted. Such term includes private ways and roads appurtenant to such area, land excavations, underground mine portals, adits, and surface expressions associated with underground workings, such as glory holes and subsidence features, mining waste, smelting sites associated with other mined lands, and areas where structures, facilities, equipment, machines, tools, or other material or property which result from or have been used in the mining operation are located.

"(6) REGULATIONS.—The Administrator may issue regulations establishing more specific requirements that the Administrator determines would facilitate implementation of this subsection. Before issuance of such regulations, the Administrator may establish, on a case-by-case basis after notice and opportunity for public comment as provided by subsection (b)(3), more specific requirements that the Administrator determines would facilitate implementation of this subsection in an individual permit issued to the remediating party.".

SEC. 406. BENEFICIAL USE OF BIOSOLIDS.

(a) REFERENCES.—Section 405(a) (33 U.S.C. 1345(a)) is amended by inserting "(also referred to as 'biosolids')" after "sewage sludge" the first place it appears.

(b) APPROVAL OF STATE PROGRAMS.—Section 405(f) (33 U.S.C. 1345(f)) is amended by adding at the end the following:

"(3) APPROVAL OF STATE PROGRAMS.—Notwithstanding any other provision of law, the Administrator shall approve for purposes of this subsection State programs that meet the standards for final use or disposal of sewage sludge established by the Administrator pursuant to subsection (d).".

(c) STUDIES AND PROJECTS.—Section 405(g) (33 U.S.C. 1345(g)) is amended—

(1) in the first sentence of paragraph (1) by inserting "building materials," after "agricultural and horticultural uses,";

(2) in paragraph (1) by adding at the end the following: "Not later than January 1, 1997, and after providing notice and opportunity for public comment, the Administrator shall issue guidance on the beneficial use of sewage sludge."; and

(3) in paragraph (2) by striking "September 30, 1986," and inserting "September 30, 1995.

TITLE V—GENERAL PROVISIONS

SEC. 501. PUBLICLY OWNED TREATMENT WORKS DEFINED.

Section 502 (33 U.S.C. 1362) is further amended by adding at the end the following:

"(25) The term 'publicly owned treatment works' means a treatment works, as defined in section 212, located at other than an industrial facility, which is designed and constructed principally, as determined by the Administrator, to treat domestic sewage or a mixture of domestic sewage and industrial wastes of a liquid nature. In the case of such a facility that is privately owned, such term includes only those facilities that, with respect to such industrial wastes, are carrying out a pretreatment program meeting all the requirements established under section 307 and paragraphs (8) and (9) of section 402(b) for pretreatment programs (whether or not the treatment works would be required to implement a pretreatment program pursuant to such sections).".

SEC. 502. IMPLEMENTATION OF WATER POLLUTION LAWS WITH RESPECT TO VEGETABLE OIL.

(a) DIFFERENTIATION AMONG FATS, OILS, AND GREASES.—

(1) IN GENERAL.—In issuing or enforcing a regulation, an interpretation, or a guideline relating to a fat, oil, or grease under a Federal law related to water pollution control, the head of a Federal agency shall—

(A) differentiate between and establish separate classes for—

(i)(I) animal fats; and

(II) vegetable oils; and

(ii) other oils, including petroleum oil; and

(B) apply different standards and reporting requirements (including reporting requirements based on quantitative amounts) to different classes of fat and oil as provided in paragraph (2).

(2) CONSIDERATIONS.—In differentiating between the classes of animal fats and vegetable oils referred to in paragraph (1)(A)(i) and the classes of oils described in paragraph (1)(A)(ii), the head of the Federal agency shall consider differences in physical, chemical, biological, and other properties, and in the environmental effects, of the classes.

(b) DEFINITIONS.—In this section, the following definitions apply:

(1) ANIMAL FAT.—The term "animal fat" means each type of animal fat, oil, or grease, including fat, oil, or grease from fish or a marine mammal and any fat, oil, or grease referred to in section 61(a)(2) of title 13, United States Code.

(2) VEGETABLE OIL.—The term "vegetable oil" means each type of vegetable oil, including vegetable oil from a seed, nut, or kernel and any vegetable oil referred to in section 61(a)(1) of title 13, United States Code.

SEC. 503. NEEDS ESTIMATE.

Section 516(b)(1) (33 U.S.C. 1375(b)(1)) is amended—

(1) in the first sentence by striking "biennially revised" and inserting "quadrennially revised"; and

(2) in the second sentence by striking "February 10 of each odd-numbered year" and inserting "December 31, 1997, and December 31 of every 4th calendar year thereafter".

SEC. 504. FOOD PROCESSING AND FOOD SAFETY.

Title V (33 U.S.C. 1361–1377) is amended by redesignating section 519 as section 521 and by inserting after section 518 the following:

"SEC. 519. FOOD PROCESSING AND FOOD SAFETY.

"In developing any effluent guideline under section 304(b), pretreatment standard under section 307(b), or new source performance standard under section 306 that is applicable to the food processing industry, the Administrator shall consult with and consider the recommendations of the Food and Drug Administration, Department of Health and Human Services, Department of Agriculture, and Department of Commerce. The recommendations of such departments and agencies and a description of the Administrator's response to those recommendations shall be made part of the rulemaking record for the development of such guidelines and standards. The Administrator's response shall include an explanation with respect to food safety, including a discussion of relative risks, of any departure from a recommendation by any such department or agency.".

SEC. 505. AUDIT DISPUTE RESOLUTION.

Title V (33 U.S.C. 1361–1377) is further amended by inserting before section 521, as redesignated by this Act, the following:

"SEC. 520. AUDIT DISPUTE RESOLUTION.

"(a) ESTABLISHMENT OF BOARD.—The Administrator shall establish an independent Board of Audit Appeals (hereinafter in this section referred to as the 'Board') in accordance with the requirements of this section.

"(b) DUTIES.—The Board shall have the authority to review and decide contested audit determinations related to grant and contract awards under this Act. In carrying out such duties, the Board shall consider only those regulations, guidance, policies, facts, and circumstances in effect at the time of the grant or contract award.

"(c) PRIOR ELIGIBILITY DECISIONS.—The Board shall not reverse project cost eligibility determinations that are supported by an decision document of the Environmental Protection Agency, including grant or contract approvals, plans and specifications approval forms, grant or contract payments, change order approval forms, or similar documents approving project cost eligibility, except upon a showing that such decision was arbitrary, capricious, or an abuse of law in effect at the time of such decision.

"(d) MEMBERSHIP.—

"(1) APPOINTMENT.—The Board shall be composed of 7 members to be appointed by the Administrator not later than 90 days after the date of the enactment of this section.

"(2) TERMS.—Each member shall be appointed for a term of 3 years.

"(3) QUALIFICATIONS.—The Administrator shall appoint as members of the Board individuals who are specially qualified to serve on the Board by virtue of their expertise in grant and contracting procedures. The Administrator shall make every effort to ensure that individuals appointed as members of the Board are free from conflicts of interest in carrying out the duties of the Board.

"(e) BASIC PAY AND TRAVEL EXPENSES.—

"(1) RATES OF PAY.—Except as provided in paragraph (2), members shall each be paid at a rate of basic pay, to be determined by the Administrator, for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Board.

"(2) PROHIBITION OF COMPENSATION OF FEDERAL EMPLOYEES.—Members of the Board who are full-time officers or employees of the United States may not receive additional pay, allowances, or benefits by reason of their service on the Board.

"(3) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

"(f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Board, the Administrator shall provide to the Board the administrative support services necessary for the Board to carry out its responsibilities under this section.

"(g) DISPUTES ELIGIBLE FOR REVIEW.—The authority of the Board under this section shall extend to any contested audit determination that on the date of the enactment of this section has yet to be formally concluded and accepted by either the grantee or the Administrator.".

TITLE VI—STATE WATER POLLUTION CONTROL REVOLVING FUNDS

SEC. 601. GENERAL AUTHORITY FOR CAPITALIZATION GRANTS.

Section 601(a) (33 U.S.C. 1381(a)) is amended by striking "(1) for construction" and all that follows through the period and inserting "to accomplish the purposes of this Act.".

SEC. 602. CAPITALIZATION GRANT AGREEMENTS.

(a) REQUIREMENTS FOR CONSTRUCTION OF TREATMENT WORKS.—Section 602(b)(6) (33 U.S.C. 1382(b)(6)) is amended—

(1) by striking "before fiscal year 1995"; and

(2) by striking "201(b)" and all that follows through "218" and inserting "211".

(b) COMPLIANCE WITH OTHER FEDERAL LAWS.—Section 602 (33 U.S.C. 1382) is amended by adding at the end the following:

"(c) OTHER FEDERAL LAWS.—

"(1) COMPLIANCE WITH OTHER FEDERAL LAWS.—If a State provides assistance from its water pollution control revolving fund established in accordance with this title and in accordance with a statute, rule, executive order, or program of the State which addresses the intent of any requirement or any Federal executive order or law other than this Act, as determined by the State, the State in providing such assistance shall be treated as having met the Federal requirements.

"(2) LIMITATION ON APPLICABILITY OF OTHER FEDERAL LAWS.—If a State does not meet a requirement of a Federal executive order or law other than this Act under paragraph (1), such Federal law shall only apply to Federal funds deposited in the water pollution control revolving fund established by the State in accordance with this title the first time such funds are used to provide assistance from the revolving fund.".

(c) GUIDANCE FOR SMALL SYSTEMS.—Section 602 (33 U.S.C. 1382) is amended by adding at the end the following new subsection:

"(d) GUIDANCE FOR SMALL SYSTEMS.—

"(1) SIMPLIFIED PROCEDURES.—Not later than 1 year after the date of the enactment of this subsection, the Administrator shall assist the States in establishing simplified procedures for small systems to obtain assistance under this title.

"(2) PUBLICATION OF MANUAL.—Not later than 1 year after the date of the enactment of this subsection, and after providing notice and opportunity for public comment, the Administrator shall publish a manual to assist small systems in obtaining assistance under this title and publish in the Federal Register notice of the availability of the manual.

"(3) SMALL SYSTEM DEFINED.—For purposes of this title, the term 'small system' means a system for which a municipality or intermunicipal, interstate, or State agency seeks assistance under this title and which serves a population of 20,000 or less.".

SEC. 603. WATER POLLUTION CONTROL REVOLVING LOAN FUNDS.

(a) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—Section 603(c) (33 U.S.C. 1383(c)) is amended to read as follows:

"(c) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—

"(1) IN GENERAL.—The amounts of funds available to each State water pollution control revolving fund shall be used only for providing financial assistance to activities which have as a principal benefit the improvement or protection of water quality to a municipality, intermunicipal agency, interstate agency, State agency, or other person. Such activities may include the following:

"(A) Construction of a publicly owned treatment works if the recipient of such assistance is a municipality.

"(B) Implementation of lake protection programs and projects under section 314.

"(C) Implementation of a management program under section 319.

"(D) Implementation of a conservation and management plan under section 320.

"(E) Implementation of a watershed management plan under section 321.

"(F) Implementation of a stormwater management program under section 322.

"(G) Acquisition of property rights for the restoration or protection of publicly or privately owned riparian areas.

"(H) Implementation of measures to improve the efficiency of public water use.

"(I) Development and implementation of plans by a public recipient to prevent water pollution.

"(J) Acquisition of lands necessary to meet any mitigation requirements related to construction of a publicly owned treatment works.

"(2) FUND AMOUNTS.—The water pollution control revolving fund of a State shall be established, maintained, and credited with repayments, and the fund balance shall be available in perpetuity for providing financial assistance described in paragraph (1). Fees charged by a State to recipients of such assistance may be deposited in the fund for the sole purpose of financing the cost of administration of this title.".

(b) EXTENDED REPAYMENT PERIOD FOR DISADVANTAGED COMMUNITIES.—Section 603(d)(1) (33 U.S.C. 1383(d)(1)) is amended—

(1) in subparagraph (A) by inserting after "20 years" the following: "or, in the case of a disadvantaged community, the lesser of 40 years or the expected life of the project to be financed with the proceeds of the loan"; and

(2) in subparagraph (B) by striking "not later than 20 years after project completion" and inserting "upon the expiration of the term of the loan".

(c) LOAN GUARANTEES FOR INNOVATIVE TECHNOLOGY.—Section 603(d)(5) (33 U.S.C. 1383(d)(5)) is amended to read as follows:

"(5) to provide loan guarantees for—

"(A) similar revolving funds established by municipalities or intermunicipal agencies; and

"(B) developing and implementing innovative technologies.".

(d) ADMINISTRATIVE EXPENSES.—Section 603(d)(7) (33 U.S.C. 1383(d)(7)) is amended by inserting before the period at the end the following: "or $400,000 per year, whichever is greater, plus the amount of any fees collected by the State for such purpose under subsection (c)(2)".

(e) TECHNICAL AND PLANNING ASSISTANCE FOR SMALL SYSTEMS.—Section 603(d) (33 U.S.C. 1383(d)) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; and"; and

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

"(8) to provide to small systems technical and planning assistance and assistance in financial management, user fee analysis, budgeting, capital improvement planning, facility operation and maintenance, repair schedules, and other activities to improve wastewater treatment plant operations; except that such amounts shall not exceed 2 percent of all grant awards to such fund under this title.".

(f) CONSISTENCY WITH PLANNING REQUIREMENTS.—Section 603(f) (33 U.S.C. 1383(f)) is amended by striking "and 320" and inserting "320, 321, and 322".

(g) LIMITATIONS ON CONSTRUCTION ASSISTANCE.—Section 603(g) (33 U.S.C. 1383(g)) is amended to read as follows:

"(g) LIMITATIONS ON CONSTRUCTION ASSISTANCE.—The State may provide financial assistance from its water pollution control revolving fund with respect to a project for construction of a treatment works only if—

"(1) such project is on the State's priority list under section 216 of this Act; and

"(2) the recipient of such assistance is a municipality in any case in which the treatment works is privately owned.".

(h) INTEREST RATES.—Section 603 is further amended by adding at the end the following:

"(i) INTEREST RATES.—In any case in which a State makes a loan pursuant to subsection (d)(1) to a disadvantaged community, the State may charge a negative interest rate of not to exceed 2 percent to reduce the unpaid principal of the loan. The aggregate amount of all such negative interest rate loans the State makes in a fiscal year shall not exceed 20 percent of the aggregate amount of all loans made by the State from its revolving loan fund in such fiscal year.

"(j) DISADVANTAGED COMMUNITY DEFINED.—As used in this section, the term 'disadvantaged community' means the service area of a publicly owned treatment works with respect to which the average annual residential sewage treatment charges for a user of the treatment works meet affordability criteria established by the State in which the treatment works is located (after providing for public review and comment) in accordance with guidelines to be established by the Administrator, in cooperation with the States.".

(i) SALE, OF TREATMENT WORKS.—Section 603 is further amended by adding at the end the following:

"(k) SALE OF TREATMENT WORKS.—

"(1) IN GENERAL.—Notwithstanding any other provisions of this Act, any State, municipality, intermunicipality, or interstate agency may transfer by sale to a qualified private sector entity all or part of a treatment works that is owned by such agency and for which it received Federal financial assistance under this Act if the transfer price will be distributed, as amounts are received, in the following order:

"(A) First reimbursement of the agency of the unadjusted dollar amount of the costs of construction of the treatment works or part thereof plus any transaction and fix-up costs incurred by the agency with respect to the transfer less the amount of such Federal financial assistance provided with respect to such costs.

"(B) If proceeds from the transfer remain after such reimbursement, repayment of the Federal Government of the amount of such Federal financial assistance less the applicable share of accumulated depreciation on such treatment works (calculated using Internal Revenue Service accelerated depreciation schedule applicable to treatment works).

"(C) If any proceeds of such transfer remain after such reimbursement and repayment, retention of the remaining proceeds by such agency.

"(2) RELEASE OF CONDITION.—Any requirement imposed by regulation or policy for a showing that the treatment works are no longer needed to serve their original purpose shall not apply.

"(3) SELECTION OF BUYER.—A State, municipality, intermunicipality, or interstate agency exercising the authority granted by this subsection shall select a qualified private sector entity on the basis of total net cost and other appropriate criteria and shall utilize such competitive bidding, direct negotiation, or other criteria and procedures as may be required by State law.

"(l) PRIVATE OWNERSHIP OF TREATMENT WORKS.—

"(1) REGULATORY REVIEW.—The Administrator shall review the law and any regulations, policies, and procedures of the Environmental Protection Agency affecting the construction, improvement, replacement, operation, maintenance, and transfer of ownership of current and future treatment works owned by a State, municipality, intermunicipality, or interstate agency. If permitted by law, the Administrator shall modify such regulations, policies, and procedures to eliminate any obstacles to the construction, improvement, replacement, operation, and maintenance of such treatment works by qualified private sector entities.

"(2) REPORT.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall submit to Congress a report identifying any provisions of law that must be changed in order to eliminate any obstacles referred to in paragraph (1).

"(3) DEFINITION.—For purposes of this section, the term 'qualified private sector entity' means any nongovernmental individual, group, association, business, partnership, organization, or privately or publicly held corporation that—

"(A) has sufficient experience and expertise to discharge successfully the responsibilities associated with construction, operation, and maintenance of a treatment works and to satisfy any guarantees that are agreed to in connection with a transfer of treatment works under subsection (k);

"(B) has the ability to assure protection against insolvency and interruption of services through contractual and financial guarantees; and

"(C) with respect to subsection (k), to the extent consistent with the North American Free Trade Agreement and the General Agreement on Tariffs and Trade—

"(i) is majority-owned and controlled by citizens of the United States; and

"(ii) does not receive subsidies from a foreign government.".

SEC. 604. ALLOTMENT OF FUNDS.

(a) IN GENERAL.—Section 604(a) (33 U.S.C. 1384(a)) is amended to read as follows:

"(a) FORMULA FOR FISCAL YEARS 1996–2000.—Sums authorized to be appropriated pursuant to section 607 for each of fiscal years 1996, 1997, 1998, 1999, and 2000 shall be allotted for such year by the Administrator not later than the 10th day which begins after the date of the enactment of the Clean Water Amendments of 1995. Sums authorized for each such fiscal year shall be allotted in accordance with the following table:

	Percentage of sums authorized:
"States:	
Alabama	1.0110
Alaska	0.5411
Arizona	0.7464
Arkansas	0.5914
California	7.9031
Colorado	0.7232
Connecticut	1.3537
Delaware	0.4438
District of Columbia	0.4438
Florida	3.4462
Georgia	1.8683
Hawaii	0.7002
Idaho	0.4438
Illinois	4.9976
Indiana	2.6631
Iowa	1.2236
Kansas	0.8690
Kentucky	1.3570
Louisiana	1.0060
Maine	0.6999
Maryland	2.1867
Massachusetts	3.7518
Michigan	3.8875
Minnesota	1.6618
Mississippi	0.8146
Missouri	2.5063
Montana	0.4438
Nebraska	0.4624
Nevada	0.4438
New Hampshire	0.9035
New Jersey	4.5156
New Mexico	0.4438
New York	12.1969
North Carolina	1.9943
North Dakota	0.4438
Ohio	5.0898
Oklahoma	0.7304
Oregon	1.2399
Pennsylvania	4.2145

	Percentage of sums authorized:
Rhode Island	0.6071
South Carolina	0.9262
South Dakota	0.4438
Tennessee	1.4668
Texas	4.6458
Utah	0.4764
Vermont	0.4438
Virginia	2.2615
Washington	1.9217
West Virginia	1.4249
Wisconsin	2.4442
Wyoming	0.4438
Puerto Rico	1.1792
Northern Marianas	0.0377
American Samoa	0.0812
Guam	0.0587
Pacific Islands Trust Territory	0.1158
Virgin Islands	0.0576.".

(b) CONFORMING AMENDMENT.—Section 604(c)(2) is amended by striking "title II of this Act" and inserting "this title".

SEC. 605. AUTHORIZATION OF APPROPRIATIONS.

Section 607 (33 U.S.C. 1387(a)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding at the end the following:

"(6) such sums as may be necessary for fiscal year 1995;

"(7) $2,500,000,000 for fiscal year 1996;

"(8) $2,500,000,000 for fiscal year 1997;

"(9) $2,500,000,000 for fiscal year 1998;

"(10) $2,500,000,000 for fiscal year 1999; and

"(11) $2,500,000,000 for fiscal year 2000.".

SEC. 606. STATE NONPOINT SOURCE WATER POLLUTION CONTROL REVOLVING FUNDS.

Title VI (33 U.S.C. 1381–1387) is amended—

(1) in section 607 by inserting after "title" the following: "(other than section 608)"; and

(2) by adding at the end the following:

"SEC. 608. STATE NONPOINT SOURCE WATER POLLUTION CONTROL REVOLVING FUNDS.

"(a) GENERAL AUTHORITY.—The Administrator shall make capitalization grants to each State for the purpose of establishing a nonpoint source water pollution control revolving fund for providing assistance—

"(1) to persons for carrying out management practices and measures under the State management program approved under section 319; and

"(2) to agricultural producers for the development and implementation of the water quality components of a whole farm or ranch resource management plan and for implementation of management practices and measures under such a plan.

A State nonpoint source water pollution control revolving fund shall be separate from any other State water pollution control revolving fund; except that the chief executive officer of the State may transfer funds from one fund to the other fund.

"(b) APPLICABILITY OF OTHER REQUIREMENTS OF THIS TITLE.—Except to the extent the Administrator, in consultation with the chief executive officers of the States, determines that a provision of this title is not consistent with a provision of this section, the provisions of sections 601 through 606 of this title shall apply to grants made under this section in the same manner and to the same extent as they apply to grants made under section 601 of this title. Paragraph (5) of section 602(b) shall apply to all funds in a State revolving fund established under this section as a result of capitalization grants made under this section; except that such funds shall first be used to assure reasonable progress toward attainment of the goals of section 319, as determined by the Governor of the State. Paragraph (7) of section 603(d) shall apply to a State revolving fund established under this section, except that the 4-percent limitation contained in such section shall not apply to such revolving fund.

"(c) APPORTIONMENT OF FUNDS.—Funds made available to carry out this section for any fiscal year shall be allotted among the States by the Administrator in the same manner as funds are allotted among the States under section 319 in such fiscal year.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000,000 per fiscal year for each of fiscal years 1996 through 2000.".

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. TECHNICAL AMENDMENTS.

(a) SECTION 118.—Section 118(c)(1)(A) (33 U.S.C. 1268(c)(1)(A)) is amended by striking the last comma.

(b) SECTION 120.—Section 120(d) (33 U.S.C. 1270(d)) is amended by striking "(1)".

(c) SECTION 204.—Section 204(a)(3) (33 U.S.C. 1284(a)(3)) is amended by striking the final period and inserting a semicolon.

(d) SECTION 205.—Section 205 (33 U.S.C. 1285) is amended—

(1) in subsection (c)(2) by striking "and 1985" and inserting "1985, and 1986";

(2) in subsection (c)(2) by striking "through 1985" and inserting "through 1986";

(3) in subsection (g)(1) by striking the period following "4 per centum"; and

(4) in subsection (m)(1)(B) by striking "this" the last place it appears and inserting "such".

(e) SECTION 208.—Section 208 (33 U.S.C. 1288) is amended—

(1) in subsection (h)(1) by striking "designed" and inserting "designated"; and

(2) in subsection (j)(1) by striking "September 31, 1988" and inserting "September 30, 1988".

(f) SECTION 301.—Section 301(j)(1)(A) (33 U.S.C. 1311(j)(1)(A)) is amended by striking "that" the first place it appears and inserting "than".

(g) SECTION 309.—Section 309(d) (33 U.S.C. 1319(d)) is amended by striking the second comma following "Act by a State".

(h) SECTION 311.—Section 311 (33 U.S.C. 1321) is amended—

(1) in subsection (b) by moving paragraph (12) (including subparagraphs (A), (B) and (C)) 2 ems to the right; and

(2) in subsection (h)(2) by striking "The" and inserting "the".

(i) SECTION 505.—Section 505(f) (33 U.S.C. 1365(f)) is amended by striking the last comma.

(j) SECTION 516.—Section 516 (33 U.S.C. 1375) is amended by redesignating subsection (g) as subsection (f).

(k) SECTION 518.—Section 518(f) (33 U.S.C. 1377(f)) is amended by striking "(d)" and inserting "(e)".

SEC. 702. JOHN A. BLATNIK NATIONAL FRESH WATER QUALITY RESEARCH LABORATORY.

(a) DESIGNATION.—The laboratory and research facility established pursuant to section 104(e) of the Federal Water Pollution Control Act (33 U.S.C. 1254(e)) that is located in Duluth, Minnesota, shall be known and designated as the "John A. Blatnik National Fresh Water Quality Research Laboratory".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the laboratory and research facility referred to in subsection (a) shall be deemed to be a reference to the "John A. Blatnik National Fresh Water Quality Research Laboratory".

SEC. 703. WASTEWATER SERVICE FOR COLONIAS.

(a) GRANT ASSISTANCE.—The Administrator may make grants to States along the United States-Mexico border to provide assistance for planning, design, and construction of treatment works to provide wastewater service to the communities along such border commonly known as "colonias".

(b) FEDERAL SHARE.—The Federal share of the cost of a project carried out using funds made available under subsection (a) shall be 50 percent. The non-Federal share of such cost shall be provided by the State receiving the grant.

(c) TREATMENT WORKS DEFINED.—For purposes of this section, the term "treatment works" has the meaning such term has under section 212 of the Federal Water Pollution Control Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for making grants under subsection (a) $50,000,000 for fiscal year 1996. Such sums shall remain available until expended.

SEC. 704. SAVINGS IN MUNICIPAL DRINKING WATER COSTS.

(a) STUDY.—The Administrator of the Environmental Protection Agency, in consultation with the Director of the Office of Management and Budget, shall review, analyze, and compile information on the annual savings that municipalities realize in the construction, operation, and maintenance of drinking water facilities as a result of actions taken under the Federal Water Pollution Control Act.

(b) CONTENTS.—The study conducted under subsection (a), at a minimum, shall contain an examination of the following elements:

(1) Savings to municipalities in the construction of drinking water filtration facilities resulting from actions taken under the Federal Water Pollution Control Act.

(2) Savings to municipalities in the operation and maintenance of drinking water facilities resulting from actions taken under such Act.

(3) Savings to municipalities in health expenditures resulting from actions taken under such Act.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall transmit to Congress a report containing the results of the study conducted under subsection (a).

TITLE VIII—WETLANDS CONSERVATION AND MANAGEMENT

SEC. 801. SHORT TITLE.

This title may be cited as the "Wetlands and Watershed Management Act of 1995".

SEC. 802. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds and declares the following:

(1) Wetlands perform a number of valuable functions needed to restore and maintain the chemical, physical, and biological integrity of the Nation's waters, including—

(A) reducing pollutants (including nutrients, sediment, and toxics) from nonpoint and point sources;

(B) storing, conveying, and purifying flood and storm waters;

(C) reducing both bank erosion and wave and storm damage to adjacent lands and trapping sediment from upland sources;

(D) providing habitat and food sources for a broad range of commercial and recreational fish, shellfish, and migratory wildlife species (including waterfowl and endangered species); and

(E) providing a broad range of recreational values for canoeing, boating, birding, and nature study and observation.

(2) Original wetlands in the contiguous United States have been reduced by an estimated 50 percent and continue to disappear at a rate of 200,000 to 300,000 acres a year. Many of these original wetlands have also been altered or partially degraded, reducing their ecological value.

(3) Wetlands are highly sensitive to changes in water regimes and are, therefore, susceptible to degradation by fills, drainage, grading, water extractions, and other activities within their watersheds which affect the quantity, quality, and flow of surface and ground waters. Protection and management of wetlands, therefore, should be integrated with management of water systems on a watershed basis. A watershed protection and management perspective is also needed to understand and reverse the gradual, continued destruction of wetlands that occurs due to cumulative impacts.

(4) Wetlands constitute an estimated 5 percent of the Nation's surface area. Because much of this land is in private ownership wetlands protection and management strategies must take into consideration private property rights and the need for economic development and growth. This can be best accomplished in the context of a cooperative and coordinated Federal, State, and local strategy for data gathering, planning, management, and restoration with an emphasis on advance planning of wetlands in watershed contexts.

(b) PURPOSES.—The purposes of this Act are—

(1) to help create a coordinated national wetland management effort with efficient use of scarce Federal, State, and local financial and manpower resources to protect wetland functions and values and reduce natural hazard losses;

(2) to help reverse the trend of wetland loss in a fair, efficient, and cost-effective manner;

(3) to reduce inconsistencies and duplication in Federal, State, and local wetland management efforts and encourage integrated permitting at the Federal, State, and local levels;

(4) to increase technical assistance, cooperative training, and educational opportunities for States, local governments, and private landowners;

(5) to help integrate wetland protection and management with other water resource management programs on a watershed basis such as flood control, storm water management, allocation of water supply, protection of fish and wildlife, and point and nonpoint source pollution control;

(6) to increase regionalization of wetland delineation and management policies within a framework of national policies through advance planning of wetland areas, programmatic general permits and other approaches and the tailoring of policies to ecosystem and land use needs to reflect significant watershed variance in wetland resources;

(7) to address the cumulative loss of wetland resources;

(8) to increase the certainty and predictability of planning and regulatory policies for private landowners;

(9) to help achieve no overall net loss and net gain of the remaining wetland base of the United States through watershed-based restoration strategies involving all levels of government;

(10) to restore and create wetlands in order to increase the quality and quantity of the wetland resources and by so doing to restore and maintain the quality and quantity of the waters of the United States; and

(11) to provide mechanisms for joint State, Federal, and local development and testing of approaches to better protect wetland resources such as mitigation banking.

SEC. 803. STATE, LOCAL, AND LANDOWNER TECHNICAL ASSISTANCE AND COOPERATIVE TRAINING.

(a) STATE AND LOCAL TECHNICAL ASSISTANCE.—Upon request, the Administrator or the Secretary of the Army, as appropriate, shall provide technical assistance to State and local governments in the development and implementation of State and local government permitting programs under sections 404(e) and 404(h) of the Federal Water Pollution Control Act, State wetland conservation plans under section 805, and regional or local wetland management plans under section 805.

(b) COOPERATIVE TRAINING.—The Administrator and the Secretary, in cooperation with the Coordinating Committee established pursuant to section 804, shall conduct training courses for States and local governments involving wetland delineation, utilization of wetlands in nonpoint pollution control, wetland and stream restoration, wetland planning, wetland evaluation, mitigation banking, and other subjects deemed appropriate by the Administrator or Secretary.

(c) PRIVATE LANDOWNER TECHNICAL ASSISTANCE.—The Administrator and Secretary shall, in cooperation with the Coordination Committee, and appropriate Federal agencies develop and provide to private landowners guidebooks, pamphlets, or other materials and technical assistance to help them in identifying and evaluating wetlands, developing integrated wetland management plans for their lands consistent with the goals of this Act and the Federal Water Pollution Control Act, and restoring wetlands.

SEC. 804. FEDERAL, STATE, AND LOCAL GOVERNMENT COORDINATING COMMITTEE.

(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall establish a Federal, State, and Local Government Wetlands Coordinating Committee (hereinafter in this section referred to as the "Committee").

(b) FUNCTIONS.—The Committee shall—

(1) help coordinate Federal, State, and local wetland planning, regulatory, and restoration programs on an ongoing basis to reduce duplication, resolve potential conflicts, and efficiently allocate manpower and resources at all levels of government;

(2) provide comments to the Secretary of the Army or Administrator in adopting regulatory, policy, program, or technical guidance affecting wetland systems;

(3) help develop and field test, national policies prior to implementation such as wetland, delineation, classification of wetlands, methods for sequencing wetland mitigation responses, the utilization of mitigation banks;

(4) help develop and carry out joint technical assistance and cooperative training programs as provided in section 803;

(5) help develop criteria and implementation strategies for facilitating State conservation plans and strategies, local and regional wetland planning, wetland restoration and creation, and State and local permitting programs pursuant to section 404(e) or 404(g) of the Federal Water Pollution Control Act; and

(6) help develop a national strategy for the restoration of wetland ecosystems pursuant to section 6 of this Act.

(c) MEMBERSHIP.—The Committee shall be composed of 18 members as follows:

(1) The Administrator or the designee of the Administrator.

(2) The Secretary or the designee of the Secretary.

(3) The Director of the United States Fish and Wildlife Service or the designee of the Director.

(4) The Chief of the Natural Resources Conservation Service or the designee of the Chief.

(5) The Undersecretary for Oceans and Atmosphere or the designee of the Under Secretary.

(6) One individual appointed by the Administrator who will represent the National Governor's Association.

(7) One individual appointed by the Administrator who will represent the National Association of Counties.

(8) One individual appointed by the Administrator who will represent the National League of Cities.

(9) One State wetland expert from each of the 10 regions of the Environmental Protection Agency. Each member to be appointed under this paragraph shall be jointly appointed by the Governors of the States within the Environmental Protection Agency's region. If the Governors from a region cannot agree on such a representative, they will each submit a nomination to the Administrator and the Administrator will select a representative from such region.

(d) TERMS.—Each member appointed pursuant to paragraph (6), (7), (8), or (9) of subsection (c) shall be appointed for a term of 2 years.

(e) VACANCIES.—A vacancy in the Committee shall be filled, on or before the 30th day after the vacancy occurs, in the manner in which the original appointment was made.

(f) PAY.—Members shall serve without pay, but may receive travel expenses (including per diem in lieu of subsistence) in accordance with sections 5702 and 5703 of title 5, United States Code.

(g) COCHAIRPERSONS.—The Administrator and one member appointed pursuant to paragraph (6), (7), (8), or (9) of subsection (c) (selected by such members) shall serve as cochairpersons of the Committee.

(h) QUORUM.—Two-thirds of the members of the Committee shall constitute a quorum but a lesser number may hold meetings.

(i) MEETINGS.—The Committee shall hold its first meeting not later than 120 days after the date of the enactment of this Act. The Committee shall meet at least twice each year thereafter. Meetings will be opened to the public.

SEC. 805. STATE AND LOCAL WETLAND CONSERVATION PLANS AND STRATEGIES; GRANTS TO FACILITATE THE IMPLEMENTATION OF SECTION 404.

(a) STATE WETLAND CONSERVATION PLANS AND STRATEGIES.—Subject to the requirements of this section, the Administrator shall make grants to States and tribes to assist in the development and implementation of wetland conservation plans and strategies. More specific goals for such conservation plans and strategies may include:

(1) Inventorying State wetland resources, identifying individual and cumulative losses, identifying State and local programs applying to wetland resources, determining gaps in such programs, and making recommendations for filling those gaps.

(2) Developing and coordinating existing State, local, and regional programs for wetland management and protection on a watershed basis.

(3) Increasing the consistency of Federal, State, and local wetland definitions, delineation, and permitting approaches.

(4) Mapping and characterizing wetland resources on a watershed basis.

(5) Identifying sites with wetland restoration or creation potential.

(6) Establishing management strategies for reducing causes of wetland degradation and restoring wetlands on a watershed basis.

(7) Assisting regional and local governments prepare watershed plans for areas with a high percentage of lands classified as wetlands or otherwise in need of special management.

(8) Establishing and implementing State or local permitting programs under section 404(e) or 404(h) of the Federal Water Pollution Control Act.

(b) REGIONAL AND LOCAL WETLAND PLANNING, REGULATION, AND MANAGEMENT PROGRAMS.—Subject to the requirements of this section, the Administrator shall make grants to States which will, in turn, use this funding to make grants to regional and local governments to assist them in adopting and implementing wetland and watershed management programs consistent with goals stated in section 101 of the Federal Water Pollution Control Act and section 802 of this Act. Such plans shall be integrated with (where appropriate) or coordinated with planning efforts pursuant to section 319 of the Federal Water Pollution Control Act. Such programs shall, at a minimum, involve the inventory of wetland resources and the adoption of plans and policies to help achieve the goal of no net loss of wetland resources on a watershed basis. Other goals may include, but are not limited to:

(1) Integration of wetland planning and management with broader water resource and land use planning and management, including flood control, water supply, storm water management, and control of point and nonpoint source pollution.

(2) Adoption of measures to increase consistency in Federal, State, and local wetland definitions, delineation, and permitting approaches.

(3) Establishment of management strategies for restoring wetlands on a watershed basis.

(c) GRANTS TO FACILITATE THE IMPLEMENTATION OF SECTION 404.—Subject to the requirements of this section, the Administrator may make grants to States which assist the Federal Government in the implementation of the section 404 Federal Water Pollution Control program through State assumption of permitting pursuant to sections 404(g) and 404(h) of such Act through State permitting through a State programmatic general permit pursuant to section 404(e) of such Act or through monitoring and enforcement activities. In order to be eligible to receive a grant under this section a State shall provide assurances satisfactory to the Administrator that amounts received by the State in grants under this section will be used to issue regulatory permits or to enforce regulations consistent with the overall goals of section 802 and the standards and procedures of section 404(g) or 404(e) of this Act.

(d) MAXIMUM AMOUNT.—No State may receive more than $500,000 in total grants under subsections (a), (b), and (c) in any fiscal year and more than $300,000 in grants for subsection (a), (b), or (c), individually.

(e) FEDERAL SHARE.—The Federal share of the cost of activities carried out using amounts made available in grants under this section shall not exceed 75 percent.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 per fiscal year for each of fiscal years 1996, 1997, 1998, 1999, and 2000.

SEC. 806. NATIONAL COOPERATIVE WETLAND ECOSYSTEM RESTORATION STRATEGY.

(a) DEVELOPMENT.—Not later than 180 days after the date of the enactment of this Act, the Administrator, in cooperation with other Federal agencies, State, and local governments, and representatives of the private sector, shall initiate the development of a National Cooperative Wetland Ecosystem Restoration Strategy.

(b) GOALS.—The goal of the National Cooperative Wetland Ecosystem Restoration Strategy shall be to restore damaged and degraded wetland and riparian ecosystems consistent with the goals of the Water Pollution Control Amendments and the goals of section 802, and the recommendations of the National Academy of Sciences with regard to the restoration of aquatic ecosystems.

(c) FUNCTIONS.—The National Cooperative Wetland Ecosystem Restoration Strategy shall—

(1) be designed to help coordinate and promote restoration efforts by Federal, State, regional, and local governments and the private sector, including efforts authorized by the Coastal Wetlands Planning, Protection, and Restoration Act, the North American Waterfowl Management Plan, the Wetlands Reserve Program, and the wetland restoration efforts on Federal, State, local, and private lands;

(2) involve the Federal, State, and local Wetlands Coordination Committee established pursuant to section 804;

(3) inventory and evaluate existing restoration efforts and make suggestions for the establishment of new watershed specific efforts consistent with existing Federal programs and State, regional, and local wetland protection and management efforts;

(4) evaluate the role presently being played by wetland restoration in both regulatory and nonregulatory contexts and the relative success of wetland restoration in these contexts;

(5) develop criteria for identifying wetland restoration sites on a watershed basis, procedures for wetlands restoration, and ecological criteria for wetlands restoration; and

(6) identify regulatory obstacles to wetlands ecosystem restoration and recommend methods to reduce such obstacles.

SEC. 807. PERMITS FOR DISCHARGE OF DREDGED OR FILL MATERIAL.

(a) PERMIT MONITORING AND TRACKING.—Section 404(a) (33 U.S.C. 1344) is amended by adding at the end thereof the following: "The Secretary shall, in cooperation with the Administrator, establish a permit monitoring and tracking programs on a watershed basis to monitor the cumulative impact of individual and general permits issued under this section. This program shall determine the impact of permitted activities in relationship to the no net loss goal. Results shall be reported biannually to Congress.".

(b) ISSUANCE OF GENERAL PERMITS.—Paragraph (1) of section 404(e) is amended by inserting "local," before "State, regional, or nationwide basis" in the first sentence.

(c) REVOCATION OR MODIFICATION OF GENERAL PERMITS.—Paragraph (2) of section 404(e) is amended by striking the period at the end and inserting "or a State or local government has failed to adequately monitor and control the individual and cumulative adverse effects of activities authorized by State or local programmatic general permits.".

(d) PROGRAMMATIC GENERAL PERMITS.—Section 404(e) is amended by adding at the end thereof the following new paragraph:

"(3) PROGRAMMATIC GENERAL PERMITS.—Consistent with the following requirements, the Secretary may, after notice and opportunity for public comment, issue State or local programmatic general permits for the purpose of avoiding unnecessary duplication of regulations by State, regional, and local regulatory programs:

"(A) The Secretary may issue a programmatic general permit based on a State, regional, or local government regulatory program if that general permit includes adequate safeguards to ensure that the State, regional, or local program will have no more than minimal cumulative impacts on the environment and will provide at least the same degree of protection for the environment, including all waters of the United States, and for Federal interests, as is provided by this section and by the Federal permitting program pursuant to section 404(a). Such safeguards shall include provisions whereby the Corps District Engineer and the Regional Administrators or Directors of the Environmental Protection Agency, the United States Fish and Wildlife Service, and the National Marine Fisheries Service (where appropriate), shall have an opportunity to review permit applications submitted to the State, regional, or local regulatory agency which would have more than minimal individual or cumulative adverse impacts on the environment, attempt to resolve any environmental concern or protect any Federal interest at issue, and, if such concern is not adequately addressed by the State, local, or regional agency, require the processing of an individual Federal permit under this section for the specific proposed activity. The Secretary shall ensure that the District Engineer will utilize this authority to protect all Federal interests including, but not limited to, national security, navigation, flood control, Federal endangered or threatened species, Federal interests under the Wild and Scenic Rivers Act, special aquatic sites of national importance, and other interests of overriding national importance. Any programmatic general permit issued under this subsection shall be consistent with the guidelines promulgated to implement subsection (b)(1).

"(B) In addition to the requirements of subparagraph (A), the Secretary shall not promulgate any local or regional programmatic general permit based on a local or regional government's regulatory program unless the responsible unit of government has also adopted a wetland and watershed management plan and is administering regulations to implement this plan. The watershed management plan shall include—

"(i) the designation of a local or regional regulatory agency which shall be responsible for issuing permits under the plan and for making reports every 2 years on implementation of the plan and on the losses and gains in functions and acres of wetland within the watershed plan area;

"(ii) mapping of—

"(I) the boundary of the plan area;

"(II) all wetlands and waters within the plan area as well as other areas proposed for protection under the plan; and

"(III) proposed wetland restoration or creation sites with a description of their intended functions upon completion and the time required for completion;

"(iii) a description of the regulatory policies and standards applicable to all wetlands and waters within the plan areas and all activities which may affect these wetlands and waters that will assure, at a minimum, no net loss of the functions and acres of wetlands within the plan area; and

"(iv) demonstration that the regulatory agency has the legal authority and scientific

monitoring capability to carry out the proposed plan including the issuance, monitoring, and enforcement of permits in compliance with the plan.".

(e) GRANDFATHER OF EXISTING GENERAL PERMITS.—Section 404(e) is further amended by adding at the end the following:

"(4) GRANDFATHER OF EXISTING GENERAL PERMITS.—General permits in effect on day before the date of the enactment of the Wetlands and Watershed Management Act of 1995 shall remain in effect until otherwise modified by the Secretary.".

(f) DISCHARGES NOT REQUIRING A PERMIT.—Section 404(f) (33 U.S.C. 1344(f)) is amended by striking the subsection designation and paragraph (1) and inserting the following:

"(f) EXEMPTIONS.—

"(1) ACTIVITIES NOT REQUIRING PERMIT.—

"(A) IN GENERAL.—Activities are exempt from the requirements of this section and are not prohibited by or otherwise subject to regulation under this section or section 301 or 402 of this Act (except effluent standards or prohibitions under section 307 of this Act) if such activities—

"(i) result from normal farming, silviculture, aquaculture, and ranching activities and practices, including but not limited to plowing, seeding, cultivating, haying, grazing, normal maintenance activities, minor drainage, burning of vegetation in connection with such activities, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices;

"(ii) are for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, flood control channels or other engineered flood control facilities, water control structures, water supply reservoirs (where such maintenance involves periodic water level drawdowns) which provide water predominantly to public drinking water systems, groins, riprap, breakwaters, utility distribution and transmission lines, causeways, and bridge abutments or approaches, and transportation structures;

"(iii) are for the purpose of construction or maintenance of farm, stock or aquaculture ponds, wastewater retention facilities (including dikes and berms) that are used by concentrated animal feeding operations, or irrigation canals and ditches or the maintenance or reconstruction of drainage ditches and tile lines;

"(iv) are for the purpose of construction of temporary sedimentation basins on a construction site, or the construction of any upland dredged material disposal area, which does not include placement of fill material into the navigable waters;

"(v) are for the purpose of construction or maintenance of farm roads or forest roads, in accordance with best management practices, to assure that flow and circulation patterns and chemical and biological characteristics of the waters are not impaired, that the reach of the waters is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized;

"(vi) are undertaken on farmed wetlands, except that any change in use of such land for the purpose of undertaking activities that are not exempt from regulation under this subsection shall be subject to the requirements of this section to the extent that such farmed wetlands are 'wetlands' under this section;

"(vii) are undertaken in incidentally created wetlands, unless such incidentally created wetlands have exhibited wetlands functions and values for more than 5 years in which case activities undertaken in such wetlands shall be subject to the requirements of this section; and

"(viii) are for the purpose of preserving and enhancing aviation safety or are undertaken in order to prevent an airport hazard.".

(g) AREAS NOT CONSIDERED TO BE NAVIGABLE WATERS.—Section 404(f) is further amended by adding the following:

"(3) AREAS NOT CONSIDERED TO BE NAVIGABLE WATERS.—

"(A) IN GENERAL.—For purposes of this section, the following shall not be considered navigable waters:

"(i) Irrigation ditches excavated in uplands.

"(ii) Artificially irrigated areas which would revert to uplands if the irrigation ceased.

"(iii) Artificial lakes or ponds created by excavating or diking uplands to collect and retain water, and which are used exclusively for stock watering, irrigation, or rice growing.

"(iv) Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating or diking uplands to retain water for primarily aesthetic reasons.

"(v) Temporary, water filled depressions created in uplands incidental to construction activity.

"(vi) Pits excavated in uplands for the purpose of obtaining fill, sand, gravel, aggregates, or minerals, unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States.

"(vii) Artificial stormwater detention areas and artificial sewage treatment areas which are not modified natural waters.

"(B) DEMONSTRATION REQUIRED.—Subparagraph (A) shall not apply to a particular water body unless the person desiring to discharge dredged or fill material in that water body is able to demonstrate that the water body qualifies under subparagraph (A) for exemption from regulation under this section.".

SEC. 808. TECHNICAL ASSISTANCE TO PRIVATE LANDOWNERS, CODIFICATION OF REGULATIONS AND POLICIES.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(u)(1) The Secretary and the Administrator shall in cooperation with the United States Fish and Wildlife Service, Natural Resources Conservation Service, and National Marine Fisheries Service provide technical assistance to private landowners in delineation of wetlands and the planning and management of their wetlands. This assistance shall include—

"(A) the delineation of wetland boundaries within 90 days (providing on the ground conditions allow) of a request for such delineation for a project with a proposed individual permit application under this section and a total assessed value of less than $15,000; and

"(B) the provision of technical assistance to owners of wetlands in the preparation of wetland management plans for their lands to protect and restore wetlands and meet other goals of this Act, including control of nonpoint and point sources of pollution, prevention and reduction of erosion, and protection of estuaries and lakes.

"(2) The Secretary shall prepare, update on a biannual basis, and make available to the public for purchase at cost, an indexed publication containing all Federal regulations, general permits, and regulatory guidance letters relevant to the permitting of activities in wetland areas pursuant to section 404(a). The Secretary and the Administrator shall also prepare and distribute brochures and pamphlets for the public addressing—

"(A) the delineation of wetlands,

"(B) wetland permitting requirements; and

"(C) wetland restoration and other matters considered relevant.".

SEC. 809. DELINEATION.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(v) DELINEATION.—

"(1) IN GENERAL.—The United States Army Corps of Engineers, the United States Environmental Protection Agency, and other Federal agencies shall use the 1987 Corps of Engineers Manual for the Delineation of Jurisdictional Wetlands pursuant to this section until a new manual has been prepared and formally adopted by the Corps and the Environmental Protection Agency with input from the United States Fish and Wildlife Service, Natural Resources, Natural Resources Conservation Service, and other relevant agencies and adopted after field testing, hearing, and public comment. Any new manual shall take into account the conclusions of the National Academy of Sciences panel concerning the delineation of wetlands. The Corps, in cooperation with the Environmental Protection Agency and the Department of Agriculture, shall develop materials and conduct training courses for consultants, State, and local governments, and landowners explaining the use of the Corps 1987 wetland manual in the delineation of wetland areas. The Corps, in cooperation with the Environmental Protection Agency and the Department of Agriculture, may also, in cooperation with the States, develop supplemental criteria and procedures for identification of regional wetland types. Such criteria and procedures may include supplemental plant and soil lists and supplementary technical criteria pertaining to wetland hydrology, soils, and vegetation.

"(2) AGRICULTURAL LANDS.—

"(A) DELINEATION BY SECRETARY OF AGRICULTURE.—For purposes of this section, wetlands located on agricultural lands and associated nonagricultural lands shall be delineated solely by the Secretary of Agriculture in accordance with section 1222(j) of the Food Security Act of 1985 (16 U.S.C. 3822(j)).

"(B) EXEMPTION OF LANDS EXEMPTED UNDER FOOD SECURITY ACT.—Any area of agricultural land or any discharge related to the land determined to be exempt from the requirements of subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) shall also be exempt from the requirements of this section for such period of time as those lands are used as agricultural lands.

"(C) EFFECT OF APPEAL DETERMINATION PURSUANT TO FOOD SECURITY ACT.—Any area of agricultural land or any discharge related to the land determined to be exempt pursuant to an appeal taken pursuant to subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) shall be exempt under this section for such period of time as those lands are used as agricultural lands.".

SEC. 810. FAST TRACK FOR MINOR PERMITS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(w)(1) Not later than 6 months after the date of enactment of this subsection, the Secretary shall issue regulations to explore the review and practice of individual permits for minor activities. Minor activities include activities of 1 acre or less in size which also have minor direct, secondary, or cumulative impacts.

"(2) Permit applications for minor permits shall ordinarily be processed within 60 days of the receipt of completed application.

"(3) The Secretary shall establish fast-track field teams or other procedures in the individual offices sufficient to expedite the processing of the individual permits involving minor activities.".

SEC. 811. COMPENSATORY MITIGATION.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(x) GENERAL REQUIREMENTS.—(1) Each permit issued under this section that results in loss of wetland functions or acreage shall require compensatory mitigation. The preferred sequence of mitigation options is as set forth in subparagraph (A) and (C). However, the Secretary shall have sufficient flexibility to approve practical options that provide the most protection to the resource—

"(A) measures shall first be undertaken by the permittee to avoid any adverse effects on wetlands caused by activities authorized by the permit.

"(B) measures shall be undertaken by the permittee to minimize any such adverse effects that cannot be avoided;

"(C) measures shall then be undertaken by the permittee to compensate for adverse impacts on wetland functions, values, and acreage;

"(D) where compensatory mitigation is used, preference shall be given to in-kind restoration on the same water body and within the same local watershed;

"(E) where on-site and in-kind compensatory mitigation are impossible, impractical, would fail to work in the circumstances, or would not make ecological sense, off-site and/or out-of-kind compensatory mitigation may be permitted within the watershed including participation in cooperative mitigation ventures or mitigation banks as provided in section 404(y).

"(2) The Secretary in consultation with the Administrator shall ensure that compensable mitigation by a permitee—

"(A) is a specific, enforceable condition of the permit for which it is required;

"(B) will meet defined success criteria; and

"(C) is monitored to ensure compliance with the conditions of the permit and to determine the effectiveness of the mitigation in compensating for the adverse effects for which it is required.".

SEC. 812. COOPERATIVE MITIGATION VENTURES AND MITIGATION BANKS.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(y)(1) Not later than 1 year after the date of the enactment of this Act, the Secretary and the Administrator shall jointly issue rules for a system of cooperative mitigation ventures and wetland banks. Such rules shall, at the minimum, address the following topics:

"(A) Mitigation banks and cooperative ventures may be used on a watershed basis to compensate for unavoidable wetland losses which cannot be compensated on-site due to inadequate hydrologic conditions, excessive sedimentation, water pollution, or other problems. Mitigation banks and cooperative ventures may also be used to improve the potential success of compensatory mitigation through the use of larger projects, by locating projects in areas in more favorable short-term and long-term hydrology and proximity to other wetlands and waters, and by helping to ensure short-term and long-term project protection, monitoring, and maintenance.

"(B) Parties who may establish mitigation banks and cooperative mitigation ventures for use in specific context and for particular types of wetlands may include government agencies, nonprofits, and private individuals.

"(C) Surveys and inventories on a watershed basis of potential mitigation sites throughout a region or State shall ordinarily be required prior to the establishment of mitigation banks and cooperative ventures pursuant to this section.

"(D) Mitigation banks and cooperative mitigation ventures shall be used in a manner consistent with the sequencing requirements to mitigate unavoidable wetland impacts. Impacts should be mitigated within the watershed and water body if possible with on-site mitigation preferable as set forth in section 404(x).

"(E) The long-term security of ownership interests of wetlands and uplands on which projects are conducted shall be insured to protect the wetlands values associated with those wetlands and uplands;

"(F) Methods shall be specified to determine debits by evaluating wetland functions, values, and acreages at the sites of proposed permits for discharges or alternations pursuant to subsections (a), (c), and (g) and methods to be used to determine credits based upon functions, values, and acreages at the times of mitigation banks and cooperative mitigation ventures.

"(G) Geographic restrictions on the use of banks and cooperative mitigation ventures shall be specified. In general, mitigation banks or cooperative ventures shall be located on the same water body as impacted wetlands. If this is not possible or practical, banks or ventures shall be located as near as possible to impacted projects with preference given to the same watershed where the impact is occurring.

"(H) Compensation ratios for restoration, creation, enhancement, and preservation reflecting an overall goal of no net loss of function and the status of scientific knowledge with regard to compensation for individual wetlands, risks, costs, and other relevant factors shall be specified. A minimum restoration compensation ratio of 1:1 shall be required for restoration of lost acreage with larger compensation ratios for wetland creation, enhancement and preservation.

"(I) Fees to be charged for participation in a bank or cooperative mitigation venture shall be based upon the costs of replacing lost functions and acreage on-site and off-site; the risks of project failure, the costs of long-term maintenance, monitoring, and protection, and other relevant factors.

"(J) Responsibilities for long-term monitoring, maintenance, and protection shall be specified.

"(K) Public review of proposals for mitigation banks and cooperative mitigation ventures through one or more public hearings shall be provided.

"(2) The Secretary, in consultation with the Administrator, is authorized to establish and implement a demonstration program for creating and implementing mitigation banks and cooperative ventures and for evaluating alternative approaches for mitigation banks and cooperative mitigation ventures as a means of contributing to the goals established by section 101(a)(8) or section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403). The Secretary shall also monitor and evaluate existing banks and cooperative ventures and establish a number of such banks and cooperative ventures to test and demonstrate:

"(A) The technical feasibility of compensation for lost on-site values through off-site cooperative mitigation ventures and mitigation banks.

"(B) Techniques for evaluating lost wetland functions and values at sites for which permits are sought pursuant to section 404(a) and techniques for determining appropriate credits and debits at the sites of cooperative mitigation ventures and mitigation banks.

"(C) The adequacy of alternative institutional arrangements for establishing and administering mitigation banks and cooperative mitigation ventures.

"(D) The appropriate geographical locations of bank or cooperative mitigation ventures in compensation for lost functions and values.

"(E) Mechanisms for ensuring short-term and long-term project monitoring and maintenance.

"(F) Techniques and incentives for involving private individuals in establishing and implementing mitigation banks and cooperative mitigation ventures.

Not later than 3 years after the date of the enactment of this subsection, the Secretary shall transmit to Congress a report evaluating mitigation banks and cooperative ventures. The Secretary shall also, within this time period, prepare educational materials and conduct training programs with regard to the use of mitigation banks and cooperative ventures.".

SEC. 813. WETLANDS MONITORING AND RESEARCH.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(z) The Secretary, in cooperation with the Administrator, the Secretary of Agriculture, the Director of the United States Fish and Wildlife Service, and appropriate State and local government entities, shall initiate, with opportunity for public notice and comment, a research program of wetlands and watershed management. The purposes of the research program shall include, but not be limited—

"(1) to study the functions, values and management needs of altered, artificial, and managed wetland systems including lands that were converted to production of commodity crops prior to December 23, 1985, and report to Congress within 2 years of the date of the enactment of this subsection;

"(2) to study techniques for managing and restoring wetlands within a watershed context;

"(3) to study techniques for better coordinating and integrating wetland, floodplain, stormwater, point and nonpoint source pollution controls, and water supply planning and plan implementation on a watershed basis at all levels of government; and

"(4) to establish a national wetland regulatory tracking program on a watershed basis.

This program shall track the individual and cumulative impact of permits issued pursuant to section 404(a), 404(e), and 404(h) in terms of types of permits issued, conditions, and approvals. The tracking program shall also include mitigation required in terms of the amount required, types required, and compliance.".

SEC. 814. ADMINISTRATIVE APPEALS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(aa) ADMINISTRATIVE APPEALS.—

"(1) REGULATIONS ESTABLISHING PROCEDURES.—Not later than 1 year after the date of the enactment of the Wetlands and Watershed Management Act of 1995, the Secretary shall, after providing notice and opportunity for public comment, issue regulations establishing procedures pursuant to which—

"(A) a landowner may appeal a determination of regulatory jurisdiction under this

section with respect to a parcel of the landowner's property;

"(B) a landowner may appeal a wetlands classification under this section with respect to a parcel of the landowner's property;

"(C) any person may appeal a determination that the proposed activity on the landowner's property is not exempt under subsection (f);

"(D) a landowner may appeal a determination that an activity on the landowner's property does not qualify under a general permit issued under this section;

"(E) an applicant for a permit under this section may appeal a determination made pursuant to this section to deny issuance of the permit or to impose a requirement under the permit; and

"(F) a landowner or any other person required to restore or otherwise alter a parcel of property pursuant to an order issued under this section may appeal such order.

"(2) DEADLINE FOR FILING APPEAL.—An appeal brought pursuant to this subsection shall be filed not later than 30 days after the date on which the decision or action on which the appeal is based occurs.

"(3) DEADLINE FOR DECISION.—An appeal brought pursuant to this subsection shall be decided not later than 90 days after the date on which the appeal is filed.

"(4) PARTICIPATION IN APPEALS PROCESS.—Any person who participated in the public comment process concerning a decision or action that is the subject of an appeal brought pursuant to this subsection may participate in such appeal with respect to those issues raised in the person's written public comments.

"(5) DECISIONMAKER.—An appeal brought pursuant to this subsection shall be heard and decided by an appropriate and impartial official of the Federal Government, other than the official who made the determination or carried out the action that is the subject of the appeal.

"(6) STAY OF PENALTIES AND MITIGATION.—A landowner or any other person who has filed an appeal under this subsection shall not be required to pay a penalty or perform mitigation or restoration assessed under this section or section 309 until after the appeal has been decided.".

SEC. 815. CRANBERRY PRODUCTION.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(bb) CRANBERRY PRODUCTION.—Activities associated with expansion, improvement, or modification of existing cranberry production operations shall be deemed in compliance, for purposes of sections 309 and 505, with section 301, if—

"(1) the activity does not result in the modification of more than 10 acres of wetlands per operator per year and the modified wetlands (other than where dikes and other necessary facilities are placed) remain as wetlands or other waters of the United States; or

"(2) the activity is required by any State or Federal water quality program.".

SEC. 816. STATE CLASSIFICATION SYSTEMS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(cc) STATE CLASSIFICATION SYSTEMS.—

"(1) GUIDELINES.—Not later than 1 year after the date of the enactment of this subsection, the Secretary, in consultation with the Administrator, the Secretary of Agriculture, and the Director of the United States Fish and Wildlife Service, shall establish guidelines to aid States and Indian tribes in establishing classification systems for the planning, managing, and regulating of wetlands.

"(2) ESTABLISHMENT.—In accordance with the guidelines established under paragraph (1), a State or Indian tribe may establish a wetlands classification system for lands of the State or Indian tribe and may submit such classification system to the Secretary for approval. Upon approval, the Secretary shall use such classification system in making permit determinations and establishing mitigation requirements for lands of the State or Indian tribe under this section.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to affect a State with an approved program under subsection (h) or a State with a wetlands classification system in effect on the date of the enactment of this subsection.".

SEC. 817. DEFINITIONS.

Section 502 (33 U.S.C. 1362) is amended by adding at the end the following:

"(26) The term 'wetland' means those areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions.

"(27) The term 'discharge of dredged or fill material' means the act of discharging and any related act of filling, grading, draining, dredging, excavation, channelization, flooding, clearing of vegetation, driving of piling or placement of other obstructions, diversion of water, or other activities in navigable waters which impair the flow, reach, or circulation of surface water, or which result in a more than minimal change in the hydrologic regime, bottom contour, or configuration of such waters, or in the type, distribution, or diversity of vegetation in such waters.

"(28) The term 'mitigation bank' shall mean wetland restoration, creation, or enhancement projects undertaken primarily for the purpose of providing mitigation compensation credits for wetland losses from future activities. Often these activities will be, as yet, undefined.

"(29) The term 'cooperative mitigation ventures' shall mean wetland restoration, creation, or enhancement projects undertaken jointly by several parties (such as private, public, and nonprofit parties) with the primary goal of providing compensation for wetland losses from existing or specific proposed activities. Some compensation credits may also be provided for future as yet undefined activities. Most cooperative mitigation ventures will involve at least one private and one public cooperating party.

"(30) The term 'normal farming, silviculture, aquaculture and ranching activities' means normal practices identified as such by the Secretary of Agriculture, in consultation with the Cooperative Extension Service for each State and the land grant university system and agricultural colleges of the State, taking into account existing practices and such other practices as may be identified in consultation with the affected industry or community.

"(31) The term 'agricultural land' means cropland, pastureland, native pasture, rangeland, an orchard, a vineyard, nonindustrial forest land, an area that supports a water dependent crop (including cranberries, taro, watercress, or rice), and any other land used to produce or support the production of an annual or perennial crop (including forage or hay), aquaculture product, nursery product, or wetland crop or the production of livestock.".

TITLE IX—MISCELLANEOUS

SEC. 901. OBLIGATIONS AND EXPENDITURES SUBJECT TO APPROPRIATIONS.

No provision or amendments of this Act shall be construed to make funds available for obligation or expenditure for any purpose except to the extent provided in advance in appropriation Acts.

H.R. 961

OFFERED BY: MR. STUDDS

AMENDMENT NO. 50: Page 115, strike line 5 and all that follows through line 3 on page 117 and insert the following:

(n) AMENDMENTS TO COASTAL ZONE ACT REAUTHORIZATION AMENDMENTS OF 1990.—Section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1451 note) is amended—

(1) in subsection (a)(1)—

(A) by inserting "(A)" after "PROGRAM DEVELOPMENT.—"; and

(B) by adding at the end the following:

"(B) A State that has not received Federal approval for the State's core coastal management program pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) shall have 30 months from the date of approval of such program to submit a Coastal Nonpoint Pollution Program pursuant to this section. Any such State shall also be eligible for any extension of time for submittal of the State's nonpoint program that may be received by a State with a federally approved coastal management program.";

(2) in subsection (b), in the matter preceding paragraph (1), by striking "to protect coastal waters generally" and inserting "to restore and protect coastal waters where the State has determined that coastal waters are threatened or significantly degraded";

(3) in subsection (b)(3)—

(A) by striking "The implementation" and inserting "A schedule for the implementation"; and

(B) by inserting ", and no less often than once every 5 years," after "from time to time";

(4) in subsection (b) by adding at the end the following:

"(7) IDENTIFICATION OF PRIORITY AREAS.—A prioritization of the areas in the State in which management measures will be implemented.";

(5) in subsection (c) by adding at the end the following:

"(5) CONDITIONAL APPROVAL.—The Secretary and Administrator may grant conditional approval to a State's program where the State requests additional time to complete the development of its program. During the period during which the State's program is subject to conditional approval, the penalty provisions of paragraphs (3) and (4) shall not apply.";

(6) in subsection (h)(1) by striking ", 1993, and 1994" and inserting "through 2000"; and

(7) in subsection (h)(2)(B)(iv) by striking "fiscal year 1995" and inserting "each of fiscal years 1995 through 2000".

H.R. 961

OFFERED BY: MR. TATE

AMENDMENT NO. 51: Insert the following new section into H.R. 961:

SEC. . FEDERAL POWER ACT PART I PROJECTS.

Section 511(a) of the Federal Water Pollution Control Act (33 U.S.C. §1371) is amended by adding after "subject to section 10 of the Act of March 3, 1899," the following, and by renumbering the remaining paragraph accordingly:

"(3) applying to hydropower projects within the jurisdiction of the Federal Energy

Regulatory Commission or its successors under the authority of Part I of the Federal Power Act (16 U.S.C. §791 et seq.); except that State water quality agencies may submit recommendations pursuant to this Act to the Commission as to those projects and the Commission shall consider those recommendations along with other agency recommendations under the comprehensive public interest licensing standard set out in section 10(a) of the Federal Power Act (16 U.S.C. §803(a));".

H.R. 961

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 52: Page 35, after line 23, insert the following:

"(2) LIMITATION.—The Administrator or a State may extend the deadline for point source compliance and encourage the development and use of an innovative pollution prevention technology under paragraph (1) only if the technology, to the greatest extent possible, is produced in the United States.

Page 35, line 24, strike "(2)" and insert "(3)".

Page 35, line 7, strike "(3)" and insert "(4)".

Page 35, line 18, strike "(4)" and insert "(5)".

H.R. 961

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 53: Page 216, line 12, strike "521" and insert "522".

Page 217, line 7, strike "521" and insert "522".

Page 219, after line 18, insert the following:

SEC. 512. AMERICAN-MADE EQUIPMENT AND PRODUCTS.

Title V (33 U.S.C. 1361–1377) is further amended by inserting before section 522, as redesignated by section 510 of this Act, the following:

"SEC. 521. AMERICAN-MADE EQUIPMENT AND PRODUCTS.

"(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

"(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Administrator, to the greatest extent practicable, shall provide to each recipient of the assistance a notice describing the sense of Congress expressed by subsection (a)."

Conform the table of contents of the bill accordingly.

H.R. 961

OFFERED BY: MR. VISCLOSKY

AMENDMENT NO. 54: Page 82, after line 21, insert the following:

(c) NATIONAL CLEAN WATER TRUST FUND.—Section 309 (33 U.S.C. 1319) is further amended by adding at the end the following:

"(1) NATIONAL CLEAN WATER TRUST FUND.—

"(1) ESTABLISHMENT.—There is established in the Treasury a National Clean Water Trust Fund (hereinafter in this subsection referred to as the 'Fund') consisting of amounts transferred to the Fund under paragraph (2) and amounts credited to the Fund under paragraph (3).

"(2) TRANSFER OF AMOUNTS.—For fiscal year 1996, and each fiscal year thereafter, the Secretary of the Treasury shall transfer, to the extent provided in advance in appropriations Acts, to the fund an amount determined by the Secretary to be equal to the total amount deposited in the general fund of the Treasury in the preceding fiscal year from fines, penalties, and other moneys obtained through enforcement actions conducted pursuant to this section and section 505(a)(1), including moneys obtained under consent decrees and excluding any amounts ordered to be used to carry out mitigation projects under this section or section 505(a), as the case may be.

"(3) INVESTMENT OF AMOUNTS.—The Secretary of the Treasury shall invest in interest-bearing obligations of the United States such portion of the Fund as is not, in the Secretary's judgment, required to meet current withdrawals. Such obligations shall be acquired and sold and interest on, and the proceeds from the sale or redemption of, such obligations shall be credited to the Fund in accordance with the requirements of section 9602 of the Internal Revenue Code of 1986.

"(4) USE OF AMOUNTS FOR REMEDIAL PROJECTS.—Amounts in the Fund shall be available, as provided in appropriations Acts, to the Administrator to carry out projects to restore and recover waters of the United States from damages resulting from violations of this Act which are subject to enforcement actions under this section and similar damages resulting from the discharge of pollutants into the waters of the United States.

"(5) SELECTION OF PROJECTS.—

"(A) PRIORITY.—In selecting projects to carry out under this subsection, the Administrator shall give priority to a project to restore and recover waters of the United States from damages described in paragraph (4), if an enforcement action conducted pursuant to this section or section 505(a)(1) against such violation, or another violation in the same administrative region of the Environmental Protection Agency as such violation, resulted in amounts being deposited in the general fund of the Treasury.

"(B) CONSULTATION WITH STATES.—In selecting projects to carry out under this section, the Administrator shall consult with States in which the Administrator is considering carrying out a project.

"(C) ALLOCATION OF AMOUNTS.—In determining an amount to allocate to carry out a project to restore and recover waters of the United States from damages described in paragraph (4), the Administrator shall, in the case of a priority project under subparagraph (A), take into account the total amount deposited in the general fund of the Treasury as a result of enforcement actions conducted with respect to such violation pursuant to this section or section 505(a)(1).

"(6) IMPLEMENTATION.—The Administrator may carry out a project under this subsection either directly or by making grants to, or entering into contracts with, the Secretary of the Army or any other public or private entity.

"(7) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this subsection, and every 2 years thereafter, the Administrator shall transmit to Congress a report on implementation of this subsection.".

(d) USE OF CIVIL PENALTIES FOR MITIGATION PROJECTS.—

(1) IN GENERAL.—Section 309(d) (33 U.S.C. 1319(d)) is amended by inserting after the second sentence the following: "The court may, in the court's discretion, order that a civil penalty be used for carrying out mitigation projects which are consistent with the purposes of this Act and which enhance the public health or environment.".

(2) CONFORMING AMENDMENT.—Section 505(a) (33 U.S.C. 1365(a)) is amended by inserting before the period at the end of the last sentence the following: ", including ordering the use of a civil penalty for carrying out mitigation projects in accordance with section 309(d)".

H.R. 961

OFFERED BY: MR. WYDEN

AMENDMENT NO. 55: Page 251, after line 2, insert the following:

"(C) PREVENTION OF REDUCTION IN FAIR MARKET VALUE OF PRIVATE HOMES.—No compensation shall be made under this section with respect to an agency action that prevents or restricts any activity that is likely to result in a total reduction in the fair market value of one or more private homes of $10,000 or more.

Page 315, after line 15, insert the following:

"(K) PRIVATE HOME.—The term 'private home' means any owner occupied dwelling, including any multi-family dwelling and any condominium.

Page 315, line 16, strike "(K)" and insert "(L)".

Page 315, line 19, strike "(L)" and insert "(M)".

Page 315, line 21, strike "(M)" and insert "(N)".

Page 316, line 14, strike "(N)" and insert "(O)".

H.R. 961

OFFERED BY: MR. YOUNG OF ALASKA

AMENDMENT NO. 56: On page 72, after line 10, insert the following:

"(e) SECONDARY TREATMENT STANDARDS.—Subsection 301(h) (33 U.S.C. 1311(h)) is amended by striking 'of the biological oxygen demanding material and'".

EXTENSIONS OF REMARKS

INTRODUCING THE PENSION PROTECTION ACT OF 1995

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. SAXTON. Mr. Speaker, I am here to speak to you this morning because $3.5 trillion in private pension funds are at risk. Why? Because the Clinton administration has targeted private pension funds as a new way to finance their liberal social spending agenda.

Faced with an angry revolt of voters, fed up with an oversized and overintrusive Federal Government, Clinton's advisers devised a behind the scenes, incremental strategy to achieve Clinton's pension grab.

The overall strategy came from a campaign document called, A National Economic Strategy calling for an $80 billion investment in an array of social projects that will be leveraged with public and private pensions.

President Clinton and his Department of Labor are trying to use private pensions to fund social investments. These social investments include: Public housing, infrastructure, and pork-barrel projects. The administration has dubbed these social projects economically targeted investments or ETI's, but I prefer to call them PTI's or politically targeted investments.

Stage 2 in Clinton's great pension grab came in June 1994, when Labor Secretary Robert Reich issued an interpretive bulletin which defined ETI's in a way that makes them seem consistent with the Employee Retirement Income Security Act, or ERISA. This law was specifically designed to ensure the safety of America's private pension funds. The strength and force of this law has now been undermined.

Stage 3 in Clinton's pension-fund grab was the establishment of a clearinghouse intended to showcase ETI investments and give them the Federal Government's seal of approval. The Clinton Labor Department, without congressional authorization I note, has already contracted to spend $1.2 million to get the clearinghouse up and running.

Stage 4 is now in the process of unfolding. As members of the press know, it has been widely reported that the President will likely nominate Assistant Treasury Secretary Alicia Munnell to be the next Governor of the Federal Reserve Board. Not long ago, Munnell proposed a 15-percent Federal tax on private pension funds to help finance the Federal Government's liberal spending habits. Once planted at the Fed, not only will Munnell be completely outside of the reach of Congress, she will also be strategically situated to help the administration execute its grab for private pensions.

Let me emphasize that targeting private pension fund investments is a radical and dangerous idea. ETI's violate the clear mandate of ERISA that a pension fund manager must give complete and undivided loyalty to the pension beneficiaries. Let me quote directly from ERISA: a pension fund manager must "discharge his duties with respect to a plan solely in the interest of the participants and beneficiaries and for the exclusive purpose of (i) providing benefits to participants and their beneficiaries; and (ii) defraying reasonable expenses of administering the plan."

Besides ETI's obvious conflict with ERISA, the best economic research indicates that pension funds that target social investments produce yields well below market averages. For instance, a 1983 study by none other than Alicia Munnell found that public pension funds that targeted social investments had assets that were significantly riskier, less liquid, and earned lower yields. Also, a 1993 study by Roberta Romano of Yale Law School concluded that the greater the political influence on the investment decision, the lower the corresponding return. And, a 1994 University of Pennsylvania study by Olivia Mitchell determined that public pension funds required to make a certain portion of in-State investments generated lower investment returns.

In light of the empirical research on ETI's and given their dubious legal standing, stage five and beyond in the great pension fund grab becomes easy to predict. The President and his administration will seek ways for the Federal Government to offer subsidies, guarantees, and other imaginative techniques to shield pension trustees from blame when ETI investing pension funds get into trouble.

Richard Ferlauto of the Center for Policy Alternatives gives us a clue to their plans: "ETI programs must be enhanced through the development and use of appropriate risk reduction mechanisms. Examples include state-funded loan guarantee programs, state or private insurance pools, and insurance premiums . . ."

This means taxpayers will be put at risk as well.

The ultimate objective would be to implement a social-responsibility requirement for private pension funds similar to the one now being imposed on banks—an ETI quota for every private pension fund. One need only refer to the ETI quota bill introduced on February 24, 1995, in California to realize the potential damage to the pension community.

What would a 5-percent quota mean if enforced at the national level? In 1993, total private pension fund assets in the United States amounted to $3.5 trillion. A 5-percent ETI quota would mean that the Government would suddenly have at its command a whopping $175 billion with which to enact the liberal social agenda. More insidiously still, a quota of even this magnitude would mean that politicians had succeeded in conscripting private pension funds into the compulsory economic service of the U.S. Government.

What Secretary Reich would make permissible today, will become compulsory tomorrow.

Today, I am introducing a bill that will protect the 36 million private pension participants from President Clinton's pension fund grab. My bill, the Pension Protection Act of 1995, will not alter the fiduciary duties laid out in ERISA. Instead, my bill will simply reiterate that the act means what it says, no more, or less.

ERISA couldn't be clearer. Trustees may not invest in ETI's because by definition ETI's seek to benefit someone other than solely the participants and beneficiaries of the pension plan; and ETI's pursue an objective other than exclusively the interest of the plan's participants and beneficiaries.

My bill removes any uncertainly by making it unambiguously clear that solely means solely not primarily or even overwhelmingly; and my bill makes it unambiguously clear that exclusively means exclusively not almost only or even just about completely. Exactly what parts of solely and exclusively doesn't the Clinton Labor Department understand?

My bill also will prohibit the Federal Government from guaranteeing, subsidizing, or encouraging social investments. And, it will put an end to the clearinghouse.

The security of our pension funds is no small issue. Every American who plans on retiring someday should be very concerned about what the Clinton administration is up to. I believe that if we act quickly, we can ensure that everyone working today can rest easier if my bill to protect their pensions is passed.

FUNDING FOR THE INTERNATIONAL MILITARY EDUCATION AND TRAINING [IMET] PROGRAM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. HAMILTON. Mr. Speaker, the Committee on International Relations will be considering the American Overseas Interests Act of 1995, authorizing foreign assistance programs for fiscal years 1996 and 1997, this week.

The International Military Education and Training [IMET] Program will be among those authorized in this legislation. The administration considers IMET a cost-effective and critically important program in advancing the U.S. interest in enhancing allies' defense professionalism and promoting professional militaries under civilian control. Accordingly, Under Secretary of Defense Slocombe has written to me, urging full funding of the administration's $39.8 million request for IMET for each fiscal year. The letter follows:

THE UNDER SECRETARY OF DEFENSE,
Washington, DC, May 5, 1995.

Hon. LEE HAMILTON,
Ranking Democratic Member, Committee on International Relations, House of Representatives, Washington, DC.

DEAR MR. HAMILTON: I ask your support for full funding of the Administration's FY96 budget request for the critically important International Military Education and Training (IMET) program.

I am sensitive to the austere budget environment, but believe that less than full funding will make it virtually impossible to conduct a viable worldwide IMET program responsive to the changing international situation. Our modest, but essential, $39.8M request will request will reach more than 3,500 personnel from over 100 countries. It will enhance friends and allies' defense professionalism, strengthen their own training capabilities, and give us access and influence. The IMET program directly supports the United States' National Security and National Military Strategies. Our regional Commanders in Chief forcefully and repeatedly emphasize the program's centrality to the success of their regional security strategies.

While the FY96 request may appear to be a significant expansion of the program, in reality it would simply return IMET closer to traditional funding levels. From FY88 through FY93, annual IMET appropriations ranged from $47.4M to $42.5M. Then, in FY94, funding was precipitously cut in half, to $21.25M, with only a modest recovery to $25.5M in FY95.

Implementing the IMET program within dramatically lower funding levels of the past two years has been very difficult. Since FY91, our overriding national interest in the promotion and expansion of democracy around the world has required us to initiate IMET programs with 28 new and emerging democracies, primarily in Central Europe and the Newly Independent States. FY94-95 funding levels compelled us to curtail these new programs' growth, eliminate some traditional programs, and slash many more, particularly in Latin America, Asia, and Africa. Moreover, inflation and a smaller pool of U.S. students have significantly increased training costs for foreign students, reducing each IMET dollar's purchasing power. For example, the Army War College now costs $14,498 per student, vice $11,429 in FY93.

While we seek to return close to, though still below, the FY93 funding level, it is important to understand we are not simply returning to the earlier program. Important, positive changes have been made to the program's content and focus over the past two years. IMET has been tightly focused on professional military education and Expanded IMET (E-IMET). High cost education, such as pilot training, has been eliminated. The technical training that is still supported is focused on "training the trainer" so that countries can assume more responsibility for their own equipment-oriented instruction. Proposed FY96 funding for new democracies is 160 percent higher than in FY93, while funding for traditional programs is 25 percent less.

If we are to build upon our investments in the new and emerging democracies, maintain support for countries important to Middle East peace, and restore some of the funding for other traditional programs important to our regional strategies, the FY96 IMET request needs to be fully funded. For the Defense Department, IMET is critically important. I would be pleased to discuss these issues with you, and greatly appreciate your support for this important program.

Sincerely yours,

Walter B. Slocombe.

HONORING DR. ED WAYBURN

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Ms. PELOSI. Mr. Speaker, I rise today to recognize the achievements of Dr. Edgar Wayburn and to congratulate him on receiving the 1995 Albert Schweitzer Prize for Humanitarianism. In his illustrious career, Ed has achieved distinction as a physician, environmentalist, and humanitarian. He is a worthy recipient of this award and I join his friends and colleagues in congratulating him.

Many people have described Ed as the present day incarnation of John Muir. This is not only an accurate description, but one which complements the legacy of Mr. Muir himself. During his 50 years of service with the Sierra Club, Ed was responsible for over 103 million acres of public lands in the United States being designated as protected areas. These lands included portions of the Redwood National Park, the Golden Gate/Point Reyes region, and vast tracts in Alaska. Their protected status is a tribute to Ed's tireless energy and his lifetime commitment to the preservation of our Nation's wild lands.

On behalf of the millions of Americans who seek respite in these natural sanctuaries, I salute you Ed and wish you and Peggy the best in the years to come.

TRIBUTE TO MEDICAL GROUP MISSIONS

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. BAKER of California. Mr. Speaker, recently a physician from my district, Dr. Neil Wilson of Orinda, traveled to Ecuador for 2 weeks to help Indians in three Andean villages. He went with a group called Medical Group Missions, a nondenominational association designed to provide assistance to needy people worldwide.

The trip was put together by nurse Diana Bennett, with whom Dr. Wilson had served on the staff of Mt. Diablo Hospital.

As related by Dorothy Bowen in an article in "The Contra Costa Sun," Dr. Wilson in 1993 journeyed to Zimbabwe, treating AIDS patients, living in cement block houses and working with serious ill patients.

This year he traveled to South America. In describing his trip to Ecuador, Dr. Wilson said:

> We represent Jesus and His teaching and also our country * * *. The greatest gift was from them to us. They are beautiful people who have the courage to carry on day after day. It's hard to complain about my life after I get home.

It's an honor for me to recognize Dr. Wilson, Diana Bennett and the team that traveled to Ecuador. The work of these outstanding Californians reminds each of us the value of selfless service. I am pleased to recognize them today in the CONGRESSIONAL RECORD.

KILDEE HONORS VFW POST NO. 4087

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. KILDEE. Mr. Speaker, it is an honor for me to rise before you today to pay tribute to the Veterans of Foreign Wars Post No. 4087. VFW Post No. 4087 celebrated its 50th anniversary on April 29, 1995 at their beautiful facility that is located in my district in Davison, MI.

VFW Post No. 4087 boasts one of the largest memberships in the State of Michigan, with over 1300 members. The officers and members of VFW Post No. 4087 are known throughout the community for their charitable work on behalf of children. VFW Post No. 4087 is a major supporter of the VFW National Home, which has provided care to the children and grandchildren of America's veterans since 1925. VFW Post No. 4087 has also been an active supporter of Little League Baseball in our community, helping to provide equipment and uniforms so that young people will have the opportunity to play baseball. VFW Post No. 4087 has also been an energetic supporter of the Boy Scouts of America, playing host to a local Boy Scout troop.

VFW Post No. 4087 has played a key role in providing much needed medical equipment to residents of the community. The generosity of the members of Post No. 4087 have assured wheelchairs and hospital beds for those who might have otherwise gone without these essential items. Members of VFW Post No. 4087 frequently contribute their time, and travel many miles, to the nearest Veterans Hospital. The visits have helped to cheer and comfort these veterans who are sick and infirm. Many times through the years the Color Guards and the Firing Squad of Post No. 4087 have participated in events honoring our country. Their reputation precedes them. This has resulted in many invitations to attend parades and various functions in other communities, adding a touch of class and dignity to whatever event they might attend.

Mr. Speaker, VFW Post No. 4087 has provided a dignified home to the bronze plaques that honor those in our area who served in World War II. The plagues were formerly housed in the Industrial Mutual Association Auditorium but needed new home when that auditorium was discontinued. I am particularly pleased to read on these plaques the name of my brother, Kenneth Kildee, who served our country in both World War II and the Korean War.

Mr. Speaker, it is with great pride that I stand before you today, asking you and my fellow Members of Congress to honor the Veterans of Foreign Wars Post No. 4087. For 50 years they have stood firmly to their commitment to this Nation. Their dedication to protecting and promoting the enhancement of the

human dignity of all Americans serves as inspiration to the entire community.

50TH ANNIVERSARY MANHASSET PUBLIC LIBRARY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. ACKERMAN. Mr. Speaker, I rise today to join with my constituents and the residents of Manhasset as the Manhasset Public Library celebrates its 50th anniversary. With an intense community spirit and desire to develop neighborhood-related services, the residents of Manhasset initiated a program in May 1945 that would provide the community with library services for half a century.

Organized by the local branch of the American Association of University Women, the Manhasset Library came into being in a small rented store with an initial collection of 1,500 volumes. Its first director was Ruth Cowell, who served in that capacity until 1972. Responding to the growth of the community and the increasing demand for more materials, the library grew and a new facility was constructed to house its every-growing materials and services. Ten short years later, the library continued its expansion and a new children's room was added. Shortly, thereafter, the Manhasset Public Library joined the 54 member Nassau Library System. In 1972, Elaine Seaton assumed the position of library director. It was during her tenure that the library's Sunday program was developed and the Friends of the Library was organized. In 1983, with Sylvia Levine serving as the director, the children's room was enlarged and the community room created. During the past 8 years, under the leadership of Marian Robertson, the library has witnessed a rapid growth in the expansion of computerized services, audio-visual materials, business and general reference services.

As the Manhasset community looks forward to an additional 50 years of outstanding library service, I ask my colleagues to join with me in applauding its efforts to help create and maintain a truly exceptional community.

BELARUS ON THE EVE OF ELECTIONS

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. SMITH of New Jersey. Mr. Speaker, on Sunday, May 14, Belarus will be holding its first parliamentary elections since the dissolution of the Soviet Union in 1991. Some 2,400 registered candidates are running for 240 seats. Concerns have been raised about actions of the Belarusian Government during the pre-election period. These concerns center primarily on restrictions on the press and the assault last month on 19 parliamentarians conducting a hunger strike in the parliamentary chambers. Nearly 100 paratroopers, armed with submachine guns or wearing black masks entered the parliament, accosted the parliamentarians, beat them and dragged them into the street. The parliamentarians were protesting President Alyaksandr Lukashenka's initiative to hold a referendum that they felt would violate the Belarusian Constitution.

Restrictions on the press in Belarus, Mr. Speaker, also appear to be growing. On April 25, President Lukashenka fired the editor of a youth newspaper—the fourth editor of a nationwide newspaper he has fired since the Presidential election last July. Earlier, on March 17, Lukashenka dismissed the editor of the Belarusian parliament's daily Narodnaja Hazeta, for publishing a letter criticizing the President's pro-Russian policies. Critics are understandably distressed about this and other attempts to reign in the more independent voices within the state-subsidized press, especially since the independent press remains relatively weak. In addition, according to the newspaper Segodnya, the Belarusian media have refrained from reporting on the election campaign so as not to anger the President.

Mr. Speaker, until recent months, Belarus appeared to be making slow but steady progress on human rights and democracy. Last year, Belarus held presidential elections that were generally free and fair, and Mr. Lukashenka defeated an entrenched incumbent by a large and unexpected margin. I have become increasingly concerned, though, about the apparent backsliding in the democratic process in this strategic country on the eve of parliamentary elections. It would be unfortunate if Mr. Lukashenka should turn around and use pressure tactics to hinder free and fair elections to the legislative branch. As Chairman of the Helsinki Commission, I urge the Belarusian Government to respect its international human rights commitments, but most importantly, respect its commitments to the people of Belarus through the guarantee of unhindered, open elections.

A TRIBUTE TO JESSE J. LEWIS, JR.

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. HILLIARD. Mr. Speaker, Jesse J. Lewis, Jr., was a graduate of Miles College, where he obtained a bachelor of science degree in business administration. He continued his concern for education throughout his life, attending numerous executive continuing education programs at colleges and universities around the country.

Mr. Lewis began his illustrious advertising and communications career in 1979 with Jesse J. Lewis and Associates, where he held several important positions. Under his direction, clients won numerous prestigious awards for advertising, including a Telly which is awarded for regional and local television advertising. His unrelenting dedication and leadership enabled his clients to grow and succeed.

In addition to marketing and communications expertise, Jesse worked extensively in the production field. He was chief engineer at the New London Record Studios, where he supervised the production of radio spots, jingles, and custom music for local and national clients.

As a member of the board of directors for the police athletic team, the Alabama Ballet Theater and the Magic City Art Connection, Jesse was actively involved in civic and social work throughout Alabama. He was a member of the National Association of Marketing Developers, the Urban League, the Birmingham Area Musicians Association, and the Metropolitan Business Association. He was also chairman of special projects for Toys for Tots, and chairman of the Birmingham Crime Commission.

Jesse passed away suddenly due to a tragic car accident on February 26, 1995. He is survived by his loving mother, Helen; his devoted father, Jesse Lewis, Sr., former President of Lawson State Community College and Publisher of the Birmingham Times newspaper, and his brother, James Lewis.

Jesse Lewis, Jr., contributed immeasurably to the communications and business area of the African-American community of Birmingham, as well as to the constructive relationships with diverse business entities for the State of Alabama. Jesse will be greatly missed by family and friends. However, the legacy he leaves behind shall preserve an indelible impression for all of us who came to know and love him.

CONGRATULATIONS TO RAYMOND CLARKE ELLIS

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. FORBES. Mr. Speaker, I rise today to congratulate Mr. Raymond Clarke Ellis of Setauket, Long Island, NY upon his retirement from Phoenix Home Life Mutual Insurance Co. on May 15, 1995.

Mr. Ellis' retirement is a very special occasion. It marks the conclusion of his 80 years of service to the Phoenix Insurance Co. That's right. Eighty years. That's a remarkable amount of time for anybody to remain employed, especially at the very same company.

On June 1, 1915, Mr. Ellis joined what was then called the Home Life Insurance Co. as an office staff person. He spent 7 years as a field underwriter and then became an assistant supervisor of agencies. In 1928—1 year before the Great Depression—Mr. Ellis was named head of the New York City agency. And Mr. Ellis has been producing business for the company ever since.

Raymond Ellis still commutes on the Long Island Railroad from his home in beautiful Setauket, Long Island to New York City. An avid swimmer and accomplished handball player, I'm sure that Mr. Ellis could continue this commute for at least another 25 years.

Mr. Ellis is also an active member of his community, serving in several charitable organizations, including the Fraternity of the Masons which he joined in 1919. As a community leader, Mr. Ellis has proven that the strongest people are those who serve others.

Raymond Ellis is certainly a model of hard work and dedication. I'm confident that if we all reflected upon the contributions that Mr. Ellis has already given, we would all be inspired to try a little harder and give a little more. He truly is an exemplary role model.

On behalf of the people of Long Island, I congratulate Mr. Ellis on a job well done. We wish him the best of luck for his retirement.

WELCOME TO OLIVIA ALEXANDRA BECERRA

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. BECERRA. Mr. Speaker, it is with great joy that I inform my colleagues that on April 25, 1995, my wife, Carolina, gave birth to Olivia Alexandra, our second daughter.

Because she was born near the end of the Easter district work period, I elected to remain in Los Angeles during the week of May 1 to be with and help care for her during her first week home. As such, I missed a number of recorded votes when the House met on May 2. I would have voted on each amendment and bill:

On motion to instruct conferees on H.R. 1158, Omnibus Rescissions and Supplemental Appropriations (rollcall 303)—Aye.

On final passage of H. Con. Res. 53, visit by President of Taiwan (rollcall 304)—Aye.

On final passage of H. Res. 135, condemnation of the Oklahoma City bombing (rollcall 305)—Aye.

Olver amendment to H.R. 655, Hydrogen Future Act (rollcall 306)—Aye.

Brown of California amendment to H.R. 655 (rollcall 307)—Aye.

THE SARAH WEBER HOME INFUSION CONSUMER PROTECTION ACT OF 1995

HON. SHERROD BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. BROWN of Ohio. Mr. Speaker, today, I introduce the Sarah Weber Home Infusion Consumer Protection Act of 1995 in honor of Sarah Weber, a young girl from Ohio.

Unfortunately, many of the most vulnerable patients who depend on home infusion therapy are currently at the mercy of certain unscrupulous home infusion providers. This legislation will ensure that patients are served more appropriately by these providers.

Let me share with you Sarah's story. Sarah was a happy little girl from Cleveland Heights, OH, who suffered from cerebral palsy and a rare digestive disorder that would not allow her to tolerate food. Given her condition, she needed to be fed and medicated intravenously. Wanting to stay with her family at home, Sarah received this treatment with her mother as her nurse. It sounds like the perfect situation. Unfortunately for Sarah and her family, it was not.

Instead, Marie was plagued by bill collectors once her $2 million insurance policy ran out. Sometimes, the wrong medications were delivered. Thankfully, Marie was astute enough to recognize the mistake and resolve the situation before harm could be done. Sarah was dropped by one provider, without notice, left hanging by a thread between life and death, with only a day's worth of life sustaining supplies.

These are just a few of the examples of the lack of quality standards and harmful practices that exist. My bill will require home infusion companies to be licensed according to quality standards included in the law. Further, the bill would crack down on fraud in the industry by extending the current restrictions on physician referrals to companies in which they have a financial interest to home infusion companies and all payers.

I believe this bill will go far to eliminate the abuses and will restore families faith in home infusion. Many seriously ill patients depend on home infusion for their medication or nutrients. In many cases, the available technology has enabled them to remain in the comfort of their own homes while they receive treatment. Yet, what good is treatment at home if it is of questionable quality? We must ensure that the care patients receive at home is of the utmost quality and that the patient's physician is involved in the process.

A summary of the bill follows. I invite all my colleagues to join me in cosponsoring this important legislation.

SUMMARY OF SARAH WEBER HOME INFUSION CONSUMER PROTECTION ACT OF 1995

1. Licensure: Require home infusion providers to be licensed according to the standards defined in the bill.

The language of the bill requires persons providing, or arranging for the provision of services, to hold a license. In this context, persons will apply to individuals or companies, whichever applies.

Further, the bill defines home infusion broadly to encompass all types of home infusion providers.

2. Standards: The bill would require providers: to maintain clinical records; adhere to written protocols and policies; make services available 24 hours a day, seven days a week; coordinate all home infusion therapy services with the patient's physician; conduct a quality assessment and assurance program including drug regimen and review and coordination of patient care; assure that only trained (and licensed if necessary) personnel provide infusion products or services; assume responsibility for the quality of services provided by others under arrangements with the person; establish appropriate protocols and explain protocols clearly to patients prior to the initiation of treatment plan; and, meet other requirements which the Secretary may determine are necessary to assure the safe and effective provision of home infusion therapy services.

3. Authorizes Funds for Start up Grants to the States: The bill provides for the authorization of funds to provide assistance to the states in establishing a licensing system. It further states to require the payment of a fee for the processing and licensing of companies.

4. Restrictions on Referrals: The legislation will ban physicians from referring patients to home infusion providers in which they have a financial interest. This requirement would apply to all payers.

5. Enforcement: The bill would be enforced via civil monetary penalties determined by the Secretary of Health and Human Services but not to exceed $10,000. The Secretary may also file an action to enjoin persons from violating the Act.

6. Study: The bill would require the study of the feasibility and economic impact of coverage of infusion services that may otherwise be covered in a hospital setting.

DR. BARBARA BARLOW, A GUARDIAN ANGEL FOR THE CHILDREN

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. RANGEL. Mr. Speaker, I would like to bring to your attention and to the attention of my colleagues here in the house, a story about a very dedicated doctor committed to helping save the lives of our children in the Harlem community and beyond.

This guardian angel of which I speak is Dr. Barbara Barlow, chief of Pediatric Surgery at Harlem Hospital Center.

Her push for prevention in helping keep our children on the playgrounds and out of emergency rooms, was depicted recently in a story in Parade Magazine, April 16, 1995.

I am proud to have such a remarkable and devoted individual caring for the children in the Harlem community.

HER PUSH FOR PREVENTION KEEPS KIDS OUT OF ER

(By Peter Hellman)

Dr. Barbara Barlow still recalls the 4-year-old boy who arrived at Harlem Hospital Center 20 years ago, soon after she had been appointed chief of pediatric surgery. "He tumbled head-first out a fourth-floor window while his mother went to answer the phone," she told me. "Multiple fractures. Brain dead. An only child. It was just so incredibly sad."

Dr. Barlow was then treating an average of one dozen children annually who'd fallen from windows. "I only saw kids who were still breathing," said Barlow. "Others had been taken directly to the morgue."

Convinced that "prevention is better than sewing them up," Dr. Barlow decided to get involved. She knew that installing inexpensive window gates would remedy the problem and that a new law required New York City Landlords to install the guards upon request. But compliance was spotty, so Barlow put her energy into a campaign, started by the city's health department, called "Children Can't Fly." Harlem students acted our dramas about window falls. They were sent home from hospital clinics with window-guard request forms. At the culmination of the campaign, "Children Can't Fly" balloons were tied to window gates all over Harlem.

The result? Last year, Dr. Barlow treated only one window-fall victim.

If window falls could be so decisively reduced by attacking root causes, reasoned Dr. Barlow, why not also the other kinds of trauma injuries to Harlem's children? Through the mid-1980s, they were being hurt at a rate that was double the national average. Now, thanks to the Injury Prevention Program that Dr. Barlow established in 1988, admissions of children with trauma injuries to Harlem Hospital have been reduced by 44 percent.

Dr. Barlow first focused on Harlem's dirty and dangerous playgrounds. Emergency-room data showed that they caused many injuries. To help upgrade the playgrounds, she persuaded the nonprofit Robert Wood Johnson Foundation of Princeton, N.J., to provide a $240,000 grant. ("A very untraditional use for our money in terms of health care," admitted Michael Beachler, a program officer for the foundation.)

Though she was outwardly confident, Dr. Barlow remembers "lying awake all night and thinking, 'What if we can't get anyone to fix these playgrounds'?" But it turned out Barlow could put people together as well as bodies. With the cooperation of city agencies, schools and volunteer groups (she calls her own role "coalition-building"), more than a dozen playgrounds were made safer. Metal swings—which too often smashed into children, sometimes fracturing skulls—were replaced by soft rubber ones. Broken climbing bars with jagged points also were replaced. Pocked asphalt, which so easily tripped dashing feet, yielded to rubberized surfaces. Graffiti-strewn walls were painted over with cheerful murals by schoolchildren. Five entirely new playgrounds with Harlem motifs were created.

Dr. Barlow didn't stop there. When a child was raped in the darkness of unkempt Jackie Robinson Park in northern Harlem, where the lights had long been out, she demanded that city officials get the lights back on. Now, Little League teams once again play on the park's renovated fields, and two of the teams are sponsored by Harlem Hospital.

While sports have their place, they can't give a child what gardening can, according to Bernadette Cozart, a gardener for the city parks department. Her "Greening of Harlem" project works in cooperation with the Injury Prevention Program. Under Cozart's eye, children fill vacant lots and playground plots with flowers and vegetables. Typical is the garden at P.S. 197, an elementary school. Roses, lilies, tomatoes, eggplants, even collard greens thrive there. "I have kids who wouldn't eat anything green until they started growing it," said Cozart.

Like gardening, the hospital's popular dance program might seem far afield from injury prevention. But time spent dancing is time away from the mean streets of the inner city. "Why shouldn't these children be loaded up with afterschool activities, just like suburban children are?" asked Dr. Barlow.

No Harlem child, however, can avoid the streets: 48 percent of pediatric trauma injuries at Harlem Hospital involve motor vehicles. So "Safety City," a course for third-graders on how to be a safe pedestrian, is part of the Injury Prevention Program (aided by the city's department of transportation). Another part of the program is the Urban Youth Bike Corps, which provides helmets and bicycle-repair instruction, while the KISS (Kids, Injuries and Street Smarts) project educates teens about gun violence.

So varied has the Injury Prevention Program become that it's easy to assume Dr. Barlow has little time left for old-fashioned doctoring. That would be a mistake. She still takes a turn of duty every fourth night, though, as a department chief, she doesn't have to.

Dr. Barlow's pioneering program is now going national, thanks to a new $1.1 million grant from the Robert Wood Johnson Foundation. Pittsburgh, Chicago and Kansas City, Mo., are the first cities to replicate it. At Harlem Hospital, meanwhile, the surest sign of the continuing downward trend in trauma injuries is a dark corner of the pediatric ward. "We used to have patients hanging off the rafters when I first came here," said Dr. Barlow. "Now I've closed off six beds. We don't need them anymore."

SOCIAL SECURITY COURT OF APPEALS ACT OF 1995

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. JACOBS. Mr. Speaker, I am today introducing the Social Security Court of Appeals Act of 1995 which creates a court to adjudicate appeals from Federal district court related to Social Security. A summary prepared by the minority staff of the Subcommittee on Social Security follows:

The past decade has witnessed increasing regional variation in the standards of eligibility used by the Social Security Administration [SSA] to evaluate applications for disability benefits. A significant cause of this variation is the Federal courts' increased role in reviewing SSA decisions and interpreting agency regulations. Court intervention has been, and continues to be, vitally important in protecting the right of claimants. However, the regional nature of court jurisdiction can also serve to fragment Social Security disability standards along geographic lines and result in disparities in treatment of similarly situated claimants.

To address this problem, this legislation would establish a single, national Social Security Court of Appeals. This court would be modeled after the court of appeals for the Federal circuit, which has jurisdiction over patent and trademark law, international trade, and the Court of Claims. The new court would replace the 12 Federal circuit courts of appeal in adjudicating Social Security and Supplemental Security Income [SSI] benefit appeals from Federal district courts. The court would consist of five judges with lifetime appointments. It would render appeal decisions in panels of three judges, as is the case at present with Federal circuit courts of appeal. The new court would be located in Washington, DC, but would have authority to travel as it deemed necessary. As the single body to adjudicate Social Security and SSI appeals from Federal district courts, this court would be positioned to articulate a consistent body of case law and to eliminate regional discrepancies in SSA policy.

Claimants' rights to appeal SSA decisions to Federal district courts would be unaffected by this legislation. Moreover, decisions of the Social Security Court of Appeals would be appealable to the U.S. Supreme Court, just as Social Security decisions by the circuit courts of appeal are under current law.

DOD INCREMENTAL COSTS IN SUPPORT OF U.N. PEACEKEEPING

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. HAMILTON. Mr. Speaker, many members have expressed interest in the scope and nature of incremental costs incurred by the Department of Defense in support of peacekeeping operations conducted or authorized by the United Nations. This issue was the subject of some confusion during the debate in the House on H.R. 7, the National Security Revitalization Act.

On January 13, I wrote to Secretary of Defense William Perry requesting detailed information on these costs. On February 15, I received an interim response from Under Secretary of Defense Walter Slocombe, followed by further clarification in a letter from Under Secretary Slocombe on April 18.

The Department of Defense now estimates its voluntary incremental costs in support of nonassessed U.N. peacekeeping operations at $1.41 billion in fiscal year 1994. As Under Secretary Slocombe points out in his latest letter:

Were the United States to credit amounts of this size against our annual U.N. peacekeeping assessment, it would cancel out our entire yearly contribution, thereby seriously impairing the U.N.'s capability to conduct peacekeeping operations.

Because these are now the latest official Department of Defense estimates of these costs, I ask that this correspondence be included in the RECORD.

COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC, January 13, 1995.

Hon. WILLIAM J. PERRY,
Secretary of Defense, Department of Defense, The Pentagon, Washington, DC.

DEAR SECRETARY PERRY: I write concerning the Committee on International Relations impending markup of H.R. 7, the foreign affairs portion of the "Contract with America", and information we need prior to that markup in order to defend the Administration's position.

Two provisions in H.R. 7, if enacted as currently drafted, would cripple the ability of the United States to support U.N. peacekeeping operations, and might well shut down such operations altogether. Sections 501 and 508 of that legislation, taken together, would prohibit effectively the ability of the Defense Department to support U.N. peacekeeping operations, and off-set any DOD support for U.N. authorized actions against the U.S. peacekeeping assessment to the U.N.

I believe that these provisions stem from a political perception that DOD participation in or support for U.N. peacekeeping operations and related activities has had a negative impact on U.S. military readiness. While I anticipate a lengthy debate this year in Congress on the subject of U.S. military readiness generally, my problem is that we in Congress do not have the necessary information to have an informed debate on whether and how DOD support for U.N. peackeeping operations might contribute to the readiness issue.

I therefore would urge you to provide at your earliest possible convenience the following information:

How does DOD differentiate between direct and indirect support for "Contingency Operations", and for direct and indirect support for U.N. peackeeping operations?

What costs has DOD incurred in Fiscal Year 1994 for contingency operations for U.N. authorized operations, such as the no-fly zone in Iraq? For "Blue Helmet" operations such as UNSOM II?

How much was DOD reimbursed by the U.N. in Fiscal Year 94 for support of U.N. peacekeeping operations? In each case, at what time were DOD costs incurred, on what date did DOD request each such reimbursement, and when did each such U.N. reimbursement occur?

How much of these costs in Fiscal Year 1994 have been covered by U.S. supplemental appropriations? In cases where supplemental appropriations have been provided and the U.N. has subsequently reimbursed those costs, how much has DOD returned to the U.S. Treasury?

Who within DOD compiles information on incremental costs associated with U.N. peackeeping operations? Is it done by each service, then collated by the Office of the Secretary of Defense? Or some other way?

I look forward to your prompt response.

With best regards,

Sincerely,

LEE H. HAMILTON,
Ranking Democratic Member.

THE UNDER SECRETARY OF DEFENSE,
Washington, DC, February 15, 1995.

Hon. LEE H. HAMILTON,
Ranking Democrat, Committee on International Relations, House of Representatives, Washington, DC.

DEAR CONGRESSMAN: Secretary Perry asked me to respond to your letter of January 13 about the effect of HR-7 on the ability of the United States to support UN peacekeeping activities. The provisions of the "Contract with America" embodied in HR-7 that address this issue could certainly significantly reduce the funding available to the United Nations for these efforts, especially if the U.S. position becomes the model for all nations to use. Let me discuss my concerns with three particular sections of the bill.

Section 501 would require that we deduct from our UN peacekeeping assessment the "costs of United States support for, or participation in, United Nations Peacekeeping activities for that preceding fiscal year." We oppose this. If this provision is broadly interpreted and recent experience is a guide, requiring the United States to deduct these costs from our peacekeeping assessment would end all U.S. assessment payments to UN peace operations—in violation of our commitment under the UN charter—or force us to cease those military activities which we voluntarily undertake to support UN operations when they serve our national security interests.

Further, this section would invite chaos in the United Nations financial system by prompting member states to adopt our unilateral policy. For example, other NATO states may seek credit for costs incurred in enforcing the Bosnia and Iraq no-fly zones; Japan might seek reimbursement for the fund it established to underwrite the logistics costs in Somalia or for its large voluntary contributions to the United Nations peace operation in Cambodia.

The Department also takes strong exception to Section 507, which would prohibit the United States from paying UN peacekeeping assessments until we are reimbursed for all prior-year assistance to the United Nations. The fact is, the United States already receives preferential treatment in being reimbursed promptly. Nevertheless, the process is sufficiently complex and time consuming that reimbursement takes some months to complete. In addition, any delays are due in part to the fact that many member states, including the United States, are perennially behind in paying their peacekeeping assessments to the United Nations.

Section 508 would prohibit the Department from paying incremental costs associated with participation in United Nations peace operations unless Congress has specifically appropriated funds for this purpose. This Section is an unacceptable infringement on the President's constitutional authority and could spell the end of many important U.S. operations. This provision would bar the President from deploying forces or otherwise supporting peace operations unless Congress first authorizes such operations. For example, this prohibition would have delayed the time sensitive Desert Shield/Desert Storm actions ordered by President Bush, thereby jeopardizing the success of this model of coordinated international efforts undertaken to sustain world order.

The effect of participation in United Nations peace operations on the readiness of our armed forces has been a much discussed topic. This should not be an issue. As you are aware, the Secretary of Defense has made readiness a top priority. The readiness of our military forces has clearly been demonstrated through superb performance in a wide range of contingency operations. Overall, the readiness ratings of our units remain at very high levels and the Secretary is committed to devoting the necessary resources to see our forces remain ready. Next year, in fact, our readiness funding per capita remains high, and in November 1994, the Secretary announced a $2.7 billion quality of life initiative tailored to ensure we sustain our well-trained military personnel.

We all know that peace operations are not a substitute for vigorous alliances or strong unilateral U.S. action when it is necessary to protect our vital interests. However, well-planned and well-managed United Nations peace operations have a demonstrated capacity to effectively protect and advance U.S. security and humanitarian interests. We do ourselves a disservice as a nation if in the process of identifying and taking steps to redress the shortcomings of United Nations peace operations, we disregard or disparage the concrete U.S. interests advanced by the more than 60,000 United Nations troops—98 percent of them non-American—serving in seventeen peace operations around the globe. For example, in the Persian Gulf, a 1,200 person observer mission—which includes 15 Americans—monitors Iraqi troop movements along the Iraq-Kuwait border, demonstrating the international community's continued resolve to contain Saddam Hussein's expansionist ambitions. Another longer term effort has been the UN presence in Cyprus, where 1,200 UN troops—all non-American—have successfully prevented a flareup of violence between two key NATO allies.

The enclosed fact sheet responds to each of your questions on FY 1994 funding and reimbursement for contingency operations, as well as providing information on how the Department compiles relevant cost data. I trust that the information provided advances informed congressional debate on this issue.

WALTER B. SLOCOMBE.

RESPONSES TO REPRESENTATIVE HAMILTON'S QUESTIONS

(1. How does DoD differentiate between direct and indirect support for "Contingency Operations," and for direct and indirect support for UN peacekeeping operations?)

The Department incurs costs associated with a wide range of unplanned "contingency operations." Many, but not all of these operations, are authorized by the United Nations. UN peace operations are among these UN-authorized activities.

U.S. involvement in UN related operations falls into three different categories.

(1) U.S. Participation in UN Peace Operations. A small number of U.S. troops participate in UN mandated and assessed "blue-helmeted" operations. These include some 800 U.S. military personnel serving with UNPROFOR contingents in Croatia and Macedonia and the more than 2,000 U.S. troops that served in UNOSOM II in 1993 and 1994.

(2) Support to UN Peace Operations. DoD provides various forms of support on a reimbursable basis to UN blue-helmeted peace operations under the authorities of Section 607 of the Foreign Assistance Act and the Arms Export Control Act. This support takes the form, for example, of military services to move troops or equipment to and from UN peace operations and the lease or sale of various types of equipment for such operations.

(3) U.S. Participation in Operations Authorized by the UN. Other U.S. troops participate in several operations that are authorized by the UN, often at the request of the United States as a means to gain wider international participation and support. Some of these operations are carried out in close coordination with and in the vicinity of ongoing UN peace operations. Examples include U.S. forces involved in conducting the Deny Flight operation over Croatia and Bosnia, sanctions enforcement directed against Iraq and several states of the former Yugoslavia, and the Multinational Force operation in Haiti. Also included in this category is support to UN peace operations for which the U.S. is not reimbursed (e.g., transportation support in Angola).

The Department does not differentiate between U.S. direct and indirect support for contingency operations in general, nor for UN peace operations in particular. Incremental costs are calculated for all contingency operations, including those operations identified as UN related.

Pending clarification of the definitions contained in H.R. 7, the Department has not determined which of the above types of operations and the costs associated with them should be considered "direct" and "indirect" support of UN peace operations.

(2. What costs has DoD incurred in Fiscal Year 1994 for contingency operations for UN authorized operations, such as the no-fly zone in Iraq? for "Blue Helmet" operations such as UNOSOM II?)

The table below provides FY 1994 incremental costs for each of the UN authorized operations. (Note that total incremental costs incurred by DoD for all contingency operations in FY 1994 were in excess of $1.9 billion, including responses to increased tensions in Korea, and support to pick up and process the Cuban migrants in Guantanamo and Panama as well as many UN authorized operations.)

Fiscal year 1994 U.N.-related operations DOD incremental costs[1]

[In millions of dollars]

U.S. Participation in Peace Operations:	
Former Yugoslavia (Macedonia) ..	3.0

Fiscal year 1994 U.N.-related operations DOD incremental costs[1]—Continued

Somalia[2]	528.0
Support to UN Peace Operations:	
Cambodia	5.0
Rwanda (UN requested airlift)	10.8
U.S. Participation in Operations Authorized by the UN:	
Angola	2.6
Former Yugoslavia (Bosnia/Croatia)	289.0
Haiti (Interdiction/Sanctions)	65.8
Haiti (Uphold Democracy)	200.8
Iraq (Provide Comfort)	91.8
Iraq (Southern Watch)	333.0
Rwanda	95.9
Western Sahara	.1
Total	1,625.8

[1] Excludes costs of longstanding UN Operations such as Korea and the Multinational Observer Force in the Sinai.

[2] Includes both the U.S. troops participating in the UN operation and the Quick Reaction Force operating in support of this effort as these costs cannot be differentiated.

(3. How much was DoD reimbursed by the UN in Fiscal Year 1994 for support of UN peacekeeping operations? In each case, at what time were DoD costs incurred, on what date did DoD request each such reimbursement, and when did each such UN reimbursement occur?)

During FY 1994, the Department received $95.9 million in reimbursements from the UN for goods and services provided to and personnel participation in UN peace operations. Most of the reimbursements ($92.8 million) were for Somalia. Of these, $11.5 million was for costs incurred in FY 1994, with the balance related to FY 1993 costs. At the minimum, it takes 90 days for the DoD to forward a bill to the United Nations, and 60 days for the United Nations to complete reimbursement.

(4. How much of these costs in Fiscal Year 1994 have been covered by U.S. supplemental appropriations? In cases where supplemental appropriations have been provided and the UN has subsequently reimbursed those costs, how much has the DoD returned to the U.S. Treasury?)

The information follows:

FISCAL YEAR 1994 UN-RELATED OPERATIONS

[In millions of dollars]

	Incremental costs	Covered by supplemental
U.S. Participation in Peace Operations:		
Former Yugoslavia (Macedonia)	3.0	3.0
Somalia	528.0	424.1
Support to U.N. Peace Operations:		
Cambodia	5.0	.....
Rwanda (U.N. requested Airlift)	10.8	.....
U.S. Participation in Operations Authorized by the U.N.:		
Angola	2.6	.....
Former Yugoslavia (Bosnia)	289.0	273.7
Haiti (Interdiction/Sanctions)	65.8	50.0
Haiti (Uphold Democracy)	200.8	(1)
Iraq (Provide Comfort)	91.8	92.0
Iraq (Southern Watch)	333.0	332.5
Rwanda (Unilateral Support)	95.9	122.2
Western Sahara	.1	.....
Total	1,625.8	1,297.5

[1] The Secretary of Defense used the Feed and Forage authority to cover $126.3 million of the costs incurred in this effort. The appropriations to cover these costs are requested in the FY 1995 Emergency Supplemental.

Note: The Department returned to the Treasury all reimbursements for costs already funded through supplemental appropriations. For FY 1994, the total amount was $25 million, of which $22 million was associated with UNOSOM II (Somalia) and the balance related to UNPROFOR (Former Yugoslavia).

(5. Who within DoD compiles information on incremental costs associated with UN peacekeeping operations? Is it done by each Service, then collated by the Office of the Secretary of Defense? Or some other way?)

The DoD Components determine the incremental costs for contingency operations in which each is involved. They report these costs to the Department of the Army, which as Executive Agent for these efforts prepares a consolidated report for all operations. The DoD is in the process of transferring the reporting responsibility to the Defense Finance and Accounting Service, an organization that has the basic mission of providing this type of service to the Department.

THE UNDER SECRETARY OF DEFENSE,
Washington, DC, April 18, 1995.

Hon. LEE HAMILTON,
Ranking Democrat, Committee on International Relations, House of Representatives, Washington, DC.

DEAR CONGRESSMAN; As I indicated in our 15 February response to your January 13 letter regarding the impact of H.R. 7 on the ability of the United States to support UN peacekeeping activities, we initiated another examination of the fiscal year 1994 costs associated with contingency operations. In particular, we wanted to provide you a more specific breakout of the costs associated with contingency operations related to United Nations Security Council resolutions, where possible. The attached information provides the best data available.

At the time that some of these UN-related operations commenced, we did not foresee the requirement to account for costs according to the authority under which U.S. forces participated, and therefore, did not require the Services or Defense Agencies to collect data at the level of detail requested in your letter. We have since remedied this through new financial procedures directed by the Under Secretary of Defense (Comptroller). In the interim, working with the Services and the Office of Management and Budget, we have been able to use existing information to develop a better estimate of the costs for certain operations. I stress, however, that the attached figures are our "best estimate" of the incremental costs since we did not require the Services and Defense Agencies to capture these precise data.

The most important point about this information is that it indicates that crediting the incremental expenditures associated with our voluntary participation in these UN-related operations would, at a minimum, reduce significantly the USG's payment of United Nations peacekeeping assessments if DoD's incremental costs were credited against the USG's assessment. The United States spent $1.4 billion in fiscal year 1994 on operations voluntarily undertaken in connection with UN Security Council resolutions. Were the United States to credit amounts of this size against our annual UN peacekeeping assessment, it would cancel out our entire yearly contribution, thereby seriously impairing the UN's capability to conduct peacekeeping operations.

I hope the following provides you with useful information and is of value during any further debate of this issue in the Congress.

Sincerely yours,

WALTER B. SLOCOMBE.

INCREMENTAL COSTS FOR FISCAL YEAR 1994 "NON-BLUE HELMET" BUT UN-RELATED OPERATIONS[1]

Operation	Cost (million)	UNSCR
Former Yugoslavia[2]	$289	
Sanctions Enforcement (Sharp Guard)	(75)	787
Humanitarian Airdrop (Provide Promise)	(77)	770
No-Fly Zone (Deny Flight)	(85)	781, 816, 836
Other Costs	(52)	
Haiti:		
Multinational Force (Uphold Democracy)	197	940
Sanctions Enforcement (Support Democracy)	65	841
Southwest Asia:		
Sanctions Enforcement/No-Fly Zone-S. Iraq (Southern Watch)	333	687
No-Fly Zone/Kurdish Relief-N. Iraq (Provide Comfort)	92	688
Somalia (non-UNOSOM II)[3]	434	794
Total	1,410	

[1] For the purposes of this analysis, the operations were limited to those carried out in relation to a UN Security Council Resolution (UNSCR) but not including UN mandated and assessed "blue helmet" peace operations.

[2] Estimates based on reports from the Services. The category titled "Other Costs" includes costs that are not attributable to the "blue-helmet" UNPROFOR operation, but are related to the other three operations in the former Yugoslavia. Further, these costs could not be allocated accurately to a specific DoD component. All other costs were related directly to a Military Department.

[3] Estimate based on reports from the Services.

IN RECOGNITION OF THE FROMM INSTITUTE FOR LIFELONG LEARNING

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Ms. PELOSI. Mr. Speaker, I rise today in recognition of the University of San Francisco's Fromm Institute for Lifelong Learning, which celebrates its 20th anniversary on May 6, 1995.

Alfred and Hanna Fromm are a living example of the American dream. As a married couple fleeing Hitler's Germany in the 1930's, they came to this country as refugees, and reaped the rewards of their hard work. Alfred was instrumental in reviving a dormant wine industry in California following Prohibition, using his talents to transform Christian Brothers, and then Paul Masson, into world-renowned labels of wine. His distributorship, Fromm & Sichel, became the largest distributor of California wines in the world.

Alfred and Hanna have never forgotten the needs of their community. They have involved themselves deeply and generously in the civic and cultural life of San Francisco. They are cofounders of the Jewish Community Museum, and have served on the boards and supported organizations as diverse as the opera and Amnesty International. Their dedicated service to the San Francisco community and the Nation is a model and inspiration for all.

In 1976, Hanna and Alfred recognized the need to expand and enhance the then severely limited educational opportunities and options available to senior San Franciscans living in retirement. Together, they set to work to provide a suitable setting where retired members of the community could pursue serious academic study among their peers and under the tutelage of their peers, but with the resources of a modern great urban university at their disposal.

Thus was born the Fromm Institute for Lifelong Learning. Thousands of seniors have enrolled in this "university within a university,"

presenting 8-week, noncredit, academic courses three times a year. Courses span the disciplines of psychology, literature, philosophy, science, theology, history, art, music, politics, and creative writing.

Mr. Speaker, Hanna and Alfred have received recognition and commendations from Presidents, Governors, and mayors. Yet, their deepest satisfaction comes from seeing their peers who enter the halls of the Fromm Institute for Lifelong Learning and continue the journey of learning through their retirement years. That may be the best and greatest legacy of these two extraordinary people, and on behalf of the Congress, let us join the entire San Francisco community in thanking Alfred and Hanna Fromm on the occasion of the 20th anniversary of the Fromm Institute for Lifelong Learning.

CAPT. RANDOLPH L. GUZMAN

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. BAKER of California. Mr. Speaker, the entire Nation continues to mourn the tragedy in Oklahoma City. This cowardly and vicious act was an assault on our country, a wanton act of political terrorism and social destruction.

It was also an act in which dozens of individual lives were brutally ended. From small children to senior Federal employees, we have witnessed the heartbreaking spectacle of battered bodies carried out of the Murrah Federal Building, one by one.

One of these bodies was covered with an American flag. It was that of Marine Capt. Randolph L. Guzman, a native of Castro Valley, CA, a city in the East Bay area I am privileged to represent in Congress.

Captain Guzman was the recruiting station executive officer in the Murrah Building. A marine since 1983, he was a graduate of California State University at Hayward and was commissioned a second lieutenant in 1988.

A participant in Operation Desert Shield/Desert Storm, his service included tours in Virginia, Hawaii, Japan, and finally in Oklahoma. Among his many decorations are the Navy and Marine Corps Achievement Medal, the Combat Action Ribbon, and the Navy Unit Commendation. To say that Captain Guzman served faithfully is to understate the obvious. His presence in the Marine Corps was an honor for our country.

When Marine Reserve 1st Sgt. Michael S. Curtain and several former marines carried out Captain Guzman's flag-draped body from the rubble in Oklahoma City, all work around the site stopped. According to Mr. Curtain:

> Cranes had stopped. It was completely quiet. Rescuers stopped and looked; people had lined the street outside the building. Everyone was watching in silence as we brought our Marine out * * * You could tell the veterans. They were the ones with tears in their eyes.

It is with enormous pride that a grateful Nation today salutes Capt. Randolph Guzman and his service to his country. All California mourns the loss of this sterling young man, but does so with the knowledge that this son of the East Bay lived his life with a commitment to duty, honor and country that stands in the finest tradition of the Marines Corps. His life was a testimony to the Marine Corps motto: "Semper Fidelis," always faithful.

To Captain Guzman's parents, Erlinda Guzman and Rudolph Guzman, I offer my deepest sympathy. There is nothing I can say that can lessen their sense of loss. But I can assure them of America's abiding pride in their son and encourage them with the truth that the One the Bible calls "the God of all comfort" will be there for them through all the days ahead.

May God guide and bless the Guzman family, and may He guide and bless our beloved country.

KILDEE PAYS TRIBUTE TO WALTER REUTHER

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. KILDEE. Mr. Speaker, I rise today to urge my colleagues in the U.S. House of Representatives to join me in paying tribute to the late Walter P. Reuther. Mr. Reuther, and his late wife May, are being honored by the United Auto Workers with a commemorative tribute to be held on Tuesday, May 9, 1995. This tribute marks 25 years to the day they perished in a plane crash.

Walter Reuther was a true giant to the labor movement. He was the leader in the fight that gave birth to the labor movement in America. He committed his life to the workers of this Nation, assuring them justice and change in the workplace. Walter Reuther was a visionary. He established revolutionary precedents for workers including pensions, health care, and supplemental unemployment benefits. Walter Reuther is directly responsible for the standard of living that millions of Americans enjoy today.

Walter Reuther was a patriot. He was a confidante of Presidents. During World War II, his dramatic "500 Planes a Day" plan was adopted by President Franklin D. Roosevelt. It was this plan that helped galvanize the Nation's industrial might, converting automobile plants into producers of tanks and planes, leading to the eventual defeat of the Axis Powers. President Kennedy was provided with the concept of the Peace Corps by Walter Reuther in 1960, having first outlined the idea in a 1956 speech to the National Education Association. He believed that the enemies of democracy could be defeated with enlightenment, knowledge, and the free exchange of ideas.

Walter Reuther realized the labor movement should be a catalyst for social change. He waged a veritable war against racism, and was a tenacious champion of the civil rights movement. He was an ally and close supporter of Dr. Martin Luther King throughout the bittersweet days of the fifties and sixties.

Mr. Speaker, it is indeed an honor and pleasure for me to rise today to pay tribute to a true American hero, Walter P. Reuther. In recognition of his dedication to his country he has been nominated posthumously to receive the Presidential medal of Freedom in 1995. He has been an inspiration to me and countless other working men and women. I know the entire U.S. House of Representatives will join me today in honoring this great American, Walter P. Reuther.

IN RECOGNITION OF MIMI GALGANO AND SALLY CAMPBELL; WOMEN WHO ARE MAKING A DIFFERENCE

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. ACKERMAN. Mr. Speaker, I rise today with great pride to share with my colleagues in the House of Representatives the inspiring story of two women, Mimi Galgano and Sally Campbell, who are making a difference in the Long Island community. These women have taken a hands-on approach to aiding individuals in their neighborhoods and far beyond.

Mimi Galgano, a vibrant and enthusiastic leader, is the vice president of the Huntington Breast Cancer Action Coalition, director of the Breast Cancer Health Survey Project, a member of the Huntington Advisory Recycling Board and the first environmental chairperson of Commack.

Sally Campbell has volunteered her time and efforts to the community for the past 15 years. Currently, her volunteer efforts have been aimed at the betterment of the Cold Spring Harbor Whaling Museum. In 1982, Ms. Campbell recruited the museum's first group of volunteers, which reached the current force of 65 in 1994. She has served the museum on the board of directors as treasurer and vice president.

On April 28, 1995, these two remarkable women were honored at a special ceremony hosted by the Junior League of Long Island, an organization of women committed to promoting volunteerism and to improving the community through the effective action and leadership of trained volunteers. Its purpose is exclusively educational and charitable. Ms. Galgano and Ms. Campbell were nominated by the organizations they work with for their significant contributions to both their agencies and their communities.

Mr. Speaker, I ask all my colleagues in the House of Representatives to join with me now in saluting Mimi Galgano and Sally Campbell, who have exhibited the ultimate commitment by working so diligently for the betterment of their communities.

HONORING JEANIE NERESON

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. RICHARDSON. Mr. Speaker, this June marks the end of an era in Los Alamos, NM. A school teacher, who has been with the

school system as long as there has been a school system in Los Alamos, is retiring after 50 years of service.

Mrs. Jeanie Nereson started working for the Los Alamos Public Schools in the fall of 1944. That was the first year of the new school system—a system set up specifically to teach the children of the employees and scientists working on the Manhattan Project located on an isolated mountain in northern New Mexico.

That project of course helped us win World War II and the facilities later became the Los Alamos National Laboratories. The school system grew and Mrs. Nereson returned every September for 50 years to teach another group of children of laboratory workers.

Mrs. Nereson was reared in New York City, the daughter of Greek parents. Her childhood wasn't easy as English was her second language. She persevered and went onto college in Denton, TX. After just 3 years of schooling, she graduated from college at the age of 19.

She began her 57 year teaching career in Phar, TX. She started out with 69 first grade students. By Christmas, she was assigned 140 students. After 1½-years in Phar, she took a teaching assignment in Port Arthur, TX for 3½-years and then onto Corpus Christi for 1 year.

While studying for her masters degree during the summer at the University of Minnesota she met an educator who was given the responsibility of setting up a school system in Los Alamos, NM. Shortly thereafter she moved to Los Alamos and was with the school system from day one.

In her first year in Los Alamos in 1944, Mrs. Nereson taught a combination 5th and 6th grade class. Over the next 50 years, she worked in five different buildings and taught in every grade from one through six.

She used her summers off to travel around the world. She's been to every continent except Antarctica. Each of her excursions was an educational trip as she would bring back artifacts and other material and incorporate her findings in her lessons. Her classroom is described as a museum. She travelled as much for the children as for herself.

During the 1 year she took a sabbatical, she travelled to Brazil and did what she does best, she taught.

Over the years, Mrs. Nereson has taught some 1,800 students—many of them the sons and daughters of some of our Nation's most distinguished scientists. Some of these students have returned to Los Alamos in recent days to bid farewell to Mrs. Nereson, a local hero who will be sorely missed this September when students return to classes—never before has the Los Alamos Public Schools opened its doors without Mrs. Nereson welcoming children into a classroom.

I urge my colleagues to join me in congratulating Mrs. Nereson for her 57 years of educating our youth and wish her well during her retirement. Los Alamos County will be paying special tribute to Mrs. Nereson on Friday, May 19 which is being declared Jeanie Nereson Day in Los Alamos.

CONGRATULATIONS TO TONY D'AMICO, CITIZEN OF THE YEAR

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. WELLER. Mr. Speaker, tonight we are here to honor a gentleman who has brought so much to Joliet and to this region. He is being honored by UNICO National as their Citizen of the Year for his struggle as a young boy growing up in Italy and for his many successes as a restaurateur here in Joliet.

Mr. Anthony "Tony" D'Amico grew up in Eufemia, Italy as 1 of 11 children. Realizing his opportunities were limited in his hometown, he migrated to America in a steamship in 1920 at the age of 16. His first venture in America was in Pennsylvania where he worked at a steel company. He then moved to Joliet where he served as a member of the Local #75 Laborers Union for 22 years.

However, Mr. D'Amico's true calling was the restaurant business. He ran the lunch counter in Anderson's Gas Station from 1947–1951 and then opened his own full-time restaurant in Troy called Tony's. The short, but popular menu made Tony's a well-known eatery.

His success has not been short-lived. At the age of 91, Tony D'Amico is famous in Joliet restaurant history. He owns D'Amico's on Jefferson, D'Amico's 214, Earl's Cafe, the Sports Bar and Grill, and D'Amico's Catering, all employing 130 people.

It is Mr. D'Amico's dedication, hard work and success that brings us here tonight to honor him. He is a model citizen who represents all immigrants that have molded this great Nation of the United States of America.

So, thank you Mr. D'Amico for your inspiration and commitment to quality of life, heritage, family values and, of course, good food.

Congratulations Tony D'Amico on being named "Citizen of the Year."

HONORING A KNOX COUNTY LEADER

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. ROGERS. Mr. Speaker, I am deeply saddened by the death of my good friend, Herman "Vance" Mills. My family and thousands of others throughout Knox County and Kentucky are devastated by this terrible and sudden loss.

Our community has lost a topnotch businessman, an active church leader, an inspiring civic and community volunteer, a political leader, and a good Christian friend. He helped everyone he could and always was willing to sacrifice his time for others.

Vance's businesses employed dozens of local people and his high-energy, friendly style is what always stood out most.

One of Knox County's most prominent citizens, he was a man who always was known for taking care of business. In 1992, Vance received the Daniel Boone Festival Award for Outstanding Citizen because of his outstanding work for our community.

At 15, Vance started drilling wells alongside his father, Kail. In the 60's, Vance became a partner in a gas distributorship. He also owned gas stations, a rock quarry, a concrete company, a bank, and two hotels.

Vance was a man who could see the future for Barbourville, Knox County and southern and eastern Kentucky. He also had the drive and resourcefulness to make his vision a reality. These improvements meant more jobs and a better economy for the region.

Vance Mills was a great leader and a good man. He offered hope to many people in Knox County, and he will be sorely missed.

HONORING DR. PHILIP SEGAN

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. ENGEL. Mr. Speaker, On May 7, 1995 Dr. Philip Segan will be honored at the Student Sponsorship Breakfast to be held by the Riverdale Temple.

It has been noted that most of the significant life cycle events in Dr. Segan's adult life are connected to the Riverdale Temple. It is rare that we find someone so committed to his community and his religious ideals.

Dr. Segan has served as co-president of the Parents' Association and then as chairperson of the schools committee. But Dr. Segan's work with the temple did not stop when his children grew up. He went on to become temple vice president and then in 1990 became the temple's 18th president—a number with great significance in Judaism.

Dr. Segan and his family have also worked with indigent families in the surrounding community through the Kingsbridge, Riverdale, Marble Hill Food and Hunger Project. Now a former Schools Committee chairperson, still an active member, and past president of the temple, Dr. Segan remains actively involved in social and educational causes both in the temple and the community.

I join with Dr. Segan's family, friends and fellow temple members in congratulating him on this honor.

THE NEED FOR UNITED NATIONS REFORM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. HAMILTON. Mr. Speaker, there is growing pressure in the Congress for meaningful reforms in the United Nations system. Due to U.S. budgetary constraints, the need to pare down our contributions to the United Nations and focus our resources on its most effective programs has become more urgent.

On April 7, I wrote to Secretary of State Warren Christopher urging high-level attention to the issue of U.N. reform. On May 4, I received the State Department's response.

Because there is a high degree of congressional interest in this issue, I ask that this correspondence be included in the RECORD.

U.S. DEPARTMENT OF STATE,
Washington, DC, May 4, 1995.

Hon. LEE HAMILTON,
House of Representatives,
Washington, DC.

DEAR MR. HAMILTON: Secretary Christopher has asked me to respond to your letter of April 7 regarding our UN reform efforts and the possibility that Congress will not approve the full amount of our request for contributions for the UN System.

We agree that UN reform is a high priority. Like most international—and national—institutions, the UN must adapt to changing times if it is to succeed. Today, that means learning, whenever possible, to deliver better results at a lower cost. That is a goal we are working with other UN members and the UN Secretariat to achieve.

As you rightly note, this Administration has taken the lead on UN reform in preparations for the Halifax Summit. We believe that the Group of Seven should commit themselves to improve the UN's efficiency, productivity and professionalism, and to make more equitable the scale of assessments for peacekeeping. We are working cooperatively with our G-7 partners in an effort to reach consensus on these issues and to increase the likelihood that we will gain support elsewhere. It is a fact of life that real reform cannot be achieved at the United Nations without broad support from other countries.

Overall, the Administration supports peacekeeping, management, personnel and budgetary reforms designed to produce greater value for each dollar we—and others—contribute to the UN. We agree with you that the success of the new Office of Internal Oversight Services (OIOS) is important. A strong UN Inspector General is an essential ingredient for true UN reform. We believe that the appointment of Karl Paschke of Germany to this post was a good choice. To help ensure his success, our own Inspector General has agreed to detail a member of our OIG staff to the UN. We have also forwarded to the OIOS the names of several Americans for the position of Principal Investigator. We are doing our best to see that OIOS is adequately funded, and we appreciate the support you have shown for our efforts.

OIOS has the authority already to undertake audits and investigations of separately administered UN organs such as UNDP, UNICEF, and UNEP. We have recently taken steps to pursue the institutionalization of an "IG-type" function in the specialized agencies, beginning with the largest—UNIDO, IAEA, FAO, WHO, and ILO. We believe there is no organizational substitute for an oversight mechanism modeled after the UN Secretariat's OIOS, which affords the qualities of accountability, transparency, and operational independence to the membership of these organizations.

In addition, following up on President Clinton's proposal at last fall's UN General Assembly, we are working with the President of the General Assembly to establish a special high-level working group to review existing studies on UN reform for the purpose of developing a practical strategy for implementing key recommendations on a timely basis.

We still believe that the Administration's budget request to meet our commitments to the United Nations and other international organizations is essential to our national interests. However, if our requests are not met, we will act to preserve U.S. leadership where it counts most.

Let us share with you some of our thoughts and actions as we prepare for that possibility:

First, we are continuing to closely scrutinize peacekeeping budgets, especially as we take factors from Presidential Decision Directive 25 (PDD-25) into consideration. For example, we limited operations in Georgia and Tajikistan to a small number of military observers, a relatively inexpensive means of maintaining a UN monitoring presence. The UN Mission for the Referendum in Western Sahara (MINURSO) has continued longer than we expected and has encountered several delays in achieving its objectives. Recently, however, the parties have demonstrated a commitment to the process and real gains have been made in registering and identifying potential voters, the first step necessary for holding the referendum. We agree with you that we cannot continue to support an operation that does not accomplish its goals and is not cost-effective. We will review MINURSO's progress in all areas to determine if it should be terminated or if an extension should be granted and a referendum can be successfully held.

Second, we are examining the ways and means of withdrawing from some organizations whose activities are of lesser priority to us.

Third, we are pushing for UN agency and other international organization budgets for the coming biennium that are below the zero real growth rate we have historically supported.

Fourth, we are actively reviewing options for reducing waste, decreasing costs and improving performance through the possible consolidation of agencies and programs where that is possible.

Fifth, we are opposing the scheduling under UN auspices of new global conferences or summits (and note that each of the conferences this Administration has participated in was scheduled prior to 1993).

Finally, we are prepared to signal to organizations in which we continue to participate that U.S. withdrawal from some is possible if they are unwilling to undertake needed reforms.

In the context of considering how we can pare down our contributions while limiting damage to our leadership, it is important to recognize that in the case of most UN organizations, we are obligated either by the terms of the treaty or other international agreement establishing the organization or by general principles of international law to pay assessment through calendar year 1996, even if we notify our intent to withdraw now. We also remain similarly obligated for arrears from previous withholdings.

We note, as well, that a number of the activities you cite specifically in your letter fall within the core programs of the UN Secretariat; these are not separate organizations from which we can "withdraw." Any decision on our part to reduce our contributions in an amount equal to our share of such an activity would simply be carried on the books by the UN as an arrearage to the organization as a whole. This underlines the importance of gaining UN member support and understanding for any actions that we might take.

Many UN activities are important to us; so is the success of the organization as a whole. There is a grave risk that substantial budget reductions will harm our leverage and leadership within the UN system. We must be frank about the possibility that substantial damage to our interests will result. Nowhere is this more clearly illustrated than with peacekeeping operations which provide us options in between doing nothing and going it alone. The strategy of this Administration is to make the case for our budget as persuasively as we can, and to develop a plan for minimizing harm to our interests should the reductions nevertheless occur. In doing so, we want to emphasize that Congress must allow us to decide where to cut and not tie our hands by earmarking funds. We welcome your support and counsel with respect to this strategy.

As a matter of policy, we want to see a leaner, less-costly, more productive United Nations. We are making progress in this direction. Our prospects will be better, however, if it is clear to our allies and those around the world that our emphasis is on helping international organizations to work better, rather than on reducing costs to ourselves regardless of consequences. One approach reflects the essence of leadership; the other retreats from it.

It is not possible to paint a comprehensive picture of our thinking on this important issue in one letter. Accordingly, we would be happy to discuss this with you in more detail or put together a briefing team to meet with you at your convenience.

Thank you again for your provocative and timely letter, and for your continued leadership and support.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary,
Legislative Affairs.

COMMITTEE ON
INTERNATIONAL RELATIONS,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 7, 1995.

Hon. WARREN CHRISTOPHER,
Secretary of State, Department of State, Washington, DC.

DEAR MR. CHAIRMAN. I write to urge you to continue to give your personal attention to the issue of reforming the United Nations.

I know you face many crises every day, and there is much which demands your attention. But U.N. reform has become a serious and urgent issue because of pending Congressional budget cuts for the U.N.

I believe this Administration generally has the right policy on U.N. reform. I also commend the Administration for the efforts undertaken thus far, such as establishing an office of Inspector General at the United Nations. Your efforts to put U.N. reform on the agenda for the upcoming summit in Halifax is an excellent way to demonstrate our seriousness of purpose on this issue. We need to keep pushing for concrete action to implement our U.N. reform policy.

It is quite possible if not likely that hundreds of millions of dollars are going to be cut from the U.N. budget, both assessed and voluntary. Supporters of the U.N. and peacekeeping will not be able to stop these cuts, and I doubt the Administration can veto them at the end of the day.

The Congress will be faced with the tough choice of either cutting indiscriminately across the board, or deciding which U.N. programs are most important to us, and trying to save those programs by de-funding or withdrawing from those which are less important.

I believe the second option is the proper one. It is better to have a smaller, more effective United Nations than a crippled and ineffective United Nations.

Reforming the U.N. is so tough that it will require sustained, high-level attention. Ambassador Albright, who is doing an excellent job in a critical assignment, needs your continued, full support and the support of the President on U.N. reform.

I would urge you to take the following steps.

First, the G–7 reform initiative is a good step, but this step needs to be tightly focused, and coordinated with US/UN reform efforts. The state Department might want to consider some sort of Task Force on U.N. reform, perhaps on an inter-agency basis.

Second, the Administration must decide its priorities in the U.N. assessed and voluntary budgets, and communicate those to Congressional Democrats. I would suggest that we closely examine whether we still need UNCTAD, UNIDO, the regional U.N. economic commissions, the ILO, and the FAO. The funding crisis is reaching the point where we must consider withdrawal from, or de-funding of, some of these activities.

Third, we must be prepared to push for a stronger U.N. Inspector General. He should have authority over the whole U.N. system, as well as adequate, trained staff and a reasonable budget. And, his reports must be made available, unchanged, to Members States. This has not yet happened, to my knowledge.

Fourth, we must give greater scrutiny to U.N. peacekeeping budgets. And, you must consider whether we can continue to vote for operations, which are very expensive and have operated for years without tangible progress, such as MINURSO in the Western Sahara.

All of these efforts will require close coordination with other major donor countries, as you have recognized through the G–7 initiate. We must continue working hard with those countries in order to make these reforms happen.

We will likely face these issues in a HIRC markup in early May. If the Administration doesn't decide on its priorities and let Democrats try to help you support them, Republicans will make these decisions for you. The only line of defense against those who want to destroy the U.N. is to reform it. But it must be *real* reform in order to get votes for U.N. funding.

I appreciate your consideration of this letter, and I stand ready to work with you in any way I can to help make these reforms happen. I would stress once again the gravity and urgency of these problems, and urge that we press ahead on U.N. reform efforts.

With best regards,

Sincerely,

LEE H. HAMILTON,
Ranking Democratic Member.

SOCIAL SECURITY CONTINUING DISABILITY REVIEW ACCOUNT ACT OF 1995

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. JACOBS. Mr. Speaker, I am today introducing the Social Security Continuing Disability Review Account Act of 1995. A summary of the legislation prepared by the minority staff of the Social Security Subcommittee follows.

The goal of the legislation is to protect the integrity of the Social Security Disability Insurance program. It would do this by increasing the availability of funds for conducting Continuing Disability Review [CDRs]—so that people who are no longer disabled can be reviewed and removed from the disability rolls.

The bill authorizes the Social Security Administration [SSA] to use a portion of the benefit savings it derives from conducting CDRs to conduct additional CDRs. Under the proposal, the benefit savings from removing those who are no longer disabled from the disability rolls are credited to a newly established CDR account in the disability insurance [DI] trust fund. It would operate as follows:

No later than September 1 of each year, the Commissioner of Social Security would estimate the present value of DI trust fund savings for all future years resulting from cessation of benefit payments during the prior year based on CDRs. the Commissioner would certify these savings to the managing trustee of the DI trust fund.

Upon receiving the Commissioner's certification, the managing trustee would transfer to the CDR account from amounts otherwise in the DI trust fund a portion of these estimated savings. This amount would vary depending on the CDR account balance but could not exceed 50 percent of estimated savings. No later than September 15 of each year, the Commissioner would certify to the managing trustee the expenditures required to perform mandated CDRs during the coming fiscal year. These expenditures would include the cost of staffing, training, purchase of medical and other evidence, and processing related to appeals and overpayments.

Upon commencement of the fiscal year, the managing trustee would make available to the Commissioner from the CDR account, to the extent that funds were available, the amount that the Commissioner certified as necessary to perform mandated CDRs during that year. These funds could then be used by the Social Security Administration to perform the required CDRs.

SLOVENIA: A MODEL FOR EASTERN EUROPE

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. OBERSTAR. Mr. Speaker, on February 16 I stood on the floor of this House, during debate on the NATO expansion bill, and asked that any efforts to bring Eastern Europe into the Western community not ignore the former Yugoslav Republic of Slovenia.

A country of just over 2 million people, independent for less than 4 years, Slovenia has successfully thrown off the economic shackles of the Socialist Yugoslav system and is leading the newly emergent countries of Eastern Europe and the Balkan States in conversion to a free and open market economy.

In per capita terms, Slovenia is the 20th largest exporter in the world, exporting over $7 billion in goods each year, which accounts for 60 percent of Slovenia's GNP. Slovenia now enjoys a lively trade with the United States, shipping $229 million worth of goods to the United States each year and importing some $180 million in United States goods annually.

It is with great pride, then, Mr. Speaker, as a Slovenian-American, that I return to the floor today to bring my colleagues more accolades over Slovenia's accomplishments. This time, the praise comes from none less than the Journal of Commerce, which headlined an April 6 editorial "A Model for Eastern Europe." I commend this article to my colleagues and to the leadership of our various executive branch departments. I ask that you remember to include Slovenia and its hard working, enterprising people when making decisions on our country's future relationship with the transitional economies and governments which have replaced the former Communist regimes of Eastern and central-southeastern Europe.

[From the Journal of Commerce, April 6, 1995]

A MODEL FOR EASTERN EUROPE

(By Timothy Ashby)

Eastern Europe has had its share of bad news recently. Painful economic reforms and factional strife in Russia, political turmoil in Poland, continuing ethnic warfare in parts of former Yugoslavia—all have made Western businessmen cautious about trade and investment in the region.

Yet one small country, Slovenia, has emerged as an economic and political model for the old socialist bloc. Slovenia's accomplishments over the past year read like a wish list for its neighbors.

1994 exports were more than 14% greater than the previous year, and now account for 60.4% of gross domestic product. Manufacturing production increased 6.8% last year while unemployment fell 1.5%.

The tolar, Slovenia's national currency, appreciated 11% against the deutsche mark in 1994. The country has a very low debt service ratio of only 5.5%.

At $6,957, Slovenia has the highest GDP per head of all former socialist bloc republics in Eastern Europe, nearly twice that of the Czech Republic. GDP grew more than 5% in 1994 and the country enjoyed a healthy current account surplus of $2.6 billion at the end of last year.

Foreigners made direct investments of $72.3 million last year.

Three factors account for Slovenia's success. The first is its geographical location. Lying at the crossroads of Western and Eastern Europe, Slovenia borders European Union members Italy on the west, Austria on its northern border, Hungary to the northeast and the Republic of Croatia to the east and south. Slovenia also has a coast on the Adriatic Sea, where the major Port of Koper serves as a gateway for international seaborne trade with all of Central Europe.

The second factor is political stability. Prime Minister Janez Drnovsek presides over a Western European-style coalition government. Slovenia is a healthy young democracy, with parties in its Parliament running the gamut from Christian Democrats and Greens to reformist communists.

Despite rivalry between the parties, an unusually high degree of consensus over economic policy has been achieved, a fact foreign investors find reassuring. All sides are committed to the transformation to a Western-style market economy, but also to maintaining a strong social safety net and to forcing money-losing state enterprises to become competitive in the private sector.

Slovenia's carefully conceived strategy for creating a modern free market economy is

the third reason for its success. The government has adopted a gradualist approach to economic restructuring, striking a pragmatic middle ground between the Czech Republic's shock therapy methods and the meandering reforms undertaken by some former Soviet republics.

To lessen the political and social impact of widespread redundancies, privatization has been undertaken at a slower pace than in other former socialist countries. The government occasionally intervenes and provides help to ailing companies by guaranteeing finance-for-debt rescheduling in return for moderation in dividend distribution and wage increases.

By the end of 1994, a quarter of all Slovenia's state-owned enterprises had been privatized. The process will be accelerated during 1995 to achieve the goal of placing 50% to 65% of public assets in private hands. Preference is given to privitization via management and employee buyouts. While initially criticized by some as a method that would do little to attract foreign capital and technology, many privatized companies have established joint ventures both domestically and internationally. As a result, Slovenia has not suffered from a lack of investment in new plant and capital equipment.

Domestic savings play a major role in the modernization of Slovenia's industrial sector. The growth in all areas of demand has stimulated a continuous expansion in industrial capacity. Much of this is fueled by the capital city's Ljubljana Stock Exchange, which together with the rest of the private financial services sector contributes 3.2% of the country's GDP. Slovenia's growing number of financial institutions, as well as its beautiful Alpine landscape, justify its nickname, "the Switzerland of Eastern Europe."

Compared to many of its neighbors, where red tape can seriously impede foreign direct investment, Slovenia has implemented one of the least restrictive investment climates in Eastern Europe. Foreign investments in any form enjoy full national treatment—that is, they have the same status as Slovene legal entities. All sectors of the economy are open to foreigners operating through joint ventures. Legal entities established and registered in Slovenia, even if they have 100% foreign ownership, may own real estate. The Slovenian Parliament is considering legislation to change real estate and other business-related laws to harmonize them with the EU.

With a 30% flat tax on corporate profits, Slovenia has one of the lowest tax burdens in Europe. The tax rate is further reduced to 20% in the case of reinvestment, which actually lowers the tax rate to 24%. All foreign investors are guaranteed free transfer of profits and repatriation of invested capital, while no restrictions are placed on foreign shareholders in Slovene enterprises who want to transfer their profits abroad in foreign currency.

Germany, Austria and Italy now account for 65.9% of all Slovenian foreign investment. Businessmen in these countries see great profit potential in Slovenia because of its proximity to major markets, its political stability and the high probability that it will become an early member of both the European Union and NATO. U.S. businesses, which account for less than 1% of FDI in Slovenia, have not yet awakened to these investment opportunities. Even Australia, which contributed 2.3% of the country's foreign direct investment in 1994, invested more in Slovenia—with a population of only 2 million—than in giant but strife-torn Russia.

Slovenia's lesson for other developing countries is that political and economic stability can only be attained by a true commitment to democracy and the creation of a free market. As Slovenia rapidly approaches the time when it will be ready for membership in the European Union and NATO, its eastern and western neighbors can point to it as an example of one of the world's great success stories.

AWARD WINNING STUDENTS OF CAESAR RODNEY HIGH SCHOOL

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. CASTLE. Mr. Speaker, on April 29—May 1, 1995, more than 1,200 students from 49 States and the District of Columbia will be in our Nation's Capital to compete in the national finals of the We the People—The Citizen and the Constitution program. I am proud to announce that the class from Caesar Rodney High School will represent Delaware. These young scholars have worked diligently to reach the national finals by winning local competitions in their home state.

The distinguished members of the team representing Delaware are: Ben Alexander, Lori Arellano, Samantha Batista, Andrea Bourey, Jason Cooke, Nick Davenport, Dawn Deakins, Stephen Eggan, Angela Foor, Matt Harker, Jennifer Hitzig, Cindy Houghtaling, Lisa Huang, Barbara Jandasek, Megen Kelly, Danielle Kiefer, Erica Mahar, Molly McGinty, Lisa Moller, Adam Perza, Katie Queen, Robin Reinhard, Alison Robinson, Jayne Ruggles, Kealy Russell, Theresa Siemanowski, Jessica Tenney, Angel Tucker, Matt Welch, Sean Whaley, Huei Wong, Alison Woodall.

I would also like to recognize their teacher, Bill Windett, who deserves much of the credit for the success of the team. The district coordinator, Diane Courtney, and the State coordinator, Lewis Huffman, also contributed a significant amount of time and effort to help the team reach the national finals.

The We the People—The Citizen and the Constitution program, supported and funded by Congress, is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The 3-day national competition simulates a congressional hearing in which students' oral presentations are judged on the basis of their knowledge of constitutional principles and their ability to apply them to historical and contemporary issues.

Administered by the Center for Civic Education, the We the People program, now in its 8th academic year, has provided curricular materials at upper elementary, middle, and high school levels for more than 60,000 teachers, 22,000 schools, and 20 million students nationwide.

The We the People program provides an excellent opportunity for students to gain an informed perspective about the history and principles of our Nation's constitutional government. I wish these young constitutional experts the best of luck and look forward to their future participation in politics and government.

TRIBUTE TO THE KENTUCKY DERBY

HON. MIKE WARD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. WARD. Mr. Speaker, today, I would like to pay tribute to one of America's most historic sporting events, the Kentucky Derby.

Last Saturday, the first Saturday in May, the Kentucky Derby, also known as the greatest 2 minutes in sports, made its 121st running at Churchill Downs in Louisville. The Kentucky Derby, dating back to 1875, is rich in American history and intense sporting drama. It may strike many as excessive that so many events, including a fireworks display, a parade, a boat race, a hot air balloon race, and many others, precede an event that only lasts 2 minutes; however, there is no other sporting event like the Kentucky Derby.

The Kentucky Derby, the first leg of the Triple Crown, is the mark by which all other races are judged and this year, as in previous years, it will set the stage for a possible Triple Crown winner.

Over 130,000 people are estimated to have attended this year's running of the Kentucky Derby with nearly 50 million people estimated to have watched the televised coverage, making the Kentucky Derby one of the most watched sporting events in the world.

Mr. Speaker, I would also like to pay tribute and draw attention to a truly remarkable program which was in place at last Saturday's running of the Kentucky Derby.

The program, coordinated by the Party Smart Organization, is a designated driver program at Churchill Downs in Louisville, which asked spectators to sign a pledge that they would be a designated driver. Designated drivers, individuals who pledge not to drink alcohol so that they may drive others home safely, have for years played an invaluable role at such sporting functions. It is through their restraint and leadership that many lives have been saved.

Designated driver programs throughout the United States, at parks such as the Astrodome, Candlestick Park, the Meadowlands, and Yankee Stadium, have reminded millions of people of the importance of responsible drinking and have reminded people of the millions of lives that are placed in jeopardy by drinking and driving.

When I attended the Kentucky Derby this year, I left Churchill Downs feeling more secure that my drive home would be safer due in large part to the efforts of these designated driver programs.

Mr. Speaker, I urge everyone to support and participate in their local designated driver programs. Together, we can help end the thousands of senseless deaths caused each year by drunk driving.

TRIBUTE TO FORMER-SPEAKER FLORENCIO (LARRY) TORRES RAMIREZ

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. UNDERWOOD. Mr. Speaker, the island of Guam lost one of its premier citizens and public servants on April 12 of this year. The Hon. Florencio Torres Ramirez, a former speaker of the Guam Legislature, was called to his eternal rest at the age of 79.

The passing of former-Speaker Ramirez marks the end of an era. Considered nothing short of legendary by Guam's politicians, Larry Ramirez dedicated more than 63 years in public service. His government service dated back to 1931 when, during his teenage years, he worked for the Naval Governor of Guam.

Long considered as one of Guam's most popular lawmakers, Larry went on to hold public office longer than any other elected official in the island's history. He first got into politics in 1949 when he was elected as councilman from the village of Yigo. He later went on to serve as a senator in the first 12 Guam Legislatures. After having been elected as Speaker in 1971, he chose to retire after the 12th Guam Legislature.

Having been one of Guam's premier political pioneers, he is considered by many of today's leaders as a fitting role model and a major influence. He is remembered as a man of integrity. Despite countless years of political involvement, not once did he compromise his principles. Never pretentious, he did not let his political successes take the better of him. Amid all the changes that he had been forced to live through, he remained a true islander and an exceptional leader.

The late Hon. Florencio Torres Ramirez left a legacy of service and devotion to the island of Guam, to its people and to the United States as a whole. His distinguished career served as an inspiration to many of us who serve as elected officials of today. His passing is a great loss and his presence will surely be missed. On behalf of the people of Guam, I offer my condolences and join his bereaved children, and grandchildren in mourning the loss of a father, and a fellow servant to the people of Guam.

SALUTE TO MS. DOLORES FAIR FIELDS

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. FOGLIETTA. Mr. Speaker, I rise today to salute Ms. Dolores Fair Fields on the occasion of her retirement. As a native of South Philadelphia, Mrs. Fields has contributed a great deal to her community throughout her lifetime.

Twenty-nine years ago, Ms. Fields began a Government career with the U.S. Electronics Command. After working there, and at the U.S. Mint, Ms. Fields joined the Head Start Regional Office in Philadelphia in 1970. Throughout her career at Head Start, Ms. Fields was responsible for grants in Pennsylvania and Maryland. Ms. Fields was also responsible for training the new staff at the Head Start Regional Office. As a trainer, Ms. Fields brought many new Head Start Specialists to the Regional Office. Ms. Fields abilities have helped the Head Start Office grow to meet the changing needs of families throughout Pennsylvania.

Ms. Fields has been recognized by the Federal Government for her outstanding public service. She is a recipient of the Federal Executive Board Bronze Medal Certificate of Achievement, the Assistant Secretary's Exceptional Achievement Award, the Assistant Secretary's Certificate of Appreciation and numerous other awards and citations.

In addition to her full time work for the Federal Government, Ms. Fields is the single parent of two sons. Ms. Fields did an admirable job of raising her sons who have both served with distinction in the U.S. Air Force.

With her remaining spare time, Ms. Fields has served as a mentor for the literacy program in the Philadelphia School System and as an active member of the Tasker Street Baptist Church.

I hope my colleagues will join me today in recognizing Ms. Fields for her fine contributions to her country and community and I wish her the best of luck as she enters the next chapter of her life.

JENNIFER BREYER VOICE OF AMERICA SCHOLARSHIP WINNER

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. DEFAZIO. Mr. Speaker, a young constituent from Oregon's Fourth District has expressed through her writing a deep and patriotic understanding of our Nation. The Veterans of Foreign Wars and its Ladies Auxiliary presented Ms. Jennifer Breyer with the state award of the Voice of America Scholarship program. I ask that her Vision of America be included in the CONGRESSIONAL RECORD.

MY VISION FOR AMERICA

(By Jennifer Breyer)

"I want to be thoroughly used up when I die, for the harder I work, the more I live. Life is no brief candle for me, it is a sort of splendid torch that I have got hold of for a moment, and I want to make it burn as brightly as possible before handing it on to future generations."—George Bernard Shaw

This is my vision for America. Wouldn't it be wonderful if each citizen of the United States of America could take their candle and make it burn as brightly as possible for as long as they live? Wouldn't it be exciting if every citizen in this country could have this opportunity to make their dreams come true?

In America we are known to live in a Land of Prosperity, a Land of Hope, and a Land of Freedom, but are we truly free if we have not had the opportunity to accomplish our dreams but instead have been confined to small, everyday tasks? We are free only if we are able to accomplish our dreams and make our vision for America become reality.

My vision for America is to make this country be as strong as it possibly can be and make it clear to the world that we are truly the luckiest people on this earth. But in order to do that, each citizen in this great nation has a responsibility, not only to themselves but also to their country. You see, all of us are given a candle, but it is up to us, as individuals to take our candle and make it burn as brightly as we can.

They say you can always tell where the lamplighter has been by the path he has lit. But what if each and every one of us didn't have to follow the lamplighter's course but instead took our candles and made our own paths. We could make this nation shine like a great star in the sky.

Wouldn't it be wonderful if each American citizen could take their candle and pass it on to a newborn child, and explain that he has one chance, and only one chance in his lifetime to make his stand in this nation.

Can the people of this nation join together for one final stand? Can they unite and join candles so that every individual may feel as if they were part of another? Can we put aside the race or religion of people and say, "You are my fellow citizen, you can stand next to me, and you can fight with me for our country, the beautiful United States of America."

Ladies and gentlemen, my vision is one of a far off dream, one that may never come true, but that has made my life worth living for. My vision may not come true in reality but in my mind and in my dreams it has always been. For if I accomplish one thing in my life, it will be to pass my candle on to a newborn child, and let the legacy for the next generation live on. If the world is a better place for just one person, then my life and yours has been a success.

I wish you all the best of luck in your quest for your Vision of America. I have found my vision, and I hope you will find yours as well. Thank you.

HONORING VETERANS OF WORLD WAR II

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. MARTINI. Mr. Speaker, I rise today in recognition of the sacrifices and accomplishments of the men and women throughout the world who so bravely served in World War II with the faith that there would one day be victory in Europe against hate and aggression. It was their bravery and character that delivered the nations of this globe from the tyranny of evil men. To merely thank these men and women does not suffice. We must learn from them. We must learn from their experiences.

Those of us who are not old enough to remember must hold on to the stories and to the history. While we must never forget the horror, we must more importantly remember the valor and unity of our Nation, the likes of which has not since been revisited.

We honor the veterans not only because they protected our freedom and defended our honor, but also because they taught us about patriotism, for it is our patriotism that wins over hateful aggression. Let us never forget that the day of victory in Europe, 50 years ago, was a time when people looked after one

another—a time of unity. Remembrance and togetherness are the greatest thanks we can give.

ADMINISTRATION RENEGES ON COMMITMENT TO PREVENT CUBAN INFLUX

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. STUMP. Mr. Speaker, the Attorney General again intends to use her parole powers to sidestep immigration law. In a rather abrupt and unwise change of policy, the Clinton Administration announced that thousands of Cuban refugees held at Guantanamo Bay will be brought to the United States.

The Attorney General defends this latest action as "another important step toward regularizing migration procedures with Cuba." I am convinced that it will have the opposite effect. In fact, this is just another in a long line of imprudent immigration decisions made by the Administration. Undoubtedly, it will have a devastating economic impact and send a clear message that the United States has no interest in controlling its borders.

Mr. Speaker, we simply cannot continue to allow the Attorney General to use her parole authority to exploit immigration laws and expand the definition of who is eligible to immigrate to the United States. Consequently, I am compelled to once again introduce the Emergency Immigration Parole Correction Act. The bill would amend the Attorney General's parole authority to prohibit her from carrying out this blatant circumvention of our immigration policies. I strongly urge my colleagues to put the interests of American citizens first and join me in stopping further deterioration of our immigration policies.

TRIBUTE TO MACK FARR

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. DAVIS. Mr. Speaker, I rise today to recognize and commend the accomplishments of an outstanding individual and fellow Virginian who has done exceptional work in the development and manufacture of night vision equipment. This equipment, enabling armies to fight in the dark, represents one of the most profound changes in military capability in history. It was a critical factor in the low loss of life and played a major role in the success of Operation Just Cause in Panama and Operation Desert Storm in Kuwait. These examples alone prove conclusively that night vision technology has revolutionized military tactics and strategy.

Mack Farr has demonstrated himself to be a leader in the development and application of increasingly more sophisticated night vision imaging systems for military use over a commercial and federal career that spans 37 years. In the early days of the Vietnam conflict, Mr. Farr worked first as a government contractor, and later as a physicist in the Army's Night Vision Laboratory in Northern Virginia, developing and fielding the first usable image intensifiers for use by the U.S. military. His later efforts in the improvement of the technology led, in part, to Generation III Night Vision Goggles that could, for the first time, be used as head mounted systems for ground troops. Similarly, when the aviators of rotor winged aircraft attempted to use this headmounted technology to improve their night flying operations, Mr. Farr and members of his government and industry team responded by developing a Third Generation Image Intensifier System, specifically designed for DOD aviators.

These systems have now been fielded in quantity and with ever increasing quality over time. As the Technology Director for the Army Project Management Office for Reconnaissance, Surveillance and Target Acquisition since 1984, each of the new image intensification products the result from Mr. Farr's technical and managerial oversight has created a new, and sought after, world standard for excellence. His expertise has also greatly aided the U.S. Government in the formulation of export policy opinions that are a foundation for munitions control policy decisions by twenty-two signatory nations.

In recognition of his many achievements, Mack Farr was inducted into the Association of Night Vision Manufacturers Image Intensification Hall of Fame on April 19, 1995. He was the first Government recipient to receive this honor.

Now that we are poised on the threshold of a new century, Mack Farr is guiding his team in the pursuit of new technologies and systems for the future. Mr. Speaker, I salute Mack Farr for his hard work, diligence and outstanding accomplishments in the development of night vision. We all owe him a debt of gratitude for his years of dedication and join together in commending him for showing great foresight and commitment to the night vision industry. We thank him for his genuine contributions to our Nation's security and wish all the best in his future endeavors.

IN SUPPORT OF TITLE IX

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mrs. MALONEY. Mr. Speaker, today the Subcommittee on Post-Secondary Education, Training and Lifelong Learning held oversight hearings on title IX and its effect on college sports. These hearings are particularly timely in view of the recent district court ruling that Brown University violated title IX when it eliminated its women's gymnastic and volleyball teams. Title IX has had an impact that goes beyond the limited effect of expanding women's opportunities to participate in sports at the college level. It has also expanded opportunities for women to attend college through sports scholarships and to develop skills they will use after college, such as teamwork, responsibility and self-confidence.

Since title IX became law in 1972, participation of women in sports at the secondary and college level has increased dramatically. Much of that growth has come since Congress passed the Civil Rights Restoration Act in 1988, requiring compliance with title IX by any college that receives Federal funds for any purpose. Women now comprise 37 percent to 43 percent of athletes in college sports. Women have come a long way, but we still have a long way to go to achieve parity with the men's sports programs.

Sports have long been used as a vehicle for young men from disadvantaged backgrounds to attain higher education. Since the enactment of title IX, sports have opened doors for their sisters as well. Top high school women athletes are actively recruited by colleges. As the competition for positions on the best teams increases, the level of play increases. Better equipment and better coaching, made possible through title IX, enables women athletes to improve their game to a level thought impossible just a few years before. By offering women opportunities in a variety of sports, more women choose to become involved in sports. Those who are not interested in field hockey or tennis, can try rugby or hockey or volleyball. Greater variety encourages greater participation.

The excitement surrounding women's achievement in sports in some cases has equaled that of their male counterparts. This year the undefeated University of Connecticut's women's basketball team played to a sellout crowd of over 18,000 in Minnesota, winning the NCAA basketball championship in a come from behind victory that thrilled sports fans of both sexes. Women's ice hockey has reached a level of play sufficient to permit women goalies, such as Manon Rheaume and Erin Whitten, to be recruited by the National Hockey League's minor league teams. I believe that more women would choose to participate in sports if there were more opportunities for women to continue their athletic careers after college. Men's star basketball players can look forward to lucrative careers in the National Basketball Association. The women must hope for a place on one of the teams playing women's basketball in Europe if they wish to continue to play ball seriously. This year women baseball players can hope to be selected by the new professional baseball league will begin competition in Southern France, Italy and Spain. The enormous profitability of women's ice skating, not to mention the sellout crowds for NCAA basketball, demonstrates that there is an audience for women athletes.

Participation in sports provides women with something beyond mere achievement in the athletic realm. They acquire confidence and assertiveness which works to their advantage in their careers. Those who participate in sports such as basketball, baseball or even rugby report a heightened sense of teamwork and responsibility. Title IX has given rise to a growth in the number of young women who achieve the kind of training that only sports can provide.

Title IX does not require schools to eliminate men's teams in order to offer women's teams. That is not to say that schools do not use title IX as a convenient excuse when

men's teams are dropped. We should look beyond the reasons schools give for cutting men's teams and focus instead at the many benefits colleges receive from the inclusion of men and women in their athletic programs.

THE YEAR OF THE VETERAN

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. PACKARD. Mr. Speaker, one thing has remained constant throughout our Nation's history: The unquestioned loyalty, dedication, and bravery of our military personnel. As we mark the fiftieth anniversary of V–E Day, we must never forget the price that our troops paid. The sacrifice made by our fighting men and women should never be forgotten.

Driven by a sense of duty, our troops stormed the beaches of Inchon and Iwo Jima, staved off encirclements at Bastogne and Chosan, went head-to-head with superior numbers at Guadalcanal and Midway, and came away victorious. From the battle at Concord Bridge to the final actions in Somalia, American troops have proven to the world that they are the best in the world.

In my home State of California, Governor Pete Wilson, the county of San Diego, and the cities of San Marcos and Escondido have already proclaimed 1995 as the Year of the Veteran. These proclamations call on all to remember those that were so quick to answer the call in America's time of need.

Mr. Speaker, I urge my colleagues to join me in honoring all of the brave men and women who have put on the uniform to defend their country by proclaiming 1995 the Year of the Veteran.

PROCLAMATION CONGRATULATING JOHN L. AND MABLE A. MARSTRELL

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. NEY. Mr. Speaker, I commend the following article to my colleagues:

Whereas, Mr. John L. of Barnhill, OH, and Mrs. Mable A. Marstrell of Delaware, OH, celebrate 75 years of marriage; and,

Whereas, John and Mable have resided in Stillwater, OH for all of those 75 years raising two sons—Dr. John V. and Mr. Keane O. Marstrell, four grandchildren and nine great-grandchildren; and,

Whereas, John served his community as president and manager of the Laurel Valley Oil Co., president of the United Bank of Uhrichsville, founder of the Old Timers Baseball Association, and last year as an inductee into Ohio's Baseball Hall of Fame; and

Whereas, John has the honor of being the last living player to bat against the legendary Cy Young and serving as one of his pall bearers; and,

Whereas, over the course of Mable's many years as organist in the Pleasant Grove United Methodist Church her music became an inspiration and comfort to family, friends, and her church family; and,

Whereas, members of the Rotary club since 1935, 65 year member of the Masonic Order, and activity in various other civil projects together in the community they have volunteered hours in building character, citizenship, and leadership in their community and family; and,

Whereas, the city of Stillwater and all the surrounding areas of Ohio, with a real sense of pleasure commend John L. and Mable Marstrell as outstanding citizens, role models, and parents and join in the celebration of their seventy-fifth anniversary this eighth day of May in the year one thousand nine hundred ninety-five.

100th ANNIVERSARY OF THE FOUNDING OF ALL SAINTS CATHEDRAL PARISH OF THE POLISH NATIONAL CATHOLIC CHURCH OF CHICAGO, IL

HON. MICHAEL PATRICK FLANAGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. FLANAGAN. Mr. Speaker, in recognition of the 100th anniversary of the founding of All Saints Cathedral Parish of the Polish National Catholic Church of Chicago, IL, we in Congress salute its pastor, the Right Reverend Robert M. Nemkovich, the clergy and parishioner on this special occasion.

One hundred years ago, through the leadership of Bishop Anthony Kozlowski and a large group of Polish immigrants, All Saints Cathedral Parish was organized. The cathedral parish has been a force for good in the Chicagoland area, the State of Illinois and throughout our great country for 10 decades. The Polish-American parishioners and their ancestors have made significant contributions to the cultural, economic, educational and civic growth of out Nation.

The ancestors of the cathedral's parishioners fled Poland for want of a better life here in America. They brought with them their cherished national customs, their love of closely-knit family life, and their love for their adopted country, the United States of America.

May 21, 1995, is hereby especially noted as All Saints Cathedral Parish Centennial Day. The Centennial Mass of Praise and Thanksgiving, celebrated this day, will commence a year-long celebration. We in Congress acknowledge the accomplishments of the past and extend best wishes for the future as you strive to serve the spiritual needs of so many individuals. We urge all to join with the members of All Saints Cathedral in the observance of this memorable and happy occasion.

TRIBUTE TO HELEN LEWIS

HON. THOMAS W. EWING

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. EWING. Mr. Speaker, the State of Illinois is known for many things; the mighty rivers which run on its eastern and western borders, fertile farmland which produces food that feeds the entire world, villages and small towns with an unmatched quality of life, and the city of big shoulders, the international center for business and industry known as Chicago.

Illinois is known for all of these things, which makes all of us justifiably proud to call Illinois home. But what we are best known for is our people.

Mr. Speaker, I rise to pay tribute to one of Illinois' finest, a woman who has carried the banner for our State here in the Nation's capital for over 50 years, Helen Lewis.

Helen, a graduate of Western Academy in her hometown of Macomb, came to Washington in 1942 to work for the Federal Bureau of Investigation. As he tells it, "there was a war on," and with three brothers in military service, she came here to help.

In 1945, Helen began attending dances sponsored by the Illinois State Society. In 1947, Helen recognized that your membership card got you into the dances free, and she decided to join. Well, the spark fanned the flame, and Helen has been warming the hearts of Washington-based Illinoisans for more than half a century.

In the 1958–59 season of the society, Helen became an officer, and proceeded to hold every position the board had to fill, including two terms as president. This lead to her being elected president of the Conference of State Societies in the 1973–74 season.

The signature event for the society has always been the inaugural ball. Helen's first inaugural party was for the inauguration of President Nixon, and she has been a driving force in every event since then. Of course, it's not difficult to find people willing to help with the glamorous events. It's a little bit tougher to find people willing to commit of their time and energy to keep the mailing lists, select locations for events and keep the membership informed. For the Illinois State Society, we have always turned to Helen Lewis, who has organized the meetings, kept us faithful to our bylaws and made sure that everything was done with class and made everyone feel welcome.

Many people live here for many years without giving up what Helen has. In fact, Helen says she's gone "home, to my real home, Illinois," back to Macomb, where she is settling in, making new friends and renewing old acquaintances. She is genuinely missed.

When the history of Illinois in our capital city is written, the names Lincoln, Stevenson, Dirksen and Michel will surely be included. But no chronicle will be complete without recognizing the contributions of Helen Lewis, who helped make any prairie State transplant feel at home. Helen, for all you've done for the thousands of people who have been a part of the society, we are eternally thankful. Good luck and God bless.

THANKS TO LORRAINE HURLEY

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. STARK. Mr. Speaker, I rise today to recognize the achievements of Ms. Lorraine

Hurley who is retiring after 40 years of dedicated service to the school children of the 13th Congressional District.

Ms. Hurley was born and raised in San Lorenzo. She graduated at age 15 from Hayward High School and dedicated the rest of her life to teaching. She taught in the Oakland School District for 10 years and then returned to the San Lorenzo Unified School District to teach for the next 31 years.

She has been the recipient of many awards, including the Alameda/Contra Costa Teacher of the Year. She was a member of Delta Kappa Gamma, the Teachers' Honor Society. Ms. Hurley is also an advocate for and supporter of her fellow teachers. She was very active in the San Lorenzo Teachers' Association and an officeholder in the National Education Association. She was chosen to be a mentor/teacher.

Mr. Speaker, I am proud to recognize Ms. Lorraine Hurley for her commitment to our children and am certain that she will be sorely missed.

TRIBUTE TO GREG STEEL

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. CONDIT. Mr. Speaker, I rise today to recognize and congratulate Mr. Greg Steel on the completion of 21 years of dedicated service to the Stanislaus Area Association of Governments, the last 5 of which he spent as executive director.

Among his many accomplishments, Greg was most instrumental in preparing the air quality maintenance plan which was adopted by the local governments and the California Resources Board, and approved by the U.S. Environmental Protection Agency. Greg also prepared the nonattainment plan for Stanislaus County, of which the applicable portions were adopted by the county and the nine surrounding cities which make up the Association. This plan included a commitment from each of the jurisdictions to implement control measures, for the purposes of improving air quality.

Mr. Speaker, on July 28, 1995, the Stanislaus Area Association of Governments will formally recognize Greg Steel for his many years of dedicated service.

On behalf of the 18th Congressional District of California, I would like to extend to Greg my best wishes for continued success and for many years of personal happiness.

LEGISLATION AMENDING THE INTERNAL REVENUE CODE RELATING TO THE TREATMENT OF LIVESTOCK SOLD ON ACCOUNT OF WEATHER-RELATED CONDITIONS

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. JOHNSON of South Dakota. Mr. Speaker, I am pleased today to introduce legislation that would make our Tax Code fairer and more equitable for farmers and ranchers who are forced to sell their livestock prematurely on account of weather-related conditions.

Our current Tax Code contains two provisions dealing with livestock sold because of drought conditions. One of these provisions allow producers to defer tax on any gain from these sales by reinvesting the proceeds in similar property within 2 years. The other provision permits producers who do not reinvest the proceeds from the sale in similar property to include these proceeds in their taxable income in the following year.

While these provisions provide some assistance to producers who have experienced a drought, they do not apply to livestock sold on account of flooding. However, floods can be just as devastating to producers as drought conditions, and can cause the destruction of crops grown to feed livestock, damage to fences, and high losses of young stock. The heavy rains and flooding we have been experiencing in my State of South Dakota have caused calf losses as high as 40 percent in some areas.

In addition, farmers who lose crops due to any natural disaster, including flooding, are able to benefit from certain provisions in the Tax Code. For example, farmers who receive insurance or disaster payments when their crops are lost or damaged due to severe weather conditions are often permitted to include these payments in the year following the disaster. Provisions such as this are designed to spread out the impact of taxes on farmers in these situations. I find it difficult to justify the fact that farmers who lose crops on account of flood conditions are covered by these provisions, while producers who are forced to sell livestock because of flooding are not.

This legislation would broaden the existing provisions of the Tax Code regarding livestock, adding flooding and other weather-related conditions to drought as conditions allowing the use of the special rules relating to proceeds from livestock sales. It would also result in more equitable treatment of crops and livestock relative to tax payments after disasters. However, it would not reduce the total amount of taxes paid by livestock producers who suffer disasters, but instead would merely delay the payment of taxes under these circumstances.

Mr. Speaker, I am certain that you and the rest of my colleagues would agree that it is unfair to deny the disaster-related provisions of the Tax Code to livestock producers just because the disaster involved is a flood and not a drought. I ask you to join me in making this commonsense change to the Federal Tax Code, and provide some needed assistance to our Nation's livestock producers.

THE 50TH ANNIVERSARY OF V-E DAY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. GILMAN. Mr. Speaker, celebrations are being held this week throughout our Nation and across the European continent to commemorate the fiftieth anniversary of the end of World War II in Europe. In London on Sunday, in Paris yesterday, and in Moscow today, millions of Europeans have gathered to give prayerful thanks for the hand-won peace which encompassed to continent 50 years ago this week.

Although we Americans, as far as casualties go, got off light compared to our European allies. In fact all nations involved in World War II suffered and suffered greatly. By crossing the oceans to assist in the overthrow of the Nazi and Fascist empires, American soldiers, sailors, airman and marines not only disrupted and risked their own lives, they also disrupted the lives of the loved ones they left behind.

The massive task of supporting our brave Americans necessitated a radical readjustment of our economy here at home. Automobiles and most household appliances were simply not available. You could not buy tire because rubber was one of the many, many commodities essential to the war effort.

While World War II was in progress, the Soviet government, led by Joseph Stalin, demanded that the Americans and British invade the coast of France in order to take the pressure off the Russian army, which was bearing the brunt of the battle against the Nazis. There was also intense pressure here at home to get the job done with and invade France.

Fortunately, our national leaders had a great deal of experience with warfare in France. During World War I, President Franklin D. Roosevelt was Assistant Secretary of the U.S. Navy, and Prime Minister Winston Churchill was First Lord of the Admiralty, which is the direct equivalent of Secretary of the Navy. They both knew from sad experience, that a land war in the north of France, with both sides equal, would result in bloody trench warfare. During the 4 years of World War I, literally millions of young men—on both sides—sacrificed their lives in futile, pointless efforts to recapture a few feet of ground. It has been said that Britain scarified entire generations of young men in the trenches of World War I. even though the refusal of President Roosevelt and Prime Minister Churchill to replay that tragedy in many ways led to the distrust and bitter feelings between the Russian government and our own for the past 50 years, we should all be thankful that both Roosevelt and Churchill—along with Supreme Allied Commander Dwight D. Eisenhower—refused to initiate any invasion of France until we were assured of massive superiority in forces and materiel.

Their patience paid off handsomely: less than 11 months after D-Day—a day that many observers predicted would not succeed—we had not only successfully invaded the coast of France, but we had totally conquered the Third Reich of Adolf Hitler. We, together with our Russian allies advancing from the east, brought to an end that evil nation which Hitler predicted would "last a thousand years" but in reality existed slightly more than a dozen.

A new book by David Fromkin, *In The Time of the Americans,* underscores the extent of the revolutionary changes World War II brought to the United States. In 1941, there was a sincere and heated debate in this nation about whether or not we should involve

ourselves in what were called foreign wars. In 1945, our membership and leadership in the United Nations were taken for granted.

In 1941, it was almost universally believed that the oceans could protect us against any hostile forces and that thus there was no reason for us to become involved in the affairs of Europe. By 1945, there was no question we were the leaders of the free world. As soon as 1946 and 1947, we Americans were prepared to send assistance to protect freedom and liberty first in Greece and Turkey and then in Western Europe. By 1950, we recognized our responsibility to repel aggression on the Korean peninsula.

In 1941, Americans were in many ways a prejudiced society. Most of our south was deeply segregated and many public accommodations refused service to Jews. The Ku Klux Klan had a following.

By the time the war ended, Americans of all races, creeds and colors fought side by side and thus learned that far more binds us together than separates us. There was a long path to travel yet, but the first steps were taken on the road to racial equality.

The newsreel cameras and the magazine photos showed American troops liberating the concentration camps of Germany, thus sending us all a message of what racial, ethnic or religious bigotry can lead to. Anyone who lived through the Holocaust can not help but vow that nothing like this will ever happen again.

Mr. Speaker, this past Sunday I was deeply honored to have been able to participate in ceremonies at Camp Shanks Museum in Orangeburg, NY. Camp Shanks was the major east coast point of embarkation during World War II, and it was fitting that ceremonies commemorating the end of the war be conducted there. "Ruptured Duck" awards were presented to nearly 150 survivors of World War II, and an array of local officials shared their views on World War II with us.

The ceremonies were held under the guidance of Jerry Donnellan, who as Director of the Veterans Service Agency of Rockland County, NY, has earned a reputation as one of the more compassionate and qualified friends of all our veterans.

In my remarks on this solemn occasion, I reminded my fellow World War II veterans of the importance of our passing on to future generations the reasons the war was fought and what we experienced on the battlefields of Europe and the Pacific. I warned that we must not allow our revisionist historians to alter the truths of World War II.

Mr. Speaker, let us pause during our busy schedule to reflect on the monumental changes which took place 50 years ago this week, when the guns and the bombs fell silent in Europe, and let us also pause to remember those who did not return and all those W.W. II Veterans who are still lingering in Veterans Hospitals across our land.

WHAT THE FLAG MEANS TO ME

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. FARR. Mr. Speaker, as we honor the brave young men and women who gave so much of themselves in the Second World War, I thought it an opportune moment to reflect on the meaning of patriotism with the words of a special young man from my congressional district.

Josh Pritchard, a 5th grade student at Capitola Elementary School, placed first among all students for the following essay on the meaning of the American flag:

WHAT THE FLAG MEANS TO ME

(By Josh Pritchard)

To me, the American flag represents a dream, a great dream. A dream that someday America will be a place where everyone is treated equally, and no one is judged by their creed or religion.

When Betsy Ross made the American flag, she meant it to represent America and freedom. Around the time when Betsy Ross made the flag, everyone wanted America to someday be a place where everyone is treated equally, and no one is judged by their creed or religion. That wasn't true back then and it's still not true now. In the last 219 years, we've come a lot closer to the dream, but we're still not there.

To me, the flag is something to be proud of. The flag is what reminds me that someday America is going to be an even greater place.

The flag represents a place where there is no one creed but a place where all creeds join together as one. A place where it doesn't matter what religion you are, what color hair you have, or what kind of clothes you wear—as long as you are you.

That's the end of my essay but the dream still stands. Maybe in the next 100 years, the dream will come true.

A TRIBUTE TO MAX MCCARTHY

HON. JOHN J. LAFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. LAFALCE. Mr. Speaker, it was with deep regret and sadness that we learned over the weekend of the passing of Richard "Max" McCarthy, who served here in the House, representing the Buffalo, NY area from 1965 to 1970.

In addition to his congressional service where he was a leader on environmental issues and the effort to ban germ and gas warfare, Mr. McCarthy had a distinguished career as a journalist with the Buffalo News, serving as its Washington Bureau chief from 1978 until 1989 and continuing as a weekly columnist. He was press attache at the U.S. Embassy in Iran in 1975 and 1976, authored two books and served in the Navy at the end of World War II and in the Army during the Korean War.

Mr. McCarthy was an affable, congenial, and gregarious man, who will be missed by his many friends and colleagues. Murray Light, the editor and senior vice president of the Buffalo News, captured the spirit of the Max McCarthy so many of us knew so well, in his comments in the following obituary from the News:

Max was an outstanding citizen of Buffalo, outstanding patriot and a fine newspaperman. All of us associated with him will greatly miss his insight, his unending optimism and his enormous loyalty to his community, his friends, his country and his newspaper.

MAX MCCARTHY DIES; NEWS WRITER, EX-CONGRESSMAN

(By Karen Brady)

Max McCarthy—the retired Buffalo News Washington Bureau chief, former congressman, and foreign service diplomat—died Friday (May 5, 1995) in his Arlington, Va., home at the age of 67 after an extended illness.

A journalist first and last during his long public career—which included U.S. military service in two wars—McCarthy continued to write his weekly Washington column for The News, including a column that will appear this Sunday.

"Max was an outstanding citizen of Buffalo, outstanding patriot and a fine newspaperman. All of us who have been associated with him will greatly miss his insight, his unending optimism and his enormous loyalty to his community, his friends, his country and his newspaper," said Murray Light, editor and senior vice president of The News.

McCarthy in the last few months had been living in a McClean, Va., nursing home because of the debilitating effects of amyotrophic lateral sclerosis, often referred to as Lou Gehrig's disease.

Nonetheless, McCarthy continued to write his weekly columns for The News by dictating to a neighbor who typed the material into his laptop computer, recalled David Breasted, an independent television producer and long-time friend.

McCarthy, a Democrat, represented Buffalo in the House of Representatives from 1965 to 1970.

He later became press attache for the U.S. Embassy in Iran, and was working at the White House, as an adviser in legislative affairs, when he joined The News' Washington Bureau in 1978.

He was also one of the original leaders of the campaign to rid Lake Erie of pollution, and was a nationally recognized pioneer in other environmental causes.

He organized Buffalo's first Department of Human Resources, under Mayor Stanley Makowski, and was the author of two books—"The Ultimate Folly," an expose of the evils of chemical-biological warfare, and "Elections for Sale," a book on political fundraising and spending.

Born Richard Dean McCarthy in Buffalo but always called "Max," he came from a family active in Buffalo's political life.

His great-great-grandparents, on his mother's side, were Irish immigrants whose son, Peter B. Walsh, was elected to the old Buffalo Board of Aldermen in 1859.

His son—McCarthy's grandfather, Richard W. Walsh—was an attorney, and the official court stenographer at the trial of Leon Czolgosz, the man convicted of assassinating President, William McKinley at the Pan-American Exposition in Buffalo in 1901.

McCarthy's father, the late Ignatius D. McCarthy, also an attorney, ran twice for Buffalo City Court judge.

McCarthy's mother, the late Kathleen Walsh McCarthy, not only assisted her husband in his City Court bids, but was also office manager during her son's successful 1964 congressional campaign. She was a co-founder as well of Housewives to End Pollution here.

Max McCarthy attended St. Joseph's Catholic Elementary School. He graduated from Canisius High School and Canisius College, where he was a regular in the college's Little Theatre productions. He did graduate

work at the University of Buffalo, Cornell and Harvard.

He served in the Navy in the Pacific at the end of World War II, and in the Army in the Far East during the Korean War.

In 1952—as a corporal with the 24th Infantry Division of the Army, stationed in Sendei, Japan—he sent accounts of military life to The Buffalo Evening News. The paper printed his accounts and then hired McCarthy as a reporter following his discharge.

Three years later, he was named public relations director of the National Gypsum Co., based in Buffalo, and remained in that position until 1964 when he was first elected to Congress, a Democrat representing Buffalo's heavily Republican old 39th Congressional District.

It was a startling victory. McCarthy, a political novice of 36, beat six-term incumbent Rep. John R. Pillion, a Hamburg Republican.

McCarthy's campaign theme was "a young man looking into the future." A chief aim, he said at the time, was to serve on the House Public Works Committee—because he wanted to rid Lake Erie of pollution.

McCarthy's first book, "The Ultimate Folly" was published by Knopf in 1969. It resulted in congressional hearings, a national policy review and canceling a plan to dump outdated nerve gases from three U.S. arsenals into the sea.

In constant demand as a speaker, McCarthy appeared on national television and was featured in major publications. He was selected to give a prestigious Chubb series of lectures at Yale University.

In 1970, he was persuaded by New York State Democrats to run for a U.S. Senate seat, it was a move that cost him his seat in the House of Representatives—and sent his personal political career on a downward spiral.

McCarthy's former House seat went to the Republican candidate—newcomer and former Buffalo Bill, Jack Kemp.

"As a three-term member of Congress, Max was a strong progressive and had an unblemished reputation for integrity. He did pioneering work on the environment and campaign finance reform. It was fitting that the last column published in his lifetime was an appeal for sanity on firearms. That courageous stand cost him a great deal of support in the 1960s," said Douglas Turner, The News' Washington Bureau chief.

McCarthy took a position as vice president and director of community development for A. Victor and Co. here.

A year later—after considering a run for Erie County executive—he was named a Harvard fellow, lecturing in the university's Institute of Politics of the John Fitzgerald Kennedy School of Government.

He completed his second book, "Elections for Sale," and served for a time as a Grover Cleveland fellow at UB.

In 1972, he sought election to the then-new 38th District but lost.

He subsequently became a visiting professor of political science at Canisius College and Niagara University.

In 1973, Buffalo Mayor Makowski made McCarthy a member of his Cabinet, charging him with formation of the city Department of Human Resources.

In 1974, President Gerald Ford appointed McCarthy to the U.S. Information Agency—and, for the next two years, he served as press attache at the U.S. Embassy in Iran.

In 1976, McCarthy was named to the Carter administration White House staff—where he was involved with legislative affairs until joining The News' Washington Bureau in June of 1978.

Three months later, he was named Washington bureau chief for The Buffalo News. McCarthy held the position until his own retirement in 1989, but continued to write a weekly Washington column for The News.

In 1985, McCarthy became the sixth member of The News to be elected to the prestigious Gridiron Club in Washington. He also was a member of the National Press Club.

He was a founder of the Greater Buffalo Development Foundation which he served as vice president for eight years.

McCarthy also was a lover of opera and collected fine literature, especially books on Irish history.

Survivors include his former wife, Gail; three sons, Dean of Buffalo, and Barry and Brendan, both of Chicago, and two daughters, Maura of New York City and Deidre of San Remo, Italy.

Funeral arrangements are incomplete.

TRIBUTE TO AL GUNTHER

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. REED. Mr. Speaker, it gives me great pleasure to rise today and salute Al Gunther, a distinguished individual from Rhode Island who is being honored for his outstanding contributions to the Boy Scouts of America on the occasion of his retirement from his position as Ranger of Camp Yawgoog.

He first came to Camp Yawgoog in 1959 with his wife Diane and for the past 36 years he has devoted his time and talents to providing young people with the rewarding experiences of camping. His leadership of Yawgoog was also enhanced by a unique blend of management skill and a special affection for his fellow man.

The Boy Scouts of Rhode Island owe a debt of gratitude to Al Gunther for his dedication and commitment. During his stewardship, Camp Yawgoog has prevailed through fires, floods, droughts, hurricanes, blizzards, and other adversities. His efforts have ensured that the camp has not only survived but flourished. Over a quarter of a million boys and campers have benefited from Al Gunther's hard work and from the humanitarian spirit which has prevailed at Camp Yawgoog.

I respectfully request that my colleagues join me in saluting Albert R. Gunther and recognizing his contributions to generations of young people, and toward the betterment of our community.

DEDICATION OF TEMPLE ISRAEL

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. HALL of Ohio. Mr. Speaker, I rise to call attention to the dedication of a new synagogue building for Temple Israel of Dayton, OH, within my district. The building is an important milestone for the Dayton Jewish community.

Temple Israel traces its roots to 1850, when 12 Jews in Dayton formed a Hebrew Society. The congregation, which was incorporated as Kehillah Kodesh B'nai Yeshurun, bought a building in 1863. In 1893, the congregation had grown enough to construct a new synagogue at the corner of First and Jefferson Streets in downtown.

Downtown was severely damaged by the great Dayton flood of 1913. By 1925, the congregation began construction of a new building at the corner of Salem and Emerson Avenues, in the neighborhood of Dayton View. This building was expanded in 1953 with the addition of a new sanctuary.

In November 1994, the congregation moved into its new home at One Riverbend, on the west bank of the Great Miami River, just north of downtown. On Friday, May 5, the building was formerly dedicated at a service. The following Sunday, Temple Israel opened its building and grounds to the Dayton community at an open house.

I offer my congratulations to Temple Israel's Rabbi P. Irving Bloom, whose vision and leadership have led to this moment. I further extend my best wishes to the entire congregation to find fulfillment in using the building for generations to come.

THREATS TO CUT USIA THREATEN AMERICAN SECURITY

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. BERMAN. Mr. Speaker, next week the International Relations Committee will mark up legislation that threatens major changes in America's foreign policy institutions. This legislation—that appears to be largely driven by pledges from Senator HELMS to consolidate America's foreign policy instruments—was just received this morning by Congressman HAMILTON and has not yet been reviewed by most Democrats, nor, I venture to say, by many Republicans. Yet, the committee appears to be determined to move its legislation forward.

Through press statements, we have learned that Senator HELMS' agenda is to eliminate the Arms Control and Disarmament Agency [ACDA], the Agency for International Development [AID], and the U.S. Information Agency [USIA]. The functions of these agencies are to be combined into a mega-bureaucracy in the Department of State. Senator HELMS claims major savings in this reform although he acknowledges that few actual savings will be realized in the first 2 years of his proposed consolidation.

I believe that there is even a greater cost to this proposal. It is in the cost to our national security. In this day of increasing threats from terrorism and the proliferation of weapons of mass destruction, now is not the time to dismantle the first line of America's defense: our foreign policy institutions which served this country so well in the cold war.

We all believe that in this post-cold-war era, when threats to American citizens and our nation can come equally from the actions of a lone terrorist or another country, when threats can be economic as well as military, we do need to reexamine our Nation's foreign policy

bureaucracy in order to make it more efficient. But this effort is already underway through Vice President GORE's National Policy Review and Secretary of State Christopher's internal strategic management initiative.

We need a reasoned, rational approach to reform that matches objective with means in a manner that protects and advances American national security. Legislation designed by political impulse and railroaded through the political process without time for full regard to cost or benefit is dangerous tinkering with America's security.

I am not alone in my desire for hesitation or in my concern for the result. A bipartisan group from Freedom House recently released a statement opposing the elimination of USIA. This group, which includes among others former U.N. Ambassador Jeane Kirkpatrick, Edward Fuelner, Jr., president of the Heritage Foundation, former Senator Malcolm Wallop, and Emmett Tyrrell, Jr., editor of the American Spectator, cogently and persuasively argues that "this proposed consolidation and centralization would weaken American public diplomacy."

The arguments that they make on behalf of preserving one agency, USIA, I believe can be made, and will be made next week, on behalf of the other agencies now threatened by the proposed legislation. Weakening the independent voices and undermining the effectiveness of ACDA and USAID will not strengthen American foreign policy. I encourage my colleagues to read closely the statement issued by Freedom House and review carefully the legislation once it is introduced by the Republicans.

I ask that the Freedom House report be printed in the RECORD at this point.

THE FUTURE OF U.S. PUBLIC DIPLOMACY

New proposals have been advanced to place the United States Information Agency (USIA)—long the chief instrument of American public diplomacy—under the centralized control of the State Department. We believe this proposed consolidation and centralization would weaken American public diplomacy.

Why should the USIA remain independent? Through its broadcasting, numerous exchange programs and links with people throughout the world, it already is highly successful in promoting American interests and articulating who we are and how our policies and values are shaped. The State Department has a different though related role. It explains U.S. foreign policy to Americans and presents our government's official positions to foreign governments. The State Department values quiet negotiations, government-to-government contacts, protracted discussion, compromise and sometimes secrecy. A credible public diplomacy, by contrast, requires openness, the ability to respond quickly to rapidly changing world events, and independence in reporting, analysis and comment. In short, the culture of the State Department differs substantially from the culture of the USIA.

There are other important reasons to retain the USIA's present status.

Public diplomacy and formal diplomacy. While formal diplomatic relations conducted by the State Department are an important aspect of our government's diverse engagement with other societies, public diplomacy—our open efforts to win understanding and support among the peoples of foreign countries on matters that affect U.S. national interests—suffers when it is subordinated to the demands of formal diplomacy. We have long-term interests in developing flexible relationships with foreign educators, journalists, cultural leaders, minority and opposition leaders that must not be subjected to the daily pressures of official government-to-government affairs. USIA has filled this niche by setting up exchanges that introduce foreign representatives to U.S. governmental, non-governmental, private, business and cultural institutions.

American values: independent voices, one theme. The promotion of American political and economic values has been an auspicious aspect of our foreign policy in recent times. The spread of democracy and the global communication revolution indicate that this form of engagement in foreign affairs will be of great importance in the future. Diversification and independence—not centralization and uniformity—make the U.S.'s message more meaningful and credible. The USIA's broadcasting and exchange programs should remain free of interference from officials with responsibilities in other areas. Radio Free Europe/Radio Liberty, Voice of America and Radio Marti remain vital sources of information around the world. In East-Central Europe and the former Soviet Union (where independent media continue to face difficulties) RFE/RL is trusted precisely because of its journalistic integrity. This would be seriously compromised if they were perceived as official organs of State Department policy.

Re-orientation before re-organization. The structure of our foreign affairs agencies needs to be considered in light of America's global strategy in a rapidly changing international environment. Re-organization not rooted in a clear and comprehensive understanding and consensus about goals and missions cannot work or last. The USIA and federally-funded international broadcasting have track records of success and will continue to work. Indeed, with today's menacing phenomena of international criminal activity, terrorism, inter-ethnic hatreds and anti-democratic forces around the world, the work of USIA is more critical than ever.

We understand that there will have to be some significant re-organization and re-prioritization in foreign policy. Those who have offered proposals for change have done some service. The world has changed, in no small measure because of our multi-layered and multi-faceted foreign policy structures. Our goal should be coordination between agencies, not the kind of consolidated administrative centralism that will not work. The tasks of the State Department and the public diplomacy agencies should nurture one another, but must remain separate to be truly effective.

HONORING TUDOR CITY GREENS

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mrs. MALONEY. Mr. Speaker, I stand before my distinguished colleagues to honor the invaluable work of Tudor City Greens.

Tudor City Greens is a not-for-profit organization that maintains two parks within the Tudor City complex; one of New York City's most densely populated neighborhoods. Surrounded by the steel and glass of towering skyscrapers, these two parks have provided tranquility and beauty for the public's enjoyment since the late 1920's.

The importance of the parks to New York's quality of life was brought to the forefront when the very existence of the parks were threatened in 1972. That year a real estate developer bought the Tudor City complex and planned to build apartments on the parks. The community rallied against the developer and vehemently battled to save the parks. After a 15-year legal battle, the properties were sold to Time Equities who donated the parks to the Trust for Public Land. The parks were deemed only for recreational and cultural use and in 1988 Tudor City and its parks were designated an historic district by the Landmarks Preservation Commission in 1988.

Tudor City Greens was founded in January of 1987 by residents of the complex to preserve and maintain the parks. Since its conception, the organization has worked diligently to develop and implement a comprehensive plan to restore and maintain the parks. They have cultivated new gardens, initiated a tree care program and organized annual events such as Easter egg hunts, caroling and a Halloween parade.

On May 10, Tudor City Greens, will sponsor its Parks Celebration to focus the city's attention on the beauty of the parks, and the continuing efforts to preserve them. I would like to personally thank the directors of Tudor City Greens for their dedication and outstanding work in preserving one of New York's cultural treasures.

Mr. Speaker, I am proud to pay tribute to Tudor City Greens for providing the citizens of New York with this emerald isle deep within the heart of New York.

EXPLANATION OF AMENDMENT TO BE OFFERED TO THE CLEAN AIR ACT

HON. RANDY TATE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. TATE. Mr. Speaker, earlier today I had preprinted in the CONGRESSIONAL RECORD an amendment offered by myself, and my distinguished colleague, Representative MIKE PARKER, to H.R. 961, the Clean Water Amendments of 1995.

The explanation follows:

AMENDMENT TO H.R. 961 TO RESOLVE THE TACOMA CASE BY INCLUDING STATE WATER QUALITY RECOMMENDATIONS IN THE FERC LICENSING PROCESS—EXPLANATION

The purpose of this amendment is to address the serious concerns that the Supreme Court's 1994 Tacoma decision are creating for the nation's hydropower projects. These projects are the leading source of clean, renewable electric energy in this country. But they are operating under a cloud because the Supreme Court has interpreted the Clean Water Act, in particular section 401 of the Act, so broadly as to effectively supersede the Federal Energy Regulatory Commission (FERC)'s licensing authority over the projects under the Federal Power Act.

This amendment would rectify that situation. It directs state water quality agencies

to provide their Clean Water Act recommendations—for hydropower projects under the Commission's jurisdiction—to the Commission to consider under the Federal Power Act. Section 10(a) of the Federal Power Act requires FERC to conduct a lengthy, comprehensive review of both proposed hydropower projects and existing projects upon relicensing. That review focuses heavily on the potential environmental impacts of each project and best ways to mitigate or avoid those impact. Furthermore, section 10(a) specifically requires the Commission to take into account the recommendations of state and federal agencies, Indian tribes, and the public. Therefore, in the context of hydropower projects under FERC's jurisdiction, it makes sense to fold state water quality agency recommendations into the comprehensive licensing process that already exists under the Federal Power Act. This amendment accomplishes that objective.

TRIBUTE TO CPL BRUCE BARDELL

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. DINGELL. Mr. Speaker, I rise today to pay tribute to a distinguished police officer who is retiring as a hero from the Allen Park, MI, Police Department. Cpl. Bruce Bardell was honored last month by the city he has served with bravery and skill for 29 years.

Since being wounded by a gunshot fired by a fleeing felon in 1978, Corporal Bardell has undergone four major surgeries, the most recent of which was in January of this year. I would like to share with my colleagues a little about the incident that led to this injury because it reveals much about the character of this officer, and the other officers on the Allen Park police force.

On June 3, 1978, Corporal Bardell was among the officers dispatched when a larceny was reported in the north end of the city. The suspects fled in a car. After the police gave chase, the suspects abandoned their vehicle and escaped through back yards on foot in the dark. When a resident reported a prowler, Officer Bardell responded. Upon arriving to the area of the report, he viewed a shadowy figure darting in a nearby yard, and gave chase on foot. Officer Bardell was surprised by a second suspect hiding behind a garage, who fired two shots at point blank range, striking Officer Bardell in the abdomen. He managed to return fire, striking the suspect, who was immobilized until other officers arrived on the scene.

Officer Bardell returned to duty following his recovery from his injuries, and I am pleased to be able to report that his assailant is still imprisoned, serving a 60- to 100-year term. However, I must also note that Corporal Bardell has suffered continuing health problems as a result of this craven criminal act. Despite these problems, he has continued to serve with distinction and honor.

For his years of dedicated service to the people of Allen Park, for his bravery in the face of great danger, and for his record as a good and faithful citizen, I call upon my colleagues in the House to join me in saluting this great American.

MONEY TO BURN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. LANTOS. Mr. Speaker, as I am sure you know, Arson Awareness Week, commemorating the end of the Los Angeles fires set during the 1992 riots, just ended, with communities all across the country focussing public attention on the terrible costs in lives and money from arson for profit. Arson Awareness Week has the support of firefighters around the Nation, many of whom have organized with consumers, government agencies and insurers to combat this form of insurance fraud through public information and the advocacy of such groups as the Coalition Against Insurance Fraud. The coalition recently published in its newsletter the following article, "Money To Burn", which I would like inserted in the CONGRESSIONAL RECORD in recognition of our firefighters and the arson problem:

MONEY TO BURN

(By Michael E. Diegel)

ARSON-FOR-PROFIT AND ITS MANY FACES ARE A DANGEROUS—SOMETIMES DEADLY—FORM OF INSURANCE FRAUD

In 560 cases in 1993, someone's world ended just as biblical writers predicted—in a blaze of fire.

The 560 dead were the victims not of apocryphal wrath but of arson.

For at least 80 other people living in apartments above a New York warehouse, salvation came in the form of investigators who unearthed a plot to burn the warehouse for the insurance money.

There's no way to know how many of the 560 were killed in cases of arson for profit, but experts believe at least 15 percent of reported fires are deliberately set for several reasons, including insurance fraud and other profit-seeking motives.

"It's as difficult, or perhaps even more so, as determining the level of [other types of] insurance fraud," said Rick Gilman of the Insurance Committee for Arson Control. "It's perhaps more difficult because arson covers a wide variety of motives where generally insurance fraud is strictly for profit."

He defines arson for profit as "an intentionally set fire to recover some financial gain. Maybe it's financial gain through insurance proceeds, maybe it's financial gain through reducing the competition, maybe it's financial gain through some other avenue.

"There isn't any information as to how common it is," Gilman continued. "The whole issue is one that's very difficult to find out anything about because there hasn't been an effective study of that aspect of arson for over a decade."

A 1982 study of closed claims files from 1980 was conducted by the Insurance Research Council's organizational predecessor, Gilman said.

"In general, what they found in the voluntary [insurance] market, the percentage of arson cases was 15–17 percent, but when you got into the FAIR [Fair Access to Insurance Requirement] plan market, they found [arson cases were] upwards of 40–50 percent," Gilman reported.

What is known are recent cases that illustrate the variety of arson-for-profit schemes, such as:

A seven-person ring operating in Florida for at least six years. Participants torched houses, usually under the guise of renovation or construction projects. The group also burned cars and at least 15 insurance companies.

A New Jersey couple accused in February of setting fire to their home after it languished on the real estate market for more than a year.

Three San Francisco men were arrested in March and accused of buying a house in 1990, enhancing its value by presenting a fictitious lease-to-purchase agreement and filing a claim after setting the house afire. Investigators said one of the men had been pursued since the late 1970s for suspected arson, but this was the first time they'd gotten enough evidence to charge him.

A Prince George's County (Md.) man who owns a topless bar recently was accused of hiring others to set fire to the county's only other topless bar.

While large commercial arson cases and homeowner arson-related fraud is fairly common, arson for profit crosses all socioeconomic groups. Investigators in Buffalo, N.Y., report a rash of arson fires in apartments occupied by people on public assistance. Officials cited one woman who had fires break out in five separate apartments over three years. Relatives of hers experienced at least three fires.

In these cases, burned out welfare clients move into public housing. They refuse to pay any rent and eventually are evicted. Then the apartment is torched, usually after all belongings have been surreptitiously removed. The client moves into a hotel, which is paid for, gets all her meals paid for, and collects on claims for the "destroyed" belongings.

Typically, the "victim" can collect around $3,000 plus pocketing what would have gone to rent. Fire investigators believe that more than a third of the city's more than 300 arson fires can be attributed to the scheme, which they say is increasingly popular. In a couple of blatant cases, they report welfare clients related to each other had fires at the same time.

Cases like these earn headlines or are part of the anecdotes told among arson investigators. So, too, are tales of arson by juvenile or serial offenders. Usually these cases aren't fraud-motivated arson. Residential fires, too, are less likely to be suspected arson for profit.

"It may be that the grease fire in the kitchen may have been intentionally set," Gilman said, "but it's the local fire department and the local homeowner that maybe they know, [so] I think there may be less of a tendency to investigate residential fires unless it's glaringly evident—multiple ignition sights or other glaring evidence of arson."

Gilman also suspects investigators are less likely to look closely at residential fires because there's not as much money involved as in commercial arson fires. Again, he lamented, "There's all too few facts in this arena."

Still, he added, companies are investigating fires more than in the past.

"The same intensity that is being addressed to insurance fraud is being found in the arson investigation arena," Gilman said. Companies are creating and expanding special investigation units, using resources such as property loss databases and public records, trying to identify patterns and motives. They also go low-tech.

"Some companies train arson dogs and give them to local fire departments," Gilman said, "Nationwide has its own arson dog

they use for their investigations, which I think is kind of neat."

Passage of arson immunity laws has helped, too. All 50 states and the District of Columbia have some form of arson immunity to protect insurers who give information to law enforcement.

In some cases, the law's scope is limited. For example, 14 states do not allow reciprocity; law enforcement cannot share information with insurers. Most insurers support full reciprocity in immunity laws and also would like to see legislation protecting insurer-to-insurer information sharing.

And there is good news. The number of suspected arson fires has dropped for three straight years and there was a reported 11 percent drop in arson cases in cities with more than 1 million residents. However, the cost of those fires was up in 1993 by more than $350 million.

The National Arson Forum, a group of companies and organizations concerned about arson, developed Arson Awareness Week (the first week of May) to bring the cost of this crime to the attention of the public. It also commemorates the end of the Los Angeles fires set during the 1992 riots.

While the dollar costs are something that's borne by all of us, it's also a good time to remember that some of us pay with our lives.

TWO HUNDRED YEARS AGO

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. KENNEDY of Massachusetts. Mr. Speaker, I think it would be fitting for me to share with my colleagues a poignant poem written by Carrie B.H. Collins of Denver, CO. Ms. Collins' poem expresses the essence of our great Nation, and will make an important contribution to the record.

TWO HUNDRED YEARS AGO

(By Carrie B.H. Collins)

Two hundred years ago
America started to grow
Her work was tedious and slow
And England had to go.

Two hundred years ago
They thought they had to fight
For freedom and for right
The Red Coats with their might.

Two hundreds years ago
We found the Indians here
They farmed and fished and sought
To hold their land they fought.

Two hundred years ago
The Brown folks lived here too
Their horses they did ride
And brand their cattle's hides.

Two hundred years ago
Black folks were shackled and chained
Free labor they did give
Some died that others may live.

Two hundred years ago
They came from far and near
Some came because of fears
And others shedding tears.

Two hundred years ago
America wanted more
She looked from coast to coast
For help without a toast.

Two hundred years ago
Some peole had a dream
That one day it would seem
Like they could live as Kings.

Two hundred years ago
Men worked hard with the land
And some of them couldn't stand
Hardships of their fellow-man.

Two hundred years ago
They came with all they had
High hopes, courage and faith
To live and grow in grace.

Two hundred years and here
America, stand up and cheer
For men have worked sincere
Thank God, move on without fear.

Two hundred years and here
America, stand up and cheer
Brave men have bled and died
For freedom side by side.

TRIBUTE TO GIRL SCOUT GOLD AWARD RECIPIENT

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. OBEY. Mr. Speaker, today I would like to salute an outstanding young woman who has been honored with the Girl Scouts of the U.S.A. Gold Award by Birch Trails Girl Scout Council in my home town of Wausau, WI. She is Molly Olsen of Girl Scout Troop 291.

She was honored on March 11, 1995 for earning the highest achievement award in Girl Scouting. The Girl Scout Gold Award symbolizes outstanding accomplishments in the areas of leadership, community service, career planning, and personal development.

Girl Scouts of the U.S.A., an organization serving over 2.6 million girls, has awarded more than 20,000 Girl Scout Gold Awards to Senior Girl Scouts since the inception of the program in 1980. To receive the award, a Girl Scout must fulfill five requirements: earn four interest project patches, earn the Career Exploration pin, earn the Senior Girl Scout Leadership Award project, earn the Senior Girl Scout Challenge, and design and implement a Girl Scout Gold Award project. A plan for fulfilling the requirements of the award is created by the Senior Girl Scout and is carried out through close cooperation between the girl and an adult Girl Scout volunteer.

As a member of the Birch Trails Girl Scout Council, Molly began working toward the Girl Scout Gold Award in 1994. She completed her project in the areas of Bat Education and Preservation. She worked countless hours researching the bat population and finding donations to build eight bat houses at Camp Del O'Claire. She also donated books about bats to the camp library in hope that girls will become more educated about the species.

The earning of the Girl Scout Gold Award is a major accomplishment for Molly Olsen, and I believe she should receive the public recognition due her for this significant service to her community and her country.

VETERANS' EMPLOYMENT ASSISTANCE MUST BE MAINTAINED

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. MONTGOMERY. Mr. Speaker, I am today introducing the Veterans' Employment and Training Bill of Rights Act of 1995. Under this measure, which would amend section 4100, title 38, United States Code, veterans' eligibility for priority services under any federally funded work-force preparation, development, and/or delivery program would be clarified. An eligible veteran would be required to meet program eligibility requirements and be within 10 years of his or her date of discharge or release from active duty. Special disabled veterans would be given priority and preference under this section.

Additionally, the act would require entities that administer or deliver services under the above-described programs to provide information and effective referral assistance to veterans regarding benefits and services that may be obtained through other entities or service providers. The bill further provides that entities or services providers would be required to ensure that veterans are informed of their employment-related rights, benefits, and privileges provided under this measure.

The act would also require each State or local council, board, or advisory body established in support of the employment and training programs addressed by this measure to include representation from the veterans' community.

In order to ensure that veterans are being served in accordance with the intent of this legislation, the Secretary of Labor would be required to submit an annual report to the Committees on Veterans' Affairs of the House of Representatives and the Senate. It would be the Secretary's responsibility to determine what data is necessary to obtain the required information.

Mr. Speaker, our country has a longstanding commitment to providing priority services to veterans seeking employment and training assistance. We are now in the midst of an in-depth review and redesign of our national labor exchange and job training programs. As ranking member on the Veterans' Affairs Subcommittee on Education, Training, Employment, and Housing, I feel strongly that our commitment to veterans must be protected and even strengthened during this era of change. The men and women who defend our lives and liberty through military service earn the priority of services they have traditionally been provided and will continue to be provided under this bill.

I want to point out that no fewer than 17 States have implemented bills of employment rights for veterans. The Federal Government can and should do no less.

A SPECIAL TRIBUTE TO KATHRYN ELIZABETH RICHARDSON TYLER: CELEBRATING A LIFE OF COMMUNITY SERVICE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. STOKES. Mr. Speaker, on Monday, May 15, 1995, the city of Cleveland will celebrate the dedication of a new building addition to the Kathryn R. Tyler Neighborhood Center. The dedication ceremony will celebrate the strong commitment and vision of an individual who dedicated her life to serving the community and improving the lives of others.

The Cleveland community mourned the passing of Kathryn Elizabeth Richardson Tyler on April 5, 1995. For 32 years, Mrs. Tyler served as Administrator of the Kathryn Tyler Neighborhood Center. As we gather to break ground for the new building addition, we acknowledge her enormous contributions to our ceremony. I am proud to join the community for the special dedication ceremony. I wish to share with my colleagues and the Nation some information regarding Kathryn Tyler.

Mr. Speaker, Kathryn Elizabeth Richardson Tyler was born in Dawson, GA, and attended college in Knoxville, TN. She received two master degrees; the first was a Masters of Social Work from Atlanta University; and the second was a Masters of Social Work Administration from Case Western Reserve University in Cleveland.

Early in her professional career, Kathryn Tyler was a teacher in Sheffield, AL. She was also an instructor of social science at Albany State College, and North Carolina A&T College. Further, Mrs. Tyler served as Director of Field Services in the Mediterranean and European theaters during World War II for the American Red Cross.

Mr. Speaker, throughout her life, Kathryn Tyler exhibited a concern for the social welfare of the community. Shortly after relocating to the Cleveland area, Mrs. Tyler founded and served as the first Director of the Glenville Neighborhood and Community Centers. She ran the operation out of store fronts and in the old Glenville High School. However, Kathryn Tyler never gave up on the dream of a permanent home to address the needs of the community through basic social work.

In 1976, the Kathryn Tyler Neighborhood Center was named in honor of this individual's tireless efforts and commitment to the community where she resided and served. During her 32 years as Administrator of the Center, the Cleveland community benefited from important programs such as after school tutorial programs and Head Start for the children; mental health outreach services for families; adult education and job training classes for individuals throughout the community; and special programs to serve the elderly population.

Mr. Speaker, Kathryn Elizabeth Richardson Tyler was a beacon of light in our community. She had a love of people and a special gift of reaching out to those in need. Mrs. Tyler lived by the adage, "Have a dream . . . and reach for it." Due to her lifelong efforts, the community is better able to reach out to individuals and families in need. More importantly, because of Kathryn Tyler, our children have brighter and more promising futures. I was privileged to have known Kathryn Tyler. She was a close friend and someone whom I greatly admired.

I am proud to participate in the ground breaking ceremony for the new addition to the Kathryn Tyler Neighborhood Center. It represents a special tribute to an individual who dedicated her life to serving others.

"I LOVE LIFE AND I WANT TO LIVE" IS THEME ONCE AGAIN FOR THE UNITED BLACK FUND 23D ANNUAL VICTORY LUNCHEON

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. DELLUMS. Mr. Speaker, I rise today to enthusiastically extend my heartfelt congratulations to Ms. Wilhelmina J. Rolark, Esq., president/CEO, and the staff of the United Black Fund [UBF] in celebration of its 23d Annual Victory Luncheon.

I would also like to commend the staff of the UBF and its many member agencies for their continuous and much needed work in serving the community. It seems that the needs that were once taken care of by families and friends has now been placed in the lap of organizations such as the UBF.

Today, we face the possibility of many social programs being eliminated from our national landscape. We see our communities in distress and our Government has been thus far unable to provide for the growing numbers of people requesting assistance. This organization, and the many agencies it supports, are helping fill that void. I encourage UBF to continue to go forward, and to fight the good fight.

I know it is not easy to be called upon to do more and more with less. But with the kind of dedication the UBF has shown in the past, and the commitment it is making toward the future with programs such as "I Love Life and I Want To Live," the road to wellness is at hand, and the tide will be turned. As a former community worker, I know that it takes a strong will to constantly put the needs of others before one's own. I have the deepest respect and admiration for those who continue to do this day after day, year after year. Their selfless efforts make a difference in the lives of so many now and will do so in the years to come.

I find UBF's never-ending efforts a steadfast source of personal strength in my daily encounters with forces that seek an end to any and all programs that do not fit into their particular agenda. I know that without the UBF, there are many among us who would go hungry, who would be in the cold, and many more who would be without hope. I would like to thank UBF for caring for those people who need a helping hand. I know my friend, the late Dr. Calvin W. Rolark, Jr., is pleased as he peers down from above and witnesses the continuation of his lifelong work.

Mr. Speaker, I ask my colleagues to join me in saluting an organization that is serving a growing number of those in need. The UBF is definitely meeting unmet needs in the Washington metropolitan area and throughout America.

THE METAMORPHOSIS OF CZECH SOCIETY

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mrs. KENNELLY. Mr. Speaker, the Center for Democracy last Wednesday honored the Prime Minister of the Czech Republic, Vaclav Klaus, by awarding him its prestigious International Democracy Medal for 1995.

The Center for Democracy is a nonpartisan, nonprofit organization dedicated to supporting the democratic process throughout the world. In previous years, the center has honored Presidents Raul Alfonsin, Corazon Aquino, Oscar Arias, Patricio Aylwin, Violeta Chamorro, Arpad Goncz, and Boris Yeltsin.

I was fortunate to be at the dinner award ceremony and hear Prime Minister Klaus' acceptance address. His comments on the democratization process are profound, and I am including the text at this point in the RECORD.

THE METAMORPHOSIS OF CZECH SOCIETY

It is a great honor for me to be awarded the International Democracy Medal from your distinguished society. And it is extremely intellectually stimulating to have the unique opportunity to speak here today and share with you some of my ideas about the fundamental systemic change which has been going on in the Czech Republic for the last five years.

As well known, the Czech Republic suffered for many decades under an oppressive, undemocratic and totally inefficient communist political, social and economic system. It was a system irresponsive to human wants and desires. It is over now. I have to admit that I do not feel enough motivated these days to discuss at length the intrinsic logic as well as peculiarities of the functioning of such a system although I am convinced that the standard "sovietologist's" paradigm of explaining it needs substantial rewriting and though communism is not an unrepeatable, singular event which can never happen. But we are already on the other side of the Rubicon.

The task of our time has been positive—to replace such a system with a free, democratic society, based on political pluralism and the rule of law, with a well-functioning, efficient market economy, based on private property, private initiative and limited government.

I will try to argue here tonight that the Czech Republic has already introduced basic elements of such a system and by having done so, the country has entered what we call the early posttransformation stage.

In all our effort during the last few years to dismantle communism and institute free society and market economy the central idea was that of democracy. Several years ago I coined the phrase "market economy without any adjectives" in an attempt to reject all forms of "third ways" of economic organization and it seems to me now that I can say as well "democracy without adjectives" because it contains the same message. We do not want to make the term fuzzy,

therefore, we don't like people's democracy, socialist or social democracy, christian democracy, etc. Whether this is really understood or not is exactly what distinguishes successful from unsuccessful approaches to the transformation of the postcommunist countries.

Talking about the metamorphosis of Czech society (and those of other Central and East European countries), the most important thing now is to avoid falling into the dangerous reform trap of half-measures and useless political and social concessions, and not to give up the fight against an already emerging "rèforme fatigue". The transformation has nonzero "transformation" costs and our task is to minimize them. This cannot be achieved only by spontaneous evolution of social institutions. The profound systemic change can be successful only if it is based on a clear and transparent vision of the future, the ability of politicians to sell such a vision to the citizens of the country and a pragmatic, and rational (and definitely not simple) transformation strategy.

To structure the logic of the whole process, to differentiate between the intentional and the unintentional the organized and the spontaneous parts of it, it is helpful to distinguish between passive and active transformation measures.

The passive (nonconstructivistic and noninterventionist) side coincides with deregulation and liberalization. The political transformation was fully based on this, i.e. on creating preconditions for a free entry into the political market. We realized very soon that this was sufficient and that no direct measures were indispensable (it was almost not necessary to prohibit anything). This is not a trivial conclusion. The free political space was very soon filled with new political entities and by now, in my country at least, the standard political structure—characterized by ideologically well-defined political parties—has been developed. The political structure is more European than American, with more than two political parties, which results in a coalition government and standard pressures between the cabinet and parliament.

The economic transformation was, of course, based on liberalization as well. It has been proved that liberalization of markets, that is of prices, foreign trade and private entrepreneurship, is necessary for the fundamental change of the system, but we realized that this is not sufficient. As I said before, the passive transformation plus waiting for evolutionary emergence of efficient markets and strong economic agents would last too long and be too costly. It was, therefore, supplemented with positive, more or less active transformation measures.

As—I am sure—you expect, the most important shift at the microeconomic level was achieved by privatization. In our country we managed to effect the fastest and most extensive transfer of property rights, at least in this direction. As you know, it is much easier to nationalize than to privatize, it is more difficult to build than to destroy. The job required a very special mix of standard and nonstandard privatization methods, and the innovative Czech voucher privatization, which involved millions of our citizens, proved to be a catalyst of the economic transformation. Now, five years after the Velvet Revolution and four years after the beginning of privatization, the massive, "wholesale" privatization is practically over. We have to settle some residual cases, but these are already part of our posttransformation tasks and challenges.

Speaking of the posttransformation stage, we have to complete the process of liberalization, deregulate the few still regulated prices (though the list of regulated prices in the Czech Republic is not longer than in the Western countries) and institute full convertibility of the currency; complete the privatization process, which is anyway coming to its close.

This kind of institutional refinement is the posttransformation task of the government. In addition, we need to deepen the markets and to strengthen the health of participating economic agents. This is, however, already a part of the Hayekian evolutionary process, in which the role of government is marginal.

But it is connected with another important challenge which is no more an integral part of our original transformation task. That is the need to safeguard economic freedom and resist the temptations for the government (magnified by strong lobbyist pressures) to introduce the same forms of regulation, control, licensing, etc. as we can see in some Western countries these days.

I know you have your own experience in this respect in your country, you have your own prophets of a limited or expanding government, and I can assure you that we followed your domestic political debates with great interest before our Velvet Revolution and we do with enormous interest now.

Let me make a few comments about how I see it from Prague. The ideological conflict over communism is over and it makes us very happy. There are new conflicts and new dubious, but attractive and fashionable ideas which must be discussed and their pitfalls and unintended consequences must be exposed. I have in mind the protectionist arguments for the so-called fair trade (I always try to relate the dispute between free and fair trade to the difference between free and fair speech); competition constraining arguments based on the criticism of the alleged social and ecological dumping; collectivistic features of communitarianism and the ideology of civil society; environmental extremism and overkill, etc.

The protectionist blueprint is an illusion, based on fear. In the end, it will not protect jobs but destroy them. The accusations of "dumping" neglect the law of comparative advantage, different levels of productivity of labor and wages (and related working conditions), as well as the connection between wealth and externalities. Communitarianism, instead of advocating the importance of voluntary associations and naturally emerging intermediating structures, preaches nostalgic reminiscences about a past that never existed and criticizes modern society. Environmentalism with its distinctly Calvinistic flavour and an obvious biblical quality is based on widespread misinformation, myths, sensationalism and promotes a collectivist, redistributionist political agenda.

Our experience gives us special sensitivity to all that and we see the similarities of arguments used in our country in the past and now in the sophisticated debates in your country and elsewhere. It is our duty to remind of that. We all have to watch our own policies and institutions. There is always the danger of creeping etatism and stronger government powers. And it is our duty not to let it destroy our fragile free and democratic society.

MEMORIAL DAY 1995

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. STUMP. Mr. Speaker, sacrifice. It's a word we all know. All of us have made some sacrifices in our lives. We make sacrifices for our family, for our close friends, even for our neighbors and coworkers. Persons in the Armed Forces make many sacrifices, and over one million Americans have given their lives, the ultimate sacrifice, while serving in our Nation's armed forces. Throughout history, members of the Armed Forces have risked their lives not merely for their family or their coworkers, but for a cause represented by the American flag, and the freedom to choose and the liberty to succeed which it embodies.

Some Americans are too young to remember; others have too quickly forgotten. How important, therefore, that we honor our veterans, that we learn from them, and that we teach others about history, about war, about sacrifice. We are still reminded about Korea, Vietnam, and more recent encounters. We should not, however, allow the memory, the lessons, and the sacrifices of our terrible world wars to fade. Proud veterans of those wars are among us today. Their presence bears witness to sacrifice.

Fifty years ago this month, our Nation was beginning to absorb the meaning of victory in Europe, to realize what the final tally was in terms of lives lost or shattered as the result of the awful conflict in Europe and North Africa. In April of 1945, President Roosevelt had died of a cerebral hemorrhage at Warm Springs, GA. The battle in the Pacific still raged as scientists neared completion of the first atomic bomb. The sacrifices would continue for 4 more months, and then the bloodiest of all wars would be over.

Veterans of World War I saw staggering losses in bitter trench warfare and history's first use of such horrible tactics as gas warfare. Fewer than 20,000 veterans of that brutal conflict are still alive today.

Cemeteries in two small towns in northwest Maryland contain the dead from the bloodiest day of the Civil War. The United States and the world learned of the awful toll of war when two of Mathew Brady's assistants photographed the dead of the 1-day battle at Antietam. The pictures brought home the shocking toll of war and its accompanying sacrifice when they were first displayed in 1862, and they are no less shocking today. Each Memorial Day, the 2,100 graves of the Union dead are decorated with small American flags, a scene which stirs the conscience, but which only hints at the sacrifices which took place on the day of the battle. The nearby cemetery containing 2,400 Confederate dead, no less valiant, is undecorated on most Memorial Days, because there are not sufficient funds to remember the sacrifice of these equally selfless men and boys.

Battlefields and cemeteries remind us of the terrible sacrifices and loss of life in war. But many of us or our family members remember all too directly the experience of war. The first half of this century saw two world wars. These

were the "wars to end all wars". How wrong we were to think the experience of war was behind us! Consider Korea, Vietnam, Lebanon, Grenada, and Panama. The Persian Gulf, Somalia, and Haiti. We have asked much of our fighting men and women.

Although many members of our Armed Forces are buried on foreign soils, there are cemeteries throughout this country which contain the remains of the very best that America had to offer. Remembering is what Memorial Day is for, and what gives it meaning is how each one of us remembers the great sacrifices which have made possible the blessings we share as Americans today.

LOS ANGELES STUDENTS RECEIVING THE "TOOLS FOR SUCCESS"

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. TORRES. Mr. Speaker, I rise today to recognize the Miller Brewing Company and the Los Angeles Trade Technical College (LATTC) for establishing the "Tools for Success' Scholarship Program.

Since it began 4 years ago, the scholarship program has built a nationwide reputation and expanded into six more cities. Instead of awarding students with scholarship funds, "Tools for Success" provides graduates with the actual tools they will need to excel in their profession. Whether it is automotive repair or fashion design, students embarking on a career will have both the skills and the implements to compete in the marketplace.

The top two graduates from 16 selected trade professions at Los Angeles Trade Technical College are honored annually. Each of the 32 honorees will receive a complete set of tools to help them begin their career. Since Miller Brewing started the Tools for Success Program more than 100 graduates have benefitted. Each honoree receives a set of tools donated by Snap-On Tools, valued between $1,500 and $2,000. Southern California Edison is also a partner in making this nationwide program a reality. Each of the scholarship sponsors deserves credit for developing a well-trained workforce that will stand ready to face the challenges of the 21st century.

Unfortunately, congressional duties will prevent me from attending the fourth annual awards ceremony. I say this partly because the College's renowed culinary arts students will prepare the awards luncheon.

The program is the brainchild of Victor Franco, Public Relations Manager, Miller Brewing Company at the Irwindale Brewery. Victor realized that vocational students have often been shortchanged at the scholarship table. Ninety percent of vocational graduates are required to have their own tools before they are hired. Often students cannot afford to make the large investment. By putting the tools in their hand, the students are well on their way to finding a job and honing their skills in the working world.

Mr. Speaker, I ask my colleagues to join me in honoring their year's Tools for Success scholarship awardees and to all of the individuals who have made this program thrive.

AN AMENDMENT ADDRESSING THE DEFINITION OF A SMALL BUSINESS IN SECTION 322

HON. SPENCER BACHUS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. BACHUS. Mr. Speaker, under Chairman Shuster's bill, H.R. 961—Clean Water Act Amendments of 1995, general and site-specific permits are required unless the entity can prove that its activities do not pose a significant risk to health and the environment, in which case, a permit would be required. However, an exemption is provided for small businesses that meet the definition of "small business" as promulgated by the EPA. Under the provisions of the committee bill, a small business is exempt from general and site-specific permits unless the State finds that, without permits, stormwater discharges would have a significant adverse effect on water quality. In this case, a permit would be required regardless of whether the entity was a small business or not.

While the reformed permitting process is a tremendous positive step in the right direction, the bill leaves it to the discretion of the EPA to define "small business." We fear that EPA will attempt to circumvent the clear intent of the bill and define "small business" so narrowly that it has no practical application.

The amendment which I plan to offer, a copy of which follows, uses similar language from section 507 of the Clean Air Act as it relates to defining "small business" based on number of employees. Under the Small Business Stationary Source Technical and Environment Compliance Assistance Program, small business is defined as having 100 or fewer employees. Our amendment as written would still allow EPA to define "small business," but any definition would have to include language to define "small business" as having 100 or fewer employees.

Even if this amendment is adopted, a State would still maintain authority to require permits by certain small businesses if it found that the stormwater discharges from the business would have a significant adverse effect on water quality. The amendment is intended to reduce the cost and paper-work that literally thousands of small business would be burdened with if they were not initially excluded from the permitting process.

AMENDMENT TO H.R. 961, AS REPORTED
OFFERED BY MR. BACHUS OF ALABAMA

Page 146, line 21, after the period insert the following:

At a minimum, the term "small business" shall include a corporation, partnership, unincorporated business, and sole proprietorship employing 100 or fewer full time employees.

AN AMENDMENT TO RESOLVE THE TACOMA DECISION

HON. BILL EMERSON

OF MISSOURI

HON. BILL K. BREWSTER

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. EMERSON. Mr. Speaker, the purpose of this amendment is to resolve the friction and conflict that the Clean Water Act, as interpreted by the Supreme Court in its 1994 Tacoma decision, is creating with the Federal Power Act. The Supreme Court has interpreted the Clean Water Act, in particular section 401 of the Act, so broadly as to effectively supersede the Federal Energy Regulatory Commission's licensing authority over hydropower projects under the Federal Power Act. This amendment would rectify that situation by exempting hydropower projects from regulation under the Clean Water Act.

The Federal Energy Regulatory Commission already conducts a comprehensive review of proposed new hydropower projects when first deciding whether to issue a license and again upon relicensing. That review takes into account the inputs of state and federal agencies, Indian tribes, and the public. The review also carefully evaluates and addresses the potential environmental impacts of each proposed and existing project. Therefore, in the context of hydropower projects under the Commission's jurisdiction, there is no need for the additional, duplicative layer of regulation that the Clean Water Act now creates. This amendment eliminates the duplicative layer of federal regulation.

CUTS IN NUCLEAR ARSENALS NEEDED

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Ms. FURSE. Mr. Speaker, I would like to submit for the RECORD the letter I and 24 of my colleagues sent to President Clinton last Friday. In it, we urged him to propose beginning negotiations with Russia on a START III agreement, to further limit our two nations' massive nuclear weapons arsenals.

Depending on the outcome of this week's summit in Moscow, I will consider introducing a resolution similar to this letter. I believe these reductions are vital in order to achieve a safer world for all of us.

ELIZABETH FURSE,
U.S. HOUSE OF REPRESENTATIVES,
May 5, 1995.

Hon. WILLIAM J. CLINTON,
President of the United States of America,
The White House, Washington, DC.

DEAR MR. PRESIDENT: We wish you success in your upcoming summit with President Boris Yeltsin in Moscow.

The substantial improvement in relations between Russia and ourselves in this post-Cold War era offers a historic opportunity to secure further reductions in nuclear arms, thereby reducing the nuclear risk and cost

for the United States, Russia and the world. As you know, at your September 1994 summit with President Yeltsin, you agreed that our two nations would discuss possibilities for further limits on our remaining nuclear forces, including further reductions. As you prepare for the summit, we urge you to prompt the United States Senate to complete START II approval of ratification. In Moscow, we urge you to encourage Russia also to ratify START II.

We believe that the United States should begin negotiations with Russia as quickly as possible on a START III agreement to achieve deeper cuts in our strategic nuclear arsenals. Such an agreement should require dismantling excess warheads and placing the resulting nuclear materials in storage under international or bilateral monitoring. We also encourage you to initiate negotiations with Russia to retire and dismantle all tactical nuclear weapons in our respective arsenals.

Additional measures toward nuclear disarmament enjoy broad support among the American public and are vital to reducing the threat of nuclear conflict. We hope you will include these practical steps in the summit agenda.

Sincerely,

Tom Barrett, Howard Berman, Sherrod Brown, Bob Clement, Peter DeFazio, Ron Dellums, Michael Doyle, Lane Evans, Elizabeth Furse, Sam Gejdenson, Maurice Hinchey, Zoe Lofgren, Ed Markey, David Minge, Connie Morella, Jim Oberstar, Major Owens, Frank Pallone, Nancy Pelosi, Martin Sabo, Pat Schroeder, Jose Serrano, Louise Slaughter, Pete Stark, Ron Wyden.

AN AMENDMENT ADDRESSING HYDROELECTRIC POWER GENERATION

HON. SPENCER BACHUS
OF ALABAMA

HON. GREG LAUGHLIN
OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

Mr. BACHUS. Mr. Speaker, last year, the U.S. Supreme Court issued a decision commonly referred to as the Tacoma decision that has created friction, conflict, and unnecessary, duplicative regulation for the Nation's hydropower projects. Specifically, the Court has interpreted section 401 of the Clean Water Act so broadly as to supersede the Federal Energy Regulatory Commission's licensing authority over the projects under the Federal Power Act.

The Court's opinion allows State water quality agencies to set conditions directly on the operation of hydropower projects, not just the discharges they produce. Furthermore, these conditions are not limited to standards set under the act but can be based on independent State laws that may not have water quality as their objective. The Court also said that water quality agencies can evaluate whether a project is consistent with the agency's designated uses for the water body, not just narrative and numeric water quality criteria. Most troubling, the Court also said that the conditions can directly address stream flows, even for aesthetic, fish and wildlife, or recreation purposes.

The following amendment, which we plan to offer to H.R. 961, the Clean Water Act Amendments of 1995, would restore the Federal Energy Regulatory Commission's licensing authority by narrowing the reach of the Clean Water Act, in particular section 401, as to hydroelectric projects. The amendment would limit State water quality agencies to applying narrative and numeric water quality criteria to the project discharges. If an agency wants to go beyond those definitive criteria, then it would need to submit its recommendations to the Commission for consideration as part of the Commission's comprehensive licensing review of the projects. Under section 10(a) of the Federal Power Act, such recommendations would get serious consideration, along with the numerous other environmental, recreational, and other recommendations the Commission reviews for each project.

AMENDMENT TO H.R. 961, AS REPORTED
OFFERED BY MR. BACHUS OF ALABAMA

Page 213, after line 5, insert the following:

SEC. 507. FEDERAL POWER ACT PART I PROJECTS.

Section 511(a) (33 U.S.C. 1371(a)) is amended by striking ", or (3)" and inserting the following: "; (3) applying to hydropower projects within the jurisdiction of the Federal Energy Regulatory Commission or its successors under the authority of part I of the Federal Power Act (16 U.S.C. 791 et seq.); except that water quality certification, unless waived or denied, shall be issued for such projects under section 401 and the water quality conditions in those certifications shall become conditions on project licenses and except that any water quality certification conditions or denial issued under section 401 shall be limited to consideration of narrative and numeric water quality criteria adopted in water quality standards under section 303 and such conditions shall not regulate, or such denial be based on, water use or water quantities; or (4)".

Renumber subsequent sections of the bill and conform the table of contents of the bill accordingly.