SENATE—*Tuesday, October 1, 1996*

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Oh God, our help in ages past,
Our hope for years to come
Be our guide while this day shall pass
And our eternal home!

Almighty God, above time and yet with us in the passage of time, You give us enough time in each day to do what You want accomplished. Thank You for the minutes and hours of the day ahead. Help us to think of them as Your investment in this day's account, there for us to draw on to do what You want us to do on Your timing. May we neither feel rushed nor restless. Make us good stewards of the gift of time we have today. May we not squander it or sequester it. Free us from the manipulation of time. Our mutual goal is to do Your will in the order of Your priorities for the good, as well as the safety, of our Nation.

We commit ourselves to be sensitive to the guidance of Your spirit in the convictions we express and how we express them. Give us generosity in our attitudes and frugality in our verbiage. Remind us of our accountability to You. So fill this Chamber with Your glory and the mind and heart of each Senator with Your wisdom. And this morning, gracious God, we thank You for the service of Kelly Johnston as Secretary of the Senate and welcome Gary Sisco to this important and crucial position. We ask Your blessing and power on this Senate. Through our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. Good morning, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, for the information of all Senators, this morning the Senate will be swearing in the new Secretary of the Senate. Following the oath of office, the Senate will conduct a period for morning business until the hour of 12:30 p.m. And at 12:30 today, the Senate will recess until 2:15 p.m. for the Republican policy luncheon.

Under the previous order, during today's session, there will be 3 hours reserved for debate on the FAA conference report for Senators to utilize throughout the day. As a reminder, there will be an additional 3 hours for debate tomorrow on that conference report, with a cloture vote occurring on the conference report on Thursday at 10 a.m. I expect that the Senate will invoke cloture on Thursday, and it is my hope that we will be able to complete action on the FAA conference report shortly following that vote, certainly sometime during the day. It conceivably could go into the late afternoon, but we believe we can get that done at a reasonable hour. Senators should be aware that votes are possible today with respect to any other legislative items that are in the clearance process.

The distinguished Democratic leader and I will be talking about, hopefully, no longer controversial items that we can move by unanimous consent. Of course, we will advise all our colleagues.

ELECTING GARY LEE SISCO AS SECRETARY OF THE SENATE

Mr. LOTT. Mr. President, I send a resolution to the desk electing Gary Lee Sisco as Secretary of the Senate.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 307) electing Gary Lee Sisco of Tennessee as Secretary of the Senate.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be considered, agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 307) was considered and agreed to, as follows:

S. RES. 307

Resolved, That Gary Lee Sisco of Tennessee be and he is hereby elected Secretary of the Senate.

NOTIFYING THE PRESIDENT OF THE UNITED STATES OF THE ELECTION OF GARY LEE SISCO AS SECRETARY OF THE SENATE

Mr. LOTT. Mr. President, I send a resolution to the desk notifying the President of the election of Gary Sisco as Secretary of the Senate.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 308) notifying the President of the United States of the election of Gary Lee Sisco of Tennessee as Secretary of the Senate.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be considered, agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 308) was considered and agreed to, as follows:

S. RES. 308

Resolved, That the President of the United States be notified of the election of Gary Lee Sisco of Tennessee as Secretary of the Senate.

NOTIFYING THE HOUSE OF REPRESENTATIVES OF THE ELECTION OF GARY LEE SISCO AS SECRETARY OF THE SENATE

Mr. LOTT. Mr. President, I send a resolution to the desk notifying the House of Representatives of the election of Gary Sisco as Secretary of the Senate.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 309) notifying the House of Representatives of the election of Gary Lee Sisco of Tennessee as Secretary of the Senate.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be considered, agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 309) was considered and agreed to, as follows:

S. RES. 309

Resolved, That the House of Representatives be notified of the election of Gary Lee Sisco of Tennessee as Secretary of the Senate.

ADMINISTRATION OF OATH TO THE SECRETARY OF THE SENATE

The PRESIDENT pro tempore. The new Secretary of the Senate, escorted by the Senators from Tennessee, will present himself at the desk to take the oath of office.

The Honorable Gary Lee Sisco, escorted by the Senators from Tennessee, Mr. THOMPSON and Mr. FRIST, advanced to the desk of the President pro tempore; the oath prescribed by law was administered to him by the President pro tempore.

[Applause, Senators rising.]

Mr. LOTT. Thank you, Mr. President.

COMMENDING KELLY D. JOHNSTON FOR HIS SERVICE TO THE U.S. SENATE

Mr. LOTT. Mr. President, I send a resolution to the desk commending Kelly Johnston for his service to the Senate.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 310) commending Kelly D. Johnston for his service to the U.S. Senate.

Mr. LOTT. 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.

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

The resolution (S. Res. 310) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 310

Whereas, Kelly D. Johnston faithfully served the Senate of the United States as Secretary of the Senate during the 104th Congress, and discharged the duties and responsibilities of that office with unfailing dedication and a high degree of efficiency; and

Whereas, as an elected officer of the Senate and as an employee of the Senate and the House of Representatives, Kelly D. Johnston has upheld the high standards and traditions of the United States Congress, from his service on the staff of the House of Representatives from the 96th through the 101st Congress and then on the staff of the Senate from the 102d through the 104th Congress; and

Whereas, through his exceptional service and professional integrity as an officer and employee of the Senate of the United States, Kelly D. Johnston has earned the high esteem, confidence and trust of his associates and the Members of the Senate: Now, therefore, be it

Resolved, That the Senate recognizes the notable contributions of Kelly D. Johnston to the Senate and to his country and expresses to him its appreciation and gratitude for faithful and outstanding service.

OUR NEW SECRETARY OF THE SENATE

Mr. LOTT. Mr. President, I appreciate the cooperation of the leadership for getting this confirmation in place. I think the Senators are aware the name of KELLY JOHNSTON has been officially received by the Senate to be appointed to the Federal Election Commission, and we hope in the next couple of days final action will be taken on that nomination.

I am very pleased and honored today that we have confirmed Gary Lee Sisco to be our new Secretary of the Senate. I have known Gary for over 30 years. We were in college together. Even though he is a Tennessean, he had the very great wisdom of attending the University of Mississippi at Oxford. The Senators from Tennessee, FRED THOMPSON and BILL FRIST, I know, are very proud of this new Secretary of the Senate, but he did go to Ole Miss, and keep that in mind Thursday night.

But Gary has been a close personal friend. I have admired him for his attitude about Government, his family and his relationships with his friends and his work and his businesses. He is an outstanding human being.

He was born in Belvidere, TN. He is married to the former Mary Sue Baylis Sisco of Pascagoula, MS, once again, showing his great wisdom. As a matter of fact, my wife made the arrangements for the first blind date that Gary had with Mary Sue. She is a beautiful lady. They have three children: Stephen, 23; John, 21; and Mary Katherine, 13. I know they are very proud of their father this morning, and they are honored that he would be recognized in this way.

If I can take just a few moments to give you some more information about Gary. After he attended the University of Mississippi and received his bachelor of science in civil engineering in 1967, he also received a master of science in administration in September 1970 from George Washington University, and he attended law school at night at the University of Memphis. Gary is a captain in the U.S. Army Reserves.

For the past several years, in Nashville, Gary has been involved in real estate management and sales. And before that, he had a very distinguished record in Government. After he graduated first, though, from college, he worked for IBM. He was on active duty in the Army, and then he started working in political campaigns, including, I am sure, Howard Baker's campaigns. He was the campaign State chairman for Lamar Alexander when he ran for Governor and was elected. He served as administrative assistant to Congressman Robin Beard in the 1975–77 period. So he will understand and have a good relationship with the House.

Then he also worked for the Senate in a position I think that is critical and will be very helpful to him in this new position. He was the executive assistant to former Senator Howard Baker, giving him direct involvement and very and very active participation in the administration of a Senate office and understanding the way that that works.

So I am really pleased with this election. I know that Gary Sisco will make us all proud as the Secretary of the Senate. So I congratulate him and wish him well. And all I have to say is, "Go to work."

Gary, good luck to you.

Mr. President, I ask unanimous consent that the résumé of Gary Sisco be printed in the RECORD.

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

Résumé

GARY SISCO

June 1, 1994

Address: 3833 Cleghorn Avenue, Suite 401, Nashville, TN 37215.

Telephone: (615) 385-4384.

Fax: (615) 385-4752.

Date of birth: October 1, 1945.

Height: 5'10".

Weight: 175 lbs.

State of residence: Tennessee.

Spouse: Mary Sue Baylis Sisco of Pascagoula.

Children: Stephen Knox Sisco, 23; John Cartee Sisco, 21; and Mary Katherine Sisco, 13.

EXPERIENCE

January 1993 to Present: Apartment Management Corporation, 3833 Cleghorn Avenue Suite 401, Nashville, TN 37215—President/CEO.

Firm specializing in the brokerage and management of apartment communities.

Dixon Springs Investment Company, 3833 Cleghorn Avenue, Suite 401, Nashville, TN 37215—Shareholder.

Firm specializing in the investments of apartment communities.

January 1978 to January 1993: Town & Country Real Estate Companies, 3815 Cleghorn Avenue, Nashville, TN 37215—Chairman/CEO.

Diversified Nashville based Real Estate firm with management, sales, development, insurance, and investment divisions.

April 1977 to January 1978: Elkington, Keltner & Sisco, One Park Plaza, Nashville, TN 37209—Partner.

Partner in charge of the Nashville office of this firm specializing in condominium and association management with offices in Nashville, Memphis and Knoxville.

January 1975 to April 1977: Congressman Robin Beard, U.S. House of Representatives, Washington, D.C. 20515—Administrative Assistant.

Responsible for all staff operations of Congressman Beard in Washington and the Sixth Congressional District of Tennessee.

December 1973 to January 1975: Lamar Alexander for Governor, Box 1974, Nashville, TN 37202—State Campaign Manager.

Responsible for all of the gubernatorial campaign activities of the campaign of Governor Lamar Alexander for Governor in 1974 state-wide.

October 1971 to December 1973: United States Senator Howard Baker (R-Tenn), 2107 Dirksen Building, Washington, D.C. 20510—Executive Assistant.

Federal Building, Memphis, Tennessee—West Tennessee Field Director.

Responsible initially of the Memphis Senate Office and subsequently for all staff operations of Senator Baker in Washington and the five offices in the State of Tennessee.

September 1970 to October 1971: IBM Corporation, 1256 Union Avenue, Memphis, TN 38104—Marketing Representative.

Marketing Representative and System Engineer—Data Processing Division. Responsible for the installation of computers for IBM in a variety of businesses in the Memphis area.

October 1968 to September 1970: United States Army USAPERSINSCOM, The Pentagon Room, 1A885, Washington, D.C. 20510—Automatic Data Processing Project Officer.

First Lieutenant, Adjutant Generals Corps, Automatic Data Processing Project Officer, USA Personnel Information Systems Command, The Pentagon.

June 1967 to October 1968: IBM Corporation, 1256 Union Street, Memphis, TN 38104—Systems Engineer Data Processing Division.

EDUCATION

Central High School, Bolivar, Tennessee—Diploma, May 1963.

University of Mississippi, Oxford, Mississippi—Bachelor of Science in Civil Engineering, June 1967.

George Washington University, Washington, D.C.—Master of Science in Administration, September 1970.

The University of Memphis—Attended Night Law School.

MILITARY STATUS

Captain, U.S. Army Reserves, Classified IV-A.

PAST AND PRESENT MEMBERSHIPS AND AFFILIATIONS

Bank of Germantown—Board of Directors.

Baptist Health Care System—Board of Trustees and Executive Committee Member.

Baptist Hospital—Board of Trustees and Executive Committee Member.

Baptist Properties, Inc.—Board of Trustees.

Belmont College: An Agenda for Greatness Campaign—Chairman of Major Gifts Division.

Boy Scouts of America—Chairman of Large Gifts Division.

Education Corporation of America, Inc.—Chairman of Executive Committee—Board Member.

Governors Trade Mission to Shan Xi Province—People's Republic of China—Delegation Member.

Health Net—Employer Advisory Committee.

Immanuel Baptist Church.

Institute of Real Estate Management—Member.

Japan-Southeast U.S. Trade Association—Member.

Japan-Tennessee Society—Charter Member.

Leadership Nashville—Participant.

Nashville Area Chamber of Commerce—Member.

Nashville Board of Realtors—Member.

Nashville City Bank—Young Executives' Council.

Nashville Entertainment Association—Charter Member.

Nashville Exchange Club—Member.

Nashville Youth for Christ—Board Chairman and Advisory Board Member.

Tennessee Council of Private Colleges—Blue Ribbon Commission.

Tennessee Real Estate Commission—Member.

TRIBUTE TO KELLY JOHNSTON

Mr. LOTT. Mr. President, I also want to take a moment to thank again Kelly Johnston for his work over many years for a lot of different Congressmen and Senators. I did not realize that he had worked for so many different present Members of the Senate, I think probably at least three over the years. He has done a great job for Senators, like JON KYL. And, of course, he worked with DON NICKLES. He has done an excellent job as the Secretary of the Senate.

There are some vacancies at the Federal Election Commission, very important positions. Kelly has cleared the process you have to go through in being investigated. We need to get him there because there are two vacancies at the present time, and at least one or two more that will be coming up in April, and at a time when obviously the FEC is going to be the busiest that they perhaps have ever been.

But Kelly will put his great experience in the Congress and the Government and as the Secretary of the Senate to use for all Senators and Congressmen, and will work very hard, I know, to make sure that we have clean and honest and appropriate campaigns.

So, Kelly, we thank you very much, and we have been honored by your presence.

Would the Senator from Oklahoma like to add anything? We have done a resolution commending him already, in case the Senator did not see it. Would the Senator from Oklahoma like to add anything?

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER (Mr. BROWN). The Senator from Oklahoma.

Mr. NICKLES. Mr. President, one, I want to compliment my colleague, the majority leader, and join him in congratulating Kelly Johnston for doing an outstanding job as Secretary of the Senate. Secretary of the Senate is one of the highest positions that we have, maybe the highest nonelected position that we have serving Congress.

I have had the pleasure of knowing Kelly Johnston from Chickasha, OK, for a long time. He was my executive director when I was the chairman of the policy committee, the Republican Policy Committee. He did an outstanding job in that capacity. And I had the pleasure of working with him on the Senate Campaign Committee, and watching him do very able leadership as the Secretary of the Senate.

On behalf of all Senators, I just want to congratulate him for his service, thank him for his service, and send him best wishes, as he would assume new responsibilities at the Federal Election Commission.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The distinguished senior Senator from South Carolina.

Mr. THURMOND. I am sure I speak on behalf of all Senators when I commend Kelly Johnston for the fine job he has done. He has worked here for a number of years in many capacities. He has proven himself to be diligent, efficient, capable. And we are all pleased with the way he has handled matters. We wish him a bright future in the years ahead.

Mr. LOTT. Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

TRIBUTE TO GARY SISCO

Mr. DASCHLE. Mr. President, I had another engagement. I apologize for not being here a couple minutes earlier, but I also want to join with our colleagues in saluting Gary Sisco as our new Secretary of the Senate. We are delighted with his appointment, and we look forward to working with him.

I have had the opportunity to talk to the majority leader on a number of occasions about his qualifications, and the great respect and admiration that is held for him. I must say, it is with great enthusiasm that I welcome him to the Senate, and look forward to working with him.

We will have many opportunities to work together, and I look forward to those. I know that all of my colleagues share in our welcome and our enthusiasm for him this morning, and our congratulations. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. 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, is the Senate in morning business?

The PRESIDING OFFICER. The Senate is in morning business until 12:30.

TRIBUTE TO SENATOR NANCY KASSEBAUM

Mr. GORTON. Mr. President, this gives me an opportunity to speak briefly at least about those of my colleagues, particularly my colleagues on this side of the aisle, who are voluntarily retiring from the U.S. Senate this year. I know of no such occasion during my career here in which so many Members whom I regard as my close friends and whom I regard as wonderful contributors to the deliberations in this body, have chosen to move on to another phase in their lives at exactly the same time.

In one sense, of course, first among those must be my seatmate in the very next desk to me on my left here, the wonderful, charming and distinguished Senator from Kansas [Mrs. KASSEBAUM]. Senator KASSEBAUM, to the best of my knowledge, during my time with her here has never once raised her voice, but at the same time I have often been able to describe her as having a will of iron. I cannot tell you, Mr. President, how often, even though we are closely allied philosophically, I have had a particular matter on which some other Senator has told me Mrs. KASSEBAUM has made a decision and I have attempted to talk to her about, perhaps, reconsidering that decision. I

cannot count the number of occasions on which that has happened, but I can easily count the number of occasions on which I have been successful, because it is none.

When the Senator from Kansas has thought out an issue and has determined a course of action, that is the course of action she is going to take. It didn't matter whether it was her seatmate here or the Republican leadership or the President of the United States who attempted to change that course of action. It would not change.

For that reason, I found it particularly flattering to have at least a few occasions on which she has asked me for my own views on a subject before she has made up her mind. On occasion, at least, it seems to have given my arguments or my position some weight. But it is that strength of character coming from her family and the place in which she lives, and her unerring sense of right and wrong, what is proper and improper, that has caused her to make such a profound contribution to this body. She has made better each of the Senators with whom she has come in contact. I believe I can say that she has influenced us all and influenced us all toward our better natures.

During these final 2 years of her career here in the U.S. Senate, she has, of course, been the chairman on the Committee on Labor and Human Resources, and I have had the privilege of serving on that third major committee as a junior member. I have observed her patience in dealing with a large number of members on that committee who are quite willing to speak out on almost every issue, and to do so at length, and I have seen, almost without exception, how the patience of Senator KASSEBAUM has ultimately triumphed, together with her willingness to listen to the views of others and to accommodate them in building a majority for important pieces of legislation originating in that committee.

Her success in the Kassebaum-Kennedy health care bill is perhaps the single finest example of that form of cooperation and will remain a very real tribute to a person such as the Senator, but is only one of a legion of such accomplishments during the period of her three terms in this body.

TRIBUTE TO SENATOR WILLIAM COHEN

Mr. GORTON. Mr. President, another close friend who is retiring is the wonderful, talented, thoughtful, and intellectual senior Senator from Maine, BILL COHEN, whose career in the two Houses of Congress began in 1973. One level climaxed during his first term in the House of Representatives when, as a member on the Committee on the Judiciary, he sat through the impeachment hearings relating to President Nixon. I was not a Member of this body, or indeed in Washington, DC, during that vitally important and profound national debate. But I can remember, from afar I gained admiration for that very junior minority member of the House Judiciary Committee in connection with his public agonizing over an appropriate answer, the way in which he asked questions, and the way in which he justified his ultimately extremely difficult but, I think, correct decision on that matter.

He has, of course, been a Member of this body during my entire career here, as a thoughtful, highly independent mind, with a brilliant tongue and ability to state his position that is almost entirely unmatched. But, Mr. President, I think I will remember Senator COHEN most for his relationship with another former colleague of ours, Senator Warren Rudman of New Hampshire. The Presiding Officer remembers Senator Rudman very well. I often describe him as the only person I have known in my life who was always right, was never shy about sharing his absolutely correct views with everyone else, and who, even in a crowd of eight Senators, could occupy 75 percent of the talking time. Yet, with all of those qualities, he was greatly beloved by all who came in contact with him and was a wonderfully effective Senator.

The only Member of this body, however, who could ever prick Senator Rudman's balloon was Senator COHEN. He did so constantly, occasionally on the floor of the Senate, but literally every day in private relationships. To listen to the conversations between the two of them and the way in which Senator COHEN could deal with Senator Rudman was a wonderful privilege. While I know Senator COHEN looks forward to another wonderful career, I cannot but suspect that at least one of the reasons for his retirement now is the absence of any other person in this body with whom he could deal and interact in the way in which he did with our friend from New Hampshire, Warren Rudman. But Senator COHEN's wisdom and independence and thoughtfulness will be greatly and profoundly missed in this body.

TRIBUTE TO SENATOR HANK BROWN

Mr. GORTON. Mr. President, you, Senator BROWN, happen to be the Presiding Officer as I come to the floor to make these remarks. You are the one Member whose decision not to return I can least understand. Senator BROWN has been a friend, recommended to me by one of his closest friends in the House of Representatives as his closest friend, during the course of this last 6 years. You, perhaps above all of us on this side of the aisle, have been absolutely unafraid to take a position which would gain you only a tiny handful of votes. I know how many times I have come back to you during a rollcall to inquire whether or not one of your amendments could reach double digits during the course of a rollcall. But it has been one of your great features—a willingness to say, "no," the conventional wisdom is not correct, the easy way out is not the right way to go; there is a different way, a way that is better for the American people, better for all of us, albeit more difficult.

I know there have been occasions—a few occasions at least—in which those views have been expressed with such eloquence that they have actually prevailed in this body, and there are a number of times in which you can say, with I hope most of us, that, "But for me, the final result would have been different, and we are better off for me having been here."

Your cheerfulness and happiness and your willingness to deal with adversity has, I think, been an inspiration to every single one of us in this body. I do have every hope that you will be successful in whatever lies ahead in your career. I do know that not just by this Senator, but I believe by all of your colleagues, you will be greatly and wonderfully missed.

One last point in that connection which I found, about a year and a half ago, to be particularly profound was your role in the very difficult decision made by my other seatmate, the junior Senator from Colorado, to change parties, and to come over to this side. I don't know whether he would have been able to bring himself to do that at the same time or in the same way had it not been for the constant encouragement, friendship, thoughtfulness, and guidance that you provided for him. That itself will be a part of your heritage, which will live in this body long after you have left it yourself.

I must say this will be a lesser place without you. I note that the majority leader is now on the floor. I have several other talks like this to make about other Members, but for the time being, I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The distinguished Republican leader.

Mr. LOTT. Mr. President, I thank the Senator from Washington for yielding, and also for his very kind remarks.

DEPARTING SENATORS

Mr. LOTT. Mr. President, 14 of our colleagues will be retiring from the Senate at the end of this year. That is almost one-seventh of this body. Their departure represents a major turnover in the membership of the Senate, an institution which prizes itself on its continuity and its gradual pace of change.

With these 14 leaving, surely the Senate will be a different place next year. We have been enriched by these 14 Senators each in their own way, and in many ways over the years.

In the last 2 weeks it has been very hectic here, and I would have taken the floor earlier to comment about these distinguished Senators except for that very busy schedule. But I am glad now that I have the time to talk with a little leisure, and maybe even tell some special stories that I remember about some of these Senators. Each of them deserve special recognition.

I am glad so many Senators have spoken at length about those who will soon leave us. I went back and read several of the statements that were made Friday and Saturday, including some of the statements by Senators that will be leaving—particularly Senator COHEN of Maine. I found his remarks very interesting and enlightening, and typical of the Senator from Maine.

As everyone knows, the last few weeks have been an extraordinarily busy time. We have managed to deal with many items that have been stalled but most importantly we successfully pulled together the omnibus appropriations bill that will fund most of the Federal Government and direct many of its policies for years ahead. It wasn't easy for some Members and staff. It took literally weeks, and many of the Senators and staff members stayed up literally all night for 2 nights in a row. They did great work, and we are very proud of their work.

We are proud that we were able to complete our work last night in a bipartisan fashion. There was an overwhelming vote for that work product. I believe the vote was 84 to 15.

So now in the little time we have left in this 104th Congress I can finally get around to paying proper respects, although in an abbreviated form, to these distinguished Senators.

Senator BILL BRADLEY of New Jersey, for example, is widely expected to remain a force in our national politics. That is a tactful way of saying he is too impressive to ignore and too young to be relegated to the political hall of fame. He spent 18 years in the Senate proving that a Rhodes scholar can play hardball when he has to—and disproving the old adage that Senators can't jump. We wish him well and know that, in more ways than one, we will be hearing from him over and over again.

As we are preparing to leave, one of the bills that is left is the so-called "parks bill." I found myself last night here in the well talking to the Senator from New Jersey. He was involved working with the Senator from Alaska, Senator MURKOWSKI, to find a way to get that one last bill done. He last left his mark on this institution, and his mark on some outstanding legislation. And we look forward to working with him in a different role in the future.

Of course, my good friend sitting in the Chair this morning, Senator HANK BROWN of Colorado, leaves us far too soon after only one term in the Senate.

I remember very well receiving his call—I believe it was 2 years ago right after we had the election. In fact, I was running for a position myself at the time. And he was giving me suggestions. But he also wanted me to know. "And, by the way, I am leaving." I almost passed out. I could not believe it. I cannot envision serving in the Congress without HANK BROWN. He is just one of the most insightful Members I have ever known—brilliant in a very modest way.

I really do wish we had time to get him on the Finance Committee because his hand on the tax policy of this country would have been a wonderful sight to behold.

I remember that several of the things I have done over the years, that probably have gotten me into more trouble than I wanted, had been suggested by HANK BROWN. I will not forget my friend from Colorado. We surely will miss HANK, and we know that, again like the others, we will be hearing from him, and that his insightful intellectual integrity and his unfailing courtesy will continue to serve him well as he goes back to his beloved Colorado.

Senator BILL COHEN seems also far too young, both in years and in spirit, to have served in Congress for 24 years. Senator COHEN of Maine, Senator COCHRAN of Mississippi, and I were sworn in together as Members of the House of Representatives in 1973. We all have been together really ever since, even though the two of them came over to the Senate in 1978 and I didn't come over. I trailed along 10 years later. We have been through some incredible experiences together.

I have grown over the years to just come to admire and respect BILL COHEN so much. On the Armed Services Committee we are not just colleagues but comrades. We worked together to advance our Nation's security. We have a common interests in the magnificent cruisers and destroyers that defend our shores so well.

BILL COHEN turned out to be a novelist and a poet. He even published a book of poems. I mean, can you imagine? Most people would do well to write one poem. He has written a book of poems, as well as being an expert on matters as diverse as weapons systems and the problems of the elderly—and always as an independent thinker for the people of his State and for our country.

There are many issues on which we disagree, and we didn't always vote together, obviously. But none of them could diminish our mutual respect or my admiration for his dedication to his State and to his country.

We all certainly wish he and Janet Godspeed in the years ahead.

Senator JIM EXON from Nebraska has served with distinction as ranking member of the Senate Budget Committee. As a junior member of that committee, I far preferred him in the latter role in the minority. But I respected his commitment and appreciated his fairness no matter what party was in the majority.

There may be no more thankless task in the Senate than trying to steer the budget process, from either side of the aisle. And it takes a lot of teamwork and cooperation between the chairmen. In the last couple of years Senator DOMENICI and Senator EXON—I watched them work together many times standing shoulder to shoulder in the same position. I know I speak for all of us in expressing our appreciation for JIM's leadership, for his friendship, and for all the times his prairie personality has taken the edge off the sharp issues, and helped us to see the other side.

In fact, I have enjoyed this very year. He would come over on to the floor and say, "You know, Dole is trying to get me to be his running mate, and I am giving it a lot of thought."

He always had something to say that just loosened you up a little bit.

I have enjoyed working with him.

Senator SHEILA FRAHM of Kansas has been with us for only a matter of months. Coming to the Senate in the aftermath of Senator Dole's departure, she immediately faced extraordinary circumstances which she met with admirable effort and ability.

She has dealt with both her official duties and her political position with a heartfelt commitment to the people of Kansas.

Someone once defined courage as grace under pressure. SHEILA FRAHM has exceeded that standard. To grace she has added an unfailing cordiality, a no-nonsense devotion to her work that really defines what it means to be a Senator of the United States.

In the Senate, it is not how long you are a member of the team. It is how you handle the plays for the time that you are on the field. I know I am not alone in looking forward to her next appearance in whatever arena of public service that she chooses.

I referred earlier to the hard work, the long hours, and the positive way in which we reached a bipartisan conclusion to our omnibus appropriations bill just last night. A lot of the credit has to go to the gentle nature, the intelligence, the modesty, and the persistence of Senator MARK HATFIELD of Oregon. He has been working here for 30 years as a central figure in the progress and the dramas of the American Republic. He is now an institution within this institution. He has been more than a witness to great events of the last 30 years. He has been a key participant in many of them.

I remember when I first came to Washington in 1968 as a 26-year-old young staffer. MARK HATFIELD was already here and making a mark, and making waves sometimes. But because of MARK's work over these three decades, American education has been

transformed, American health care and medical research are revolutionized, and public policy is more humane, more just, and more compassionate. That is his memorial, and it is far larger a monument than the many statues that line the corridors of this Capitol.

Senator HOWELL HEFLIN of Alabama is often called the Judge, and for good reason. It is more than a reference to his previous position in the State of Alabama. It is a tribute to his temperament and his fairness, a special knowledge of the way he deals with issues and with people.

Some people say he talks a little funny. I never noticed it. I think he has no accent whatsoever. But I do get a little chuckle out of the fact sometimes that people come over and say, "Intrepret that for me." But whatever he is saying, it is worth listening to.

The Judiciary Committee will be poorer for his absence. We will all miss the way his self-effacing approach to a contentious matter could reinforce the comity that should always prevail in this body. While we share his happiness at the prospect of spending more time with his family, he and Mrs. Heflin will be missed from our Senate family.

They truly have been a family. Anytime there was an event off this floor, Mrs. Heflin was there. They were always a team. They were great representatives for our country in foreign affairs.

So I hasten to add, speaking as a neighbor, that they will be warmly welcomed across the border, and I know we are going to see a lot more of them here in Washington also.

Senator J. BENNETT JOHNSTON, of Louisiana, is another neighbor, and we have often worked together on regional matters.

While no one has ever doubted his loyalty to his party, he has often helped us bridge our differences to reach consensus. That has been especially true in his role, first as chairman, then as ranking minority member, on the Energy and Natural Resources Committee.

He now ends 24 years of service in the Senate and the Nation. It is hard to believe it has actually been that long. His departure will not end the friendship on both sides of the aisle, the best tribute to his standing among us. In fact, just last night there was a tremendous dinner held in his honor. Unfortunately, we were having a couple of votes, and it was interrupted a little bit, but a tremendous outpouring of affection from his constituents and from his colleagues in the Congress showed him just how much we do appreciate him.

Senator NANCY KASSEBAUM, of Kansas, came to Washington many years ago as a staff member to then Senator James Pearson, of Kansas. So I guess I should say she worked her way up the ladder.

Six years ago, when she was contemplating retirement, her colleagues sported buttons saying "Run, Nancy, Run." I wore one. We wanted her to stay. She ran, and, to no one's surprise she won overwhelmingly. If we had prevailed upon her to run again, she would win again.

Now it is time, she says, to go to—I think she calls it a farm. I had occasion to be in Topeka, and I landed at the airport, and there was NANCY KASSEBAUM, casually dressed and looking awfully relaxed and making me jealous that she was already in that frame of mind that she was enjoying retirement in her beloved land of Topeka, KS.

I could pay her tribute, as other Senators have, in appropriate flowery language, but in the final analysis I need only say this: When NANCY first came to the Congress, she was referred to as Alf Landon's daughter, but henceforth the identification will be reversed. From here on out, Alf Landon will be known as NANCY KASSEBAUM's father.

Senator SAM NUNN, of Georgia, also has spent 24 years in the Senate, during which time our country and all mankind have gone through tremendous changes. One thing that has not changed is SAM NUNN's single-minded devotion to his country's security in a dangerous world. Let me say something indelicate but something every one of his colleagues know. The Senate did not have to be the highest post to which SAM NUNN aspired. But he made his choices, and we are thankful for them.

His independent judgment has steadied the Senate in rocky times. I know that from personal experience. As a member of the Armed Services Committee, I worked with SAM in a bipartisan way across the aisle on many issues, many times very controversial issues. Even now on the Sunday morning talk shows, when most of the guests are on, I am flipping over to a football game or reading the paper or going out in the backyard to water the flowers. When SAM NUNN is on, I stop and listen because what he has to say is always very important and very impressive. His solid character has given weight to our deliberations. He has been a Senator's Senator, and I thank him for the gift of his example.

Senator CLAIBORNE PELL now closes out 36 years—36 years—six terms in the Senate. That is longer than many Members, particularly in the House, have been alive. As a young diplomat in postwar Europe, he saw the imposition of Soviet communism upon Eastern Europe. But he was here to greet the leaders of those same nations when, two generations later, they reclaimed their independence and their liberty. Among us here he has always retained the skills of the diplomat. No one can recall an angry word or destructive gesture on his part.

I wonder how many college students, present and past, realize that he is the "Pell" in their Pell grants. It is no matter, for his satisfaction has been in doing, not in the credit. We give it to him nonetheless with appreciation for what he has meant to the Senate and to the Nation.

I was very much impressed with the comments of the Senator from North Carolina [Mr. HELMS], just recently. He was emotional, and he said, "I admit it because we all love this man." And it is typical.

I was going down the hall on the first floor one day when I had the whip office adjoining his little office. He stopped me, and he said, "Have you ever seen my little room in here where I do most of my work?" I had not, and I walked in. It is an incredible room. I encourage my colleagues, if you haven't been in it, go. First of all, it is not real tidy. It has a smell of history, and it has a look of history—pictures that go back 50 years, 100 years, documents. It is a museum, and it is one room of one Senator in this building down on the first floor. I have enjoyed getting to know Senator PELL.

Senator DAVID PRYOR, of Arkansas, is a holder of the triple crown of American politics. He has served as Governor, Congressman, and Senator. I guess you could consider that the ultimate in recycling. They say you never know who your friends are until you run into real trouble. Well, when DAVID ran into trouble a few years ago with some rather serious heart problems, a heart attack while at home alone in his bed, the extent and the depth of his friendships in the Senate became clear. There is no greater tribute than having colleagues worry about your absence.

No one could say that Senator PRYOR is flashy in the traditional sense. That is why his quiet work on the Finance Committee and on the Aging Committee, which he formerly chaired, has made a difference and has rightly been his proudest accomplishment. Even now he is having some difficulty with a family member who has had to have some surgery and is going, I believe, to Houston for further evaluation this very week, and I have watched here in the Chamber as Senator after Senator go up to DAVID—Republican, Democrat, conservative, liberal, North, South, it makes no difference. They genuinely are interested and concerned because DAVID is interested and concerned. We salute him for all he has done.

PAUL SIMON, he of the bow tie. I thought it was a great tribute to him last week when we all wore bow ties. We just thought it was an expression of our affection for him. I think he enjoyed it, and we certainly all enjoyed it. He has received so many tributes that day and since from Senators it has left me very little I can say in addition, but he certainly has also left a mark here, not just his trademark bow

ties, as they do not represent the important things about him—a thoughtfulness about issues, a civility about disagreements, a coolness about crises. The Senate's loss in his leaving is tempered by our certainty that it is hardly the end of his presence in public life in our country. We will be hearing his voice. We will be reading his insights for many years to come.

Last and not least is the tall cowboy from Wyoming, ALAN SIMPSON, probably one of the better known Members of the Senate. Once you have seen him, it is hard to forget him. Of course, among all his other achievements over the years—he has been in leadership, he has been highly involved in many issues—he has done radio shows, I think almost daily, in which he and his friend from Massachusetts, Senator KENNEDY, exchange pleasantries. It is great to listen to them. It is always hard hitting, insightful and funny. They genuinely like each other; you can tell it in the radio show.

The news media relish his keen and sometimes acerbic comments. He is always good for a laugh with those western stories that he seems to embellish more and more every time he tells them. I have heard some of them many times, and they are funny every time. Yet we should not miss the point of his famous humor. He uses it as a tool to deflate pomposity, to replace tension with camaraderie, to replace argument with communication.

The 104th Congress is closing with a landmark victory for Senator SIMPSON, enactment of an illegal immigration bill on which he has long labored. I know in many respects he will consider it his crown jewel, his greatest accomplishment legislatively over the years.

It really frustrated me a week or so ago when it looked like we might actually lose it or lose major portions of it, but he was determined, he was relentless, he was aggressive, and again he employed his best weapon of all, humor. But just this past Saturday, at 2:30 in the morning, ALAN SIMPSON was ramming around these corridors looking for where the meetings were on illegal immigration. He was not going to let them escape his grasp. Every place the negotiations settled for a meeting to talk about various subjects that always led to illegal immigration, lo and behold the door filled up with the image of AL SIMPSON once again.

We all know that there is much more he wanted to accomplish, but the times, and perhaps the tempers, were not right. So we have much to come back to next year, including those hot wires that Senator SIMPSON had the courage to grasp barehanded. Sometimes we would all stand back and say, "AL, don't touch that. But if you do, don't mention my name."

No one knows better than I how difficult it is to be his opponent. By the same token, I know firsthand how devoted he is to the Senate, how loyal he is to his conscience, and how, many times, come next year we will wish we were there, having him stand tall—very tall—among us all.

I yield the floor.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

TRIBUTE TO THE LATE JUDGE JAMES FRANKLIN BATTIN

Mr. BURNS. Mr. President, I rise today to pay tribute to one of Montana's favorite citizens, who died last Friday. Some will remember his name and some will remember his presence in these halls of Congress. Judge James Franklin Battin left a legacy of service to this Nation and to our State of Montana, and to everyone who came in contact with him. He was 71 years old. He died of cancer at his home in Billings, MT. He is survived by his wife Barbara, two daughters, and a son who is now serving as a member of the California State legislature.

The judge was born February 13, 1925, in Wichita, KS, and was a personal friend to former Senator and now Presidential candidate Bob Dole, of Kansas. Both of them being born in Kansas, we can see why. But he moved with his family to Billings in 1929.

The life story of "Big" Jim Battin reads like the life story of this great United States. There are stories like this one all over America, but they are not told or given their proper space in American lore. When this Nation called during its great time of need and peril in World War II, he answered. He served in the U.S. Navy, earned two battle stars at Saipan and Okinawa.

He also answered the call to serve the people of eastern Montana, and represented them and America in the House of Representatives from 1961 until President Nixon appointed him Federal district judge in 1970.

Everyone who knew him here as a Congressman had great respect for him. He was known for his vision, his wisdom, and a quick wit. More important, he was known for his integrity: His word was his bond. All these great characteristics he carried over in his work on the bench and the important decisions he made every day that affected peoples' lives.

To Jim Battin, all people had faces. I know of no one who ever met or dealt with Big Jim who had the feeling that he did not care, this tall Congressman from Montana, who had a heart as big as the sky and as big as the State he represented.

From a personal standpoint, I feel a great loss. He was one that I went to when I was confronted with problems arising out of Washington. Who better to go to, than a man who was held in high esteem here? No matter how busy his schedule, he always took the time, and we would visit. So, I have lost a great friend, adviser, and teacher.

There is one other thing, though, I will not miss—his great negotiating ability on the first tee. He loved the game of golf, and he played it with great passion.

We do not say goodbye very often in our country; we just say, "So long." Even though our trails will part now, they will cross again someday.

Mr. President, I yield the floor, and 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. 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.

TRIBUTE TO ALAN SIMPSON AND MARK HATFIELD

Mr. GORTON. Mr. President, there are two others of my colleagues on this side of the aisle about whom I would like to speak briefly this morning. The first, of course, is one who has been the subject of innumerable tributes already, the wonderfully delightful and witty senior Senator from Wyoming, ALAN SIMPSON.

There is almost nothing I can say that can add to the tributes that have already been made. ALAN SIMPSON is unique. The single wittiest Member of the Senate, whose legion of stories is so great that you can hear one 3 years after you first heard it, without having listened to it in the interim, and it is as funny the second time as it was the first. I must confess there were a number that I tried to memorize so I could tell them myself. To be in a place of informality with ALAN and to listen to what he has to say is an extraordinary privilege.

But, of course, that does not make him a U.S. Senator. Commitment and hard work and dedication to principle are what make an outstanding Member of this or of any other legislative body. And the degree of thoughtfulness and attention that Senator SIMPSON has focused on a wide range of issues, those representing his own quintessential rural Western State, but even more significantly those that affect the future of the United States, its place in the world, its society and its culture, all have fallen within the ambit of ALAN SIMPSON's interest.

Whether it has been the almost constant support of a strong and successful foreign policy for the United States, whether it has been his thoughtful examination of questions relating to the budget and the tax relief of the American people, his dedication to seeing to it that this Congress and administration actually seriously begin the attempt of balancing the budget, whether

it is on his latest crusade for more thoughtful, balanced and strong immigration policy or a myriad of other issues, ALAN SIMPSON's views are sought out by his companions and given great weight by them.

Perhaps the finest symbol of the reach and scope of ALAN SIMPSON's interest and influence is his years of short radio debates with Senator KENNEDY, the leading Member of the other party. While I heard only a few dozen of them, each one shows Senator SIMPSON's patented wit, as well as his ability to get to the absolute heart of the particular issue.

Those are sets of qualities that are not likely soon to be duplicated here in the U.S. Senate, and as a consequence, every Member will miss ALAN SIMPSON as a U.S. Senator, and I believe I can say that every Member of the U.S. Senate will miss ALAN SIMPSON as a friend whom they see on each and every day.

Last in this series, but far from least, Mr. President, is my friend and neighbor, MARK HATFIELD, the senior Senator from Oregon. We are brought together, of course, by geography, by the fact that so many of the regional challenges that affect one of our States affects the other as well. By the very real geographic fact that rivers join together rather than separate and the boundary between our two States, through most of its length, is the Columbia River.

So, in any event, we would have been pushed together for the solution or for answers to these regional questions, but our association is far greater than that. I can say, Mr. President, that when I arrived in this body in 1981 and viewed my 99 colleagues, the single individual who most closely fit the best possible academic or idealistic profile of a U.S. Senator was MARK HATFIELD, in bearing, in demeanor, in dress, in voice, in mind and in ideas.

MARK HATFIELD is an individual who, as much as any other I ever met, is able to combine a great loyalty toward a set of ideas and directions which make and preserve a political party, with an independence of judgment and an unwillingness to delegate his final decisionmaking authority to anyone else. That is a very difficult balance, Mr. President, but MARK HATFIELD, I am certain from the beginning of his career, certainly during the 14 years that we have been here together, has perhaps best exemplified that wonderful balance: a chairman of an Appropriations Committee, tolerant, willing to listen to the views of others within his own party and in the other party, a firm and fine negotiator with whatever administration is in power, but at the same time, someone who never has lost sight of his goal of a more thoughtful, more peaceful, more generous America.

MARK HATFIELD's influence on this body will live for many years, perhaps for generations, after he has left. Others, beside myself, will look back and say that MARK HATFIELD was their ideal of what a U.S. Senator ought to be.

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

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

FAREWELL TO SENATOR KASSEBAUM

Mr. DASCHLE. Mr. President, for much of her life and political career, NANCY KASSEBAUM has been in the company of political giants. There was her father, Alf Landon, who had served as Governor of Kansas and was the Republican nominee for President in 1936. And there is that other Senator from Kansas, Bob Dole, who happens to be this year's Republican nominee for President.

Entering the U.S. Senate is intimidating enough—but to be following a path forged by two such powerful figures must have been truly overwhelming.

NANCY LANDON KASSEBAUM was more than equal to the challenge. She quickly emerged as a thoughtful, powerful, and highly respected force in this Chamber.

In fact, she was elected to the Senate by defeating her opponent by a larger margin than had Senator Dole when he squared off against the same person.

In office, she established herself as a moderate, centrist force in her party and in the Senate, which she is. But Senator KASSEBAUM's moderation was never mistaken for lack of fortitude. No one can be more determined or more tenacious in pursuit of a cause or a principle.

Again, her service as chair of the Senate Labor and Human Resources Committee has been characterized by fairness, tolerance, and moderation. It has been characterized by her efforts to make America a better place to live and work, as witnessed by her recent cooperation with Senator KENNEDY in securing passage of the Kennedy-Kassebaum legislation to improve access to decent health care for millions of Americans.

Indeed, Senator KASSEBAUM has worked to make life better for all people in all lands. As chair and ranking member of the Subcommittee on African Affairs of the Foreign Relations Committee, she has worked to improve the lives of the young and the impoverished on that continent.

There is an infectious optimism about her, as she has always found the glass half-full, and she has that wonderful ability to make others feel the same way. There is a basic decency about her as she always seeks the high road.

In announcing her retirement from the Senate, she did not disparage politics or politicians. There were no cheap jokes or cheap shots. Instead, she announced her retirement by encouraging young Americans to choose politics as a future endeavor.

"Politics is the lifeblood of democracy," she explained. "We have become a great nation because so many Americans before us chose to be involved in shaping our public life, focusing our national priorities, and forging consensus to move forward."

Now, as NANCY KASSEBAUM moves forward to the next phase in her life—as she says, "to pursue other challenges, including the challenge of being a grandmother"—I, and every Member of this Chamber, wish her the best.

FAREWELL TO SENATOR BROWN

Mr. DASCHLE. Mr. President, I have had the good fortune to know Senator HANK BROWN for some time.

Since being elected to the Senate in 1990, he has been a tenacious advocate for the principles he holds, especially on matters of fiscal restraint. His service on the Senate Judiciary, Veterans' Affairs, and Budget committees were all marked by his consistent support of conservative-Republican causes.

But, I point out, Mr. President, that while few people can be as vigorously partisan in pursuit of the causes in which they believe, even fewer people could be more respectful or more polite in their opposition.

Senator BROWN is genuinely liked and admired by Members on this side of the aisle, many of whom he has worked with during his service on the Senate Budget, Judiciary, Foreign Relations, and Veterans' Affairs committees. This also includes those he worked with under difficult, strenuous circumstances like the Clarence Thomas hearings and the BCCI scandal. Furthermore, he has worked with Democrats to help preserve our precious, but limited environment, through efforts like getting the Rocky Mountain Arsenal declared a national wildlife refuge. Working with HANK BROWN has been a pleasure.

Although he is leaving us after only one term, this worthy adversary, and the qualities he brought with him to the Senate, will be missed by Democrats and Republicans alike.

In announcing his retirement, Senator BROWN said that he was looking "forward to being full time in Colorado." I can understand and appreciate that. Colorado is a beautiful State filled with wonderful people. I wish him the best.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

FOOD AND DRUG ADMINISTRATION REFORM LEGISLATION IN THE 104TH CONGRESS

Mr. HATCH. Mr. President, as the 104th Congress winds to a close, I wanted to take this opportunity to comment on the demise of the Food and Drug Administration reform legislation.

It has been extremely disappointing to me that efforts to prod the FDA into meaningful reform have not been fruitful. It is doubly disappointing because, our colleague, Senator KASSEBAUM, and her staff have spent countless hours crafting a solid reform bill, a bill that won overwhelming, bipartisan support from the Labor and Human Resources Committee.

In remarks before this body earlier this year, I outlined my views on the need for FDA reform and the principles which should be embodied in any reform legislation. I continue to believe that reform of this tiny, but important, agency is sorely needed, reform that will both streamline its operations and preserve its commitment to ensuring the public health.

I know that many who have worked on the FDA issues are discouraged, but we can be proud of three significant reforms to food and drug law this year: the first being the drug and device export amendments I authored with Representative FRED UPTON; the Delaney clause reform embodied in the pesticide legislation the President recently signed; and the animal drug amendments so long championed by Senator KASSEBAUM. It seems, therefore, that the revolutionary course we charted for FDA reform at the beginning of the 104th Congress, evolved into a path evolutionary in nature, but still productive nonetheless.

Much more remains to be done, and I will continue to work with my colleagues next year to advance the work we started this year. There are many priorities for further action, among them—speeding up generic drug approvals, clarifying how tissue should be regulated, expediting medical device approvals, deficiencies in the foreign inspections program, and rigorous oversight of the Dietary Supplement Health and Education Act's implementation.

Another issue that I would like to see addressed next year is one that has been periodically on the FDA radar screen: the issue of national uniformity in regulation of products that fall within the FDA's purview.

In 1987, FDA Commissioner Frank Young, in response to California's Proposition 65, was on the verge of issuing an FDA regulation that would have acted to preempt certain warning statements required by the State of California. In fact, in August of that year, Commissioner Young wrote the Governor of California to underscore his concerns about the potential negative effect of Proposition 65 on "the interstate marketing of foods, drugs, cosmetics and other products regulated by the FDA."

Further, Commissioner Young pointed out that "the agency has adequate procedures for determining their safety and taking necessary regulatory action if problems arise."

Although ultimately this regulation was not issued, the 1991 Advisory Committee on the Food and Drug Administration, chaired by former FDA Commissioner and Assistant Secretary for Health, Dr. Charles Edwards, examined this issue. The panel recommended that Congress enact legislation, "that preempts additional and conflicting State requirements for all products subject to FDA regulation."

The issue of Federal preemption is extremely important for several industries, especially over-the-counter drugs, cosmetics, and foods. I was heartened when the Labor and Human Resources Committee approved Senator GREGG's amendment on national uniformity for over-the-counter drugs during consideration of the FDA reform legislation, S. 1477, but was disappointed that Senator GREGG did not extend the concept further in his amendment.

Let us take the cosmetics industry as a case in point.

In the United States, the cosmetics sector of the economy represents an estimated $21 billion in annual sales, a significant amount by almost any measure. It consists of over 10 billion individual packages that move through the stream of interstate commerce annually. These include soap, shampoo, mouthwash, and other products that Americans use daily. These hundreds and hundreds of product lines, and thousands and thousands of products are each subject to differing regulation in the various States—even though all must meet the rigorous safety, purity and labeling requirements of Federal law.

Given this volume of economic activity, it is imperative that manufacturers be able to react quickly to trends in the marketplace; they must have the ability to move into new product lines and move in to and out of new geographic areas with a minimum—but adequate—level of regulation to ensure the products are not adulterated and are made according to good manufacturing practices.

Today, cosmetics manufacturers are competing more and more in a global economy, and are making products consistent with the international harmonization of standards in such large marketing areas as the European Union. A single nationwide system for regulating the safety and labeling of cosmetic products would be a great step in helping that industry move toward the international trends in marketing. At the same time, it would be a more efficient system, since allowing individual States to impose varying labeling requirements inevitably leads to higher prices.

In other words, the time has more than come for enactment of a national uniformity law for cosmetic regulation. It is my hope that this issue will be high on our congressional agenda next year.

In closing, Mr. President, I want to offer my great respects to Chairman KASSEBAUM for the hours, weeks and months of time she has devoted to the FDA reform issue. Although I have paid tribute to Senator KASSEBAUM in separate remarks here, I must reiterate again how much her reputation for equilibrium and fairness have lent to development of an FDA reform proposal which cleared the committee in such a bipartisan fashion.

Finally, I must also pay tribute to the lead staffer on FDA issues, Jane Williams, who has worked virtually round-the-clock to try to fashion a good, fair, bipartisan reform bill. Jane more than exceeded that goal, and I think this body should give her some much-deserved recognition.

I yield the floor.

PRESIDENT CLINTON'S CODDLE A CONVICTED CRIMINAL CAMPAIGN, PART II

Mr. HATCH. Mr. President, an administration's crime policies are a web of many factors. They include, for example, the kind of judges a President will appoint. They include an administration's prosecutorial policies and its outlook on the drug problem and how to combat it. And they include the scope and nature of prisoners' rights an administration asserts against State and local government prisons and jails.

I have spoken several times about soft on crime Clinton administration judges. President Clinton has been soft on drugs. After years of declining use, the drug problem is on the rise—on President Clinton's watch. And there is no way that he can avoid the criticism.

Today, I wish to speak again about the Clinton administration's coddle a convict program. The President is responsible for protecting the constitutional rights of convicted criminals and arrestees incarcerated in State and local prisons and jails. This is pursuant to the Civil Rights of Institutionalized Persons Act [CRIPA].

I might add that I was the deciding vote on that act, and was the prime cosponsor, along with Senator Bayh, of that act many years ago.

Convicted criminals do have some constitutional rights and we provided for them in that act; but, understandably, those rights are very sharply circumscribed. And, to my mind, the Clinton administration takes a very liberal view of these rights and reads the rights of the accused and of convicted

criminals more favorably than the Constitution requires or even permits.

On June 4, 1996, I drew the Senate's attention to some of the constitutional violations the Clinton administration claimed the State of Maryland was committing at its Supermax facility. This facility holds the worst of the most vicious criminals in the Maryland State prison system—murderers, rapists, and other hardened criminals.

Now, is the Clinton administration citing the State of Maryland because it beats the convicts at Supermax? No. Is the Clinton administration citing Maryland because it tortures or starves these vicious criminals? No.

Mr. President, the Clinton administration is citing the State of Maryland, in part, because "food is served lukewarm or cold" to these murderers and rapists.

This is not all. The Clinton administration insists that Maryland provide these killers and rapists "one hour of out-of-cell time daily. At least five times per week, this out of cell activity should occur outdoors, weather permitting." [Letter of Mr. Patrick, May 1, 1996, to Governor Parris N. Glendening, page 12]. That is right Mr. President, the hardened criminals who are the worst of the worst, who require special supervision, have a constitutional right to fresh air, to go outdoors. This does not represent law and order. This is the coddling of vicious criminals.

Mr. President, this coddling campaign does not end at Maryland's Supermax facility. While time does not permit a full airing of this little known Clinton administration campaign, let me share with my colleagues just some of its more egregious outrages.

Bear in mind, Mr. President, that certain penal policies may be desirable. But, the Constitution permits criminal prisoners to be afforded much less than the ideal. The Constitution certainly does not require States and localities to adopt model policies, as the Clinton administration seems to be trying to cram down the throats of State and local governments.

The Clinton administration sent a June 1, 1995, letter to the Lee County jail in Georgia, a jail which had 27 inmates at the time. Here is one of the unconstitutional conditions the Clinton administration found at this jail:

"Inmates receive only two meals a day, and crackers and soda for 'lunch.' They do not receive juice or milk * * *" [June 1, 1995 letter from Assistant Attorney General for Civil Rights Deval L. Patrick to John L. Leach, III; page 3].

Mr. President, doesn't your heart just bleed? The inmates of this county jail do not get juice or milk. So, let us make a Federal case out of it, at least according to the Clinton administration. Let us threaten to sue this Georgia county, let us use the vast power of the Federal Government to ensure that the 27 inmates at this county jail get their juice or milk.

I am confident of one thing, though: these crooks must get their cookies during the day. How do I know? Because if they didn't, the Clinton administration would be claiming a violation of their constitutional rights.

Moreover, Mr. President, according to the Clinton administration, those arrested and detained for crimes have a constitutional right to wear underwear. You don't believe me, Mr. President? Am I satirizing the Clinton administration policies?

Let me quote from the Clinton administration's April 16, 1996 letter to the Virginia Beach, VA city jail. Here is one of the "conditions [which] violate the constitutional rights of prisoners housed at the jail." Let me go into it again.

"* * * [the jail] fails to provide underwear to newly arrested people who are wearing 'unacceptable' underwear at the time of their arrest. Unacceptable underwear is defined by [the jail] as any underwear other than all white underwear devoid of any ornamentation or decoration * * *. As a practical matter, this practice results in inmates having no underwear for extended periods of time * * *." [April 16, 1996 letter from Mr. Patrick to Mayor Meyera E. Oberndorf, pages 2, 5.]

This is ridiculous. Can you imagine it, Mr. President? The Federal Government, led by the Clinton administration, is fighting for the alleged right of inmates to wear underwear, and in the name of the Constitution, no less. Some of these inmates include accused murderers and rapists. James Madison has got to be rolling over in his grave.

On October 18, 1993, the Clinton administration listed "conditions at the [Grenada City, MS] jail [which] violate the constitutional rights of the prisoners confined therein." [October 18, 1993 letter from Acting Assistant General Attorney General James P. Turner to Mayor L.D. Boone, page 2]. The Clinton administration noted that its inspection "revealed that inmates are not provided an exchange of clean linen, such as sheets, blankets, pillows, and pillow cases on a scheduled weekly basis." [page 4]. On July 21, 1994, the city signed a consent decree at the Clinton administration's behest, which codifies in a court decree this requirement of weekly linen service.

Just weeks later, however, the Constitution changed according to the Clinton administration: "Prisoners should have a clean clothes and linen exchange at least three times per week." [August 3, 1994 letter from Mr. Patrick to Sheriff Robert McCabe, Norfolk, VA city jail, page 8.]

Mr. President, I am sure it is sound penal policy to provide clean clothes and linen exchange once or even three times a week. But the Clinton administration has no business imposing its policy preferences as requirements on States and localities under the false guise of enforcing the Constitution. Inmates' clothing and linen have to become awfully wretched before a constitutional violation occurs. This is an extra-constitutional convenience, a Clinton administration coddle, and not the enforcement of the Constitution.

The Clinton administration's coddling of criminals does not stop there. The Clinton administration is compelling jails and prisons to "ensure that no inmate has to sleep on the floor." The Clinton administration told the Tulsa County Jail that it must "[p]rovide all inmates within twenty-four hours of their admission with a bunk and mattress well above the floor." [September 13, 1994 letter from Mr. Patrick to Lewis Harris, page 15.]

It is certainly preferable to give inmates a bunk to sleep in. But, jail and prison space do not always match the number of criminals and detainees requiring incarceration. The Constitution does not require a bunk for every inmate. Sleeping on a mattress on a floor or on the floor itself may not be convenient, but the Constitution does not require prisons and jails to afford comfortable lodging for every criminal.

But just listen to the bleeding heart of the Clinton administration, time and again bringing the full weight of the Federal Government down on the law enforcement systems of our localities and States. On October 26, 1993, the Clinton administration advised the Lee County jail in Mississippi that the jail "is routinely overcrowded. [Its capacity] is 54, but there were 80 inmates on the first day [of the Justice Department's tour]" and occasionally the inmate population is about double the jail's capacity. This means "that some inmates have to sleep on bunks in the day rooms, on mattresses on the floor, and on top of the day room tables * * *." That is unconstitutional, according to the Clinton administration. [October 26, 1993 letter from Mr. Turner to Billy Davis, pages 2, 3.] The Clinton administration demanded that the jail "house[] only an appropriate number of inmates and that none of the inmates sleep on the floor." [page 8].

Indeed, Mr. President, take a look at how the Clinton administration handled the Forrest County, MS, jail. The Clinton administration cited the jail because it "is consistently overcrowded. Although the facility is designed to house 172 inmates * * * [it has] housed up to 242 individuals on a single day. On the day of [the Justice Department's] tour * * * the jail housed 203 inmates. Inmates have slept on mattresses on the floor for the past year." [July 6, 1993 letter from Mr. Turner to Lynn Cartlidge, Attachment, page 4].

The Clinton administration, with the full leverage of its resources, prevailed

upon the county to enter into a consent decree nearly 2 years later. The consent decree provides that, "[t]he jail's population shall not exceed the rated capacity of 172 unless temporary conditions exist beyond the control of [the County]." Even then, the county must do all it can within its control to get the inmate population down to 172 [Consent decree, paragraphs 67–69].

Mr. President, the inmates at Forrest County jail, or any other jail or prison, do not have a constitutional right to be routinely housed at a jail with no overcrowding whatsoever. But the inmates' allies in the Clinton administration have created that right for them.

Mr. President, the Clinton administration has also discovered a constitutional right to fresh air for the inmates. According to the Clinton administration, the Lee County, MS, jail's "installation of individual domestic-type air conditioners did not provide minimum ventilation for the purposes of fresh air supply, air exchange and overall cooling, as indicated by the 91 degrees Fahrenheit temperature and the 75 percent relative humidity in the cell housing areas. * *" [page 5]. Does that sound like cruel and unusual punishment to you, Mr. President?

I know of thousands, hundreds of thousands of Americans who live no better than that. But our prisonors have to be coddled. We have to take good care of them and make sure they all have air conditioning.

The Clinton administration has relentlessly fought for the rights of inmates to outdoor exercise and to exercise equipment. It complained to the Onondaga County jail of Syracuse, NY, that, "'outdoor recreation facilities' consist of only 1 operative basketball hoop and underinflated basketballs [and no other type of equipment.]" My goodness, here is the Clinton administration's demand on that county jail: "Existing outside recreation space must be equipped with sufficient sporting/recreation equipment to afford prisoners the opportunity to participate in large muscular activity. [The Jail] must assure that both indoor and outdoor recreation programs exist for prisoners." [October 18, 1994 letter from Mr. Patrick to Mr. Nicholas J. Perio, page 14.]

I am sure the citizens of New York State and the rest of our States can sleep easier knowing the Nation's jail inmates have this constitutional right to participate in large muscular activity with sufficient sporting and recreation equipment. I am sure we all rest easier knowing that these inmates have a right to indoor and outdoor recreation programs.

Mr. President, while the Constitution may require a minimum opportunity for inmates to exercise, there is no constitutional right to exercise out of doors. And there certainly is no constitutional right to exercise equipment and indoor and outdoor recreation programs.

Some of these programs may make sense as a matter of policy. I have no particular objection, for example, to outside exercise, which inmates can obtain without exercise equipment. But the Clinton administration has no business imposing these programs on States and localities in the name of the Constitution. The Clinton administration is seeking to constitutionalize its notion of enlightened prison policy and cram it down the throats of our State and local prisons and jails.

The Clinton administration cited the Calhoun County, GA, jail for allowing prisoners only 2 hours a week of out of cell exercise, staff availability permitting, and providing no exercise equipment. The Clinton administration demanded that, "Inmates * * * be provided with exercise outdoors when weather permits, one hour per day, five days per week. Reasonable exercise equipment should be provided." [June 1, 1995 letter from Mr. Patrick to Mr. Calvin Schramm, pages 3, 5].

On the same day, the Clinton administration read the Constitution even more expansively when it cited the Lee County jail for exercise violations—the same jail that allegedly violated the Constitution by not providing juice or milk to the inmates. The Lee County jail must provide not 5 days of outdoor exercise, but 7 days a week of outdoor exercise. [page 6].

Let me touch on another Clinton administration coddle. According to the Clinton administration's reading of the Constitution, "loss of meals must never be used as a punitive measure." [April 23, 1996 letter from Mr. Patrick to Mr. John Moore, Coffee County, Commission, GA, page 3.] From time immemorial, parents have sent children to bed without supper as punishment. But, just let a prison or jail try it on a convicted criminal, and they will wind up with the Federal Government on their backs, courtesy of the Clinton administration.

Moreover, the Clinton administration objected to a jail's inmate handbook which "instructs inmates to eat 'quickly'. This is contrary to generally accepted correctional practice," claims the Clinton administration [page]. But the Clinton administration has no authority to impose generally accepted correctional practices on State and local governments. It can only remove unconstitutional conditions at state and local prisons and jails. The Clinton administration is seeking, once again, to constitutionalize what it considers to be sound correctional policy.

Now, let me read, in its entirety, one of the "unconstitutional conditions" found at the Dooly County, GA, jail. This jail has a capacity of 36 inmates:

"Food sanitation is poor. The Jail does not have a kitchen. Food is obtained from a nearby, private establishment. The lunch meal on the day of our tour, tuna fish, was served at approximately 65 degrees Fahrenheit. This is much warmer than food safety standards permit." [June 1, 1995 letter of Mr. Patrick to Mr. Wayne West, page 5.]

That is it. The serving of that warm tuna fish violated the Constitution.

On the same day, the Clinton administration found the following "conditions at the Mitchell County, GA, jail violate the Constitutional rights of prisoners:

"* * * The food is transported by car in styrofoam or polystyrene containers not designed to maintain proper food temperatures. During our tour, the hot food for the evening meal, which should be served at a minimum of 140 degrees fahrenheit, was served at 115 degrees fahrenheit." The Constitution allegedly requires such proper insulation and temperatures for inmates' food. [June 1, 1995 letter from Mr. Patrick to Benjamin Hayward, page 6, 9.]

Mr. President, I could go on and on, about the areas just mentioned, as well as additional areas where the Clinton administration seeks to coddle criminals by demanding extra-constitutional privileges for them.

Scarce Federal law enforcement resources would be better utilized by focusing on putting more criminals behind bars rather than worrying about whether their tuna fish is too warm once they get there; whether their hot food is lukewarm, or heaven forbid, cold; whether they get juice or milk with their meals; whether they have to sleep on a mattress on the floor rather than a bunk a certain number of inches off the floor; whether they get outdoor exercise, exercise equipment, and recreation programs; and whether they get to wear underwear.

And the Clinton administration should stop diverting scarce State and local resources toward defending against, or bowing to, these bleeding-heart concerns.

Mr. President, I was the author, along with Birch Bayh, of the Civil Rights for Institutionalized Persons Act. I was the deciding vote on that vote. I believe it was in 1978 or 1979. It could have been 1980. It was an important bill. I believe in it. I do not think criminals should have their constitutional rights violated any more than anybody else.

But these assertions of the Clinton administration and these demands and these consent decrees and these costs to the taxpayers in those State and local areas are absurd. Frankly, we have to get them out of the pockets and lives of our State and local governments. When they find true constitutional issues, true constitutional wrongs, they ought to right them. But these are not constitutional issues or wrongs that need to be righted, and we have to give the State and local governments some flexibility. We also

have to understand that these murderers and rapists and others have committed these crimes and they should not be coddled in the jails of this country.

Mr. President, I think we ought to quit making a distortion out of the Civil Rights for Institutionalized Persons Act and do what is right. But this is typical of this administration, and I had to make these comments.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

FEDERAL AVIATION ADMINISTRATION REAUTHORIZATION

Mr. WARNER. Mr. President, I rise to urge the Senate, as quickly as possible, to address and pass the current piece of legislation relating to the airports. I do so for a very special reason.

Three airports primarily serve the bulk of the requirements of the Congress and the Federal Government, and the Greater Metropolitan Washington area: National Airport, Dulles Airport, and Baltimore International.

Some almost now, I think, a decade ago, I, together with others in this Chamber, fashioned the statute by which Dulles and National became independent, subject only to the Washington Metropolitan Airports Authority jurisdiction. In that legislation and in subsequent pieces of legislation, it was the wisdom of Congress that we need to constitute a special board to have some oversight responsibilities. It was highly controversial. The thought was that this board could bring to the attention of the metropolitan authority and others the particular needs of the users.

As it turned out, the Federal courts said that was unconstitutional, and we finally, now, had a Supreme Court decision which knocked down the functions of that legal entity. This bill puts into place the legislative corrections to implement the decisions of the Supreme Court and other Federal courts that have addressed this issue.

It is essential that legislation be passed for the very simple reason that as the Members of the U.S. Senate hopefully will begin their journeys home later this week, they will go through the airport and see both airports partially remodeled. Unless this legislation is in place, that remodeling, by necessity, will have to stop. The funds will run out.

I have just talked to the general counsel of the Washington Metropolitan Airports Authority. I ask unanimous consent to have printed in the RECORD certain documentation he will be providing the Senate today.

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

METROPOLITAN WASHINGTON AIRPORTS AUTHORITY,
Alexandria, VA, October 1, 1996.

Hon. JOHN WARNER, U.S. SENATE, WASHINGTON, D.C.

DEAR SENATOR WARNER: We write to advise you of the critical importance to the Airports Authority of the enactment of the Conference Report on H.R. 3539, the Federal Aviation Reauthorization Act of 1996.

In addition to critical measures providing for improved security at all airports, and authorizing expenditures for the continuation of the airport improvement program grants and funding for the FAA, the Conference report contains vitally important provisions to restore the powers of the Airports Authority.

Since an April 1995 court order, the Airports Authority has been without basic powers to award contracts, adopt a budget, change regulations, or issue more revenue bonds. This is a serious matter for any public agency; for us, it goes to the heart of our business.

As you know, the Airports Authority is engaged in a $2 billion program to reconstruct Washington National and expand Washington Dulles International. We are now at the stage where we must raise more funds through the sale of revenue bonds in order to keep the construction work on track.

Enactment of the Conference Report now is essential to our ability to issue bonds next spring, and our overall ability to provide first-class air service to the public.

We therefore strongly urge that the Senate take action on the Conference Report before it adjourns.

Thank you for your steady support on this matter over the past two years. We look forward to working with you in the future.

Sincerely,

ROBERT F. TARDIO,
Chairman.

Mr. WARNER. Mr. President, he said ever so clearly that a bond, which will have to be issued next year to fund the ongoing modernization at both airports, that bond cannot be issued without this legislation in place, and preparations must commence now to go into the financial markets early in 1997 to get that next increment of funding required for this modernization.

That is not an issue that is at contest, but it is an issue that can literally put into semiparalysis the operation of these two airports; indeed, not only the inconvenience of a shutdown of remodeling, but there are some safety ramifications in air travel incorporated in having an ongoing orderly process of modernization and having it completed on schedule.

So, I fervently urge my colleagues to address this legislation as early as possible and to put in place the corrections that are found in this bill that will enable the Washington Metropolitan Airport Authority to continue an orderly modernization process.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

WHY AFRICA MATTERS: TRADE AND INVESTMENT

Mrs. KASSEBAUM. Mr. President, I rise to finish a series of speeches about Africa and why Africa matters to the United States. I am sure many of us, over the recent years, have looked at the Continent of Africa with some despair, seeing one crisis after another occur; and seemingly, as one is resolved, there is only another nation that has a terrible tragedy occur, a coup and civil war ensues.

I have spoken in a series of speeches about, one, our vulnerability in the United States to infectious diseases coming out of Africa, and addressed the many ways in which environmental crises in Africa can touch Americans right here at home. I have also addressed how international crime, terrorism, and narcotics trafficking in Africa affect our own sense of security here at home.

I believe that Africa does matter. But I believe there is also a great deal of hope for the countries of Africa. I believe there are many positive things that we should consider, and should not forget. Today, I want to conclude with a topic that I believe many people have overlooked in relation to Africa: trade and investment.

At the start of this Congress, I began the work of the Subcommittee on African Affairs in the Foreign Relations Committee by chairing a hearing on trade and investment in Africa. I think it is appropriate to conclude the work of this Congress on Africa issues by returning to this underemphasized area.

The focus of our hearing 2 years ago was not only to examine the potential role of private sector development in Africa, but also to bring to life the benefits to the United States of increased trans-Atlantic commercial ties.

Over the past few years, investment and trade flows between the United States and Africa have increased substantially. Many companies, particularly communications, infrastructure and engineering firms, see Africa as a major growth market. In a time of reduced foreign aid, a focus on trade and investment must be a fundamental component of our overall foreign policy toward the continent.

How many people know that there is more trade between the United States and the countries of Africa than between the United States and the states of the former Soviet Union? One of the best-kept secrets, I think, about U.S. relations with Africa is the tremendous amount of trade and potential trade also that occurs between our country and the African Continent.

In 1993, U.S. exports of goods and services to sub-Sahara Africa totaled nearly $4.8 billion. This is 20 percent greater than exports to the Commonwealth of Independent States of the former Soviet Union. By some estimates, every extra $1 billion in American exports to Africa adds some 19,000 new jobs in the United States. Exports to southern Africa alone are responsible for an estimated 60,000 jobs in this country.

Over the past 50 years, the African Continent has undergone tremendous change, as African nations have wrestled with decolonization, independence and, for some, democratization. Africa has many success stories to tell, and the continent's tales of overcome hardships are admirable, indeed. But these stories of progress rarely make headlines. More often, the news tells of the political problems that remain, of political and economic instability, waste, corruption, unsound economic policies. These problems are serious and, in many African countries, they have stifled investment and choked off growth and trade. But the truth is that a remarkable transformation is underway in Africa.

Nearly two-thirds of African countries are now at some stage of democratic transition, compared with only four in 1989. More than 30 elections have taken place in Africa over the past 6 years. Many African nations have taken difficult and courageous steps to keep budget deficits down, maintain realistic exchange rates and increase competition through domestic deregulation, trade reform and privatization of public enterprises, not easy tasks in very weak and struggling economies and countries that are trying to open a stable and free political society as well.

The aim of these reforms has been to create an environment in which the private sector can act as the engine for development. We are beginning to see these efforts pay off. In a time of declining foreign aid, it is more than practical to emphasize the potential role of the private sector in the economic development of Africa. It just makes sense.

Africans themselves want trade, not aid. They recognize that it is foreign trade and investment, not foreign aid, that provides the basis for sustained development, economic growth and new jobs, and trade with Africa does not benefit only Africans. As I pointed out, it helps us as well. New markets for American exports mean new jobs here at home.

In the coming years, we should try to direct more of our foreign assistance toward building the foundations for long-term economic development in Africa. We should work in partnership with international financial institutions, of other donors and, of course, the African leaders to help meet the continent's critical infrastructure needs. I have always believed if the continent of Africa had a transportation system across the continent, whether railroads or roads, it would help immensely the trade between African nations themselves. Without an adequate network of roads, airports and telecommunications to knit the countries of Africa together, economic growth in Africa will face inherent structural limits.

There are, of course, purposes for foreign assistance other than promoting economic growth. American assistance plays an important part in addressing pressing social and humanitarian needs in many African countries. But the reality is that present levels of aid in Africa cannot and will not continue indefinitely.

Increased U.S. trade and investment in Africa making the countries of Africa full partners in the world's unprecedented economic prosperity provides the only real basis for future African economic self-sufficiency. The many changes underway in Africa, though encouraging, are not enough. Countries that have begun economic reforms must do more, and countries that have not, must do so.

Sub-Sahara Africa currently attracts less than 3 percent of the total foreign direct investment flowing to developing countries and economies in transition. Our policies toward Africa should encourage the necessary political and economic changes to provide a stable environment for sustained domestic economic development and foreign direct investment.

Our voice carries far in Africa, and we can make a difference in ending conflicts, promoting open and accountable governments and fostering economic reform. For example, we should encourage the liberalization of land tenure laws that prohibit women from owning land. Women are the primary agricultural laborers in Africa, but they cannot attain the degree of financial control within the sector necessary to spur growth. The World Bank estimates that the value of women's agricultural output would increase by 22 percent if they had the same access as men to major factors of production.

Another example of where we can make a difference is in lowering trade barriers. We should support the removal of barriers to trade among African countries and support efforts aimed at regional economic integration. At the same time, the United States must also lower its own trade barriers that unfairly discriminate against African goods. This means allowing imports, such as textiles, coffee, and sugar, into the United States in a fair and equitable manner. The laws of economics apply in Africa as they do elsewhere, and we should do all that we can to ensure that the established rules of free trade do as well.

Mr. President, to conclude, I am optimistic about the economic potential of Africa. During my almost two decades of work on African issues in the Senate, I have observed firsthand the tremendous and commendable efforts made by the peoples of the many nations of the African Continent.

At the same time, I also am sober about Africa's future and realize that without continued American engagement, Africa will not be joining the rest of us as we enter the next millennium.

Leaving Africa behind would raise important threats to our people and our national interests. Emerging and proliferating infectious diseases do not respect international borders, nor do environmental crises on a large scale.

Let me say, even more important to leaving Africa behind would be to lose a tremendous opportunity for all of us to benefit from the continent's rich heritage and potential. As we approach the beginning of the new millennium, America's future will be brighter if Africa's is as well.

THE SITUATION IN LIBERIA

Mrs. KASSEBAUM. Mr. President, I want to make a few comments about recent events in Liberia.

The 6-year civil war has killed over 150,000 Liberians and displaced 1.2 million people. The country's infrastructure has been laid waste, and its economy is in ruins. Time and again, Liberians have reached tentative peace agreements, only to watch them fall apart.

Last fall, many of us held high hopes for the peace accord reached in Abuja, Nigeria. For once, the faction leaders appeared to set aside their personal agendas for a process of disarmament and elections. Our hopes were shattered again this past spring as the Liberian civil war erupted yet again.

After months of renewed fighting, another peace agreement was reached last month among the warring Liberian factions. It is my fervent hope that the current cease-fire and plan for national elections next spring will succeed and lead at long last to sustained peace for Liberia.

Like its predecessors, this peace is fragile. Restoring and protecting a secure environment for Liberians is the first requirement for lasting peace.

I commend the efforts of the West African peacekeeping force, ECOMOG, for its vital role in bringing peace to this war-torn land. It is in America's interest that ECOMOG succeed and that we broaden the number of African states participating in the regional effort. In April, President Clinton committed $30 million in aid to the ECOMOG forces, and I am pleased that the full amount has been authorized to be transmitted. I urge that the funds be disbursed as quickly as possible to provide assistance in the vital areas of need identified by ECOMOG, such as communications and transportation.

Long-term security will require more than a regional peace force—it will require a reestablishment of order in Liberian society itself. Short-term relief requires local order as well. Although the UNDP is currently rehabilitating the airport in Monrovia, and the World Food Program is meeting urgent humanitarian needs in areas severely affected by the fighting, most NGO's and

private volunteer organizations are still reluctant to return until the security and political situation in Liberia is stabilized. The reestablishment of law and order in Liberia is a critical requirement for these organizations to function and meet pressing economic and humanitarian needs. Sooner or later, we will need to support efforts to reconstitute Liberian security and judicial institutions.

The second requirement for a lasting peace is the existence of basic economic opportunity. If peace is to endure, America's role cannot end with a cease-fire and an election. Faction fighters will not permanently lay down their arms unless they have something else to do and other means of sustenance.

In this area, Liberia's tragedy may provide its own opportunity. For example, Liberia desperately needs the reconstitution of its roads, bridges, airport, and water and electrical power systems. These are vital areas in which former belligerents can be employed, exchanging swords for plowshares, and contributing to the rebuilding of their country. Schools also must be reconstituted so the youngest fighters of ages 9 and 10 can replace their guns with books and return from the battlefields to the classrooms.

Mr. President, there are compelling reasons for America to remain engaged in Liberia. We share a special history. We also have an interest in eliminating the type of instability that can be a haven for threats that cut across national boundaries—environmental degradation, infectious diseases, and international crime, terrorism, and drug trafficking.

Elections alone cannot save Liberia. I trust the administration's diplomacy, with the oversight of Congress, will continue to take that fact into account as we try to make peace work in Liberia.

The PRESIDING OFFICER. The Senator's time has expired.

MEASURE PLACED ON THE CALENDAR—S. 2161

The PRESIDING OFFICER (Mr. GREGG). The clerk will read S. 2161 for a second time.

The assistant legislative clerk read as follows:

A bill (S. 2161) reauthorizing programs of the Federal Aviation Administration, and for other purposes.

Mrs. KASSEBAUM. Mr. President, on behalf of the majority leader, I object.

The PRESIDING OFFICER. S. 2161 will be placed on the Calendar.

The Senator from California.

Mrs. BOXER. Thank you very much, Mr. President.

PRESIDIO OMNIBUS PARKS BILL

Mrs. BOXER. Mr. President, I come to the Senate floor this afternoon to update my colleagues and those who are following this issue, to update you all on our efforts to pass an omnibus parks bill for this Nation. My report has both disappointment and hope. I want to explain why.

We have been working nonstop to try to get an agreement from every single Member of this U.S. Senate to accept the House-passed omnibus parks bill called the Presidio parks bill, so that we can quickly act and send this bill to the President's desk.

It is important to note that the omnibus parks bill in the House, Presidio bill, passed with only four dissenting votes. So there was near unanimity over on the House side for this bill, which is very far-reaching, very important for American people, very bipartisan and has been agreed to by the administration.

So here we have an extraordinary opportunity, Mr. President, to end this session on a high note, to pass the bill that passed in the House in a bipartisan way, to pass a bill here that has bipartisan support, send it to the President, and all of us can go home feeling very good that we did something for this country's environment and that we did it in a bipartisan fashion.

So why is my report filled with some disappointment? First of all, I was very disappointed that the majority leader, who is working hard to build a consensus for this bill—there is no question Senator DASCHLE and Senator LOTT are working hard to build a consensus for this bill—but the majority leader, Senator LOTT, has the ability to bring this bill up before this body right now. He could have done it yesterday. Had he made that decision to bring this bill to the floor, we could have started the process, just as we have on the FAA bill, to vote on this bill.

The rules of the Senate can sometimes be confusing. I have had many people call and say, "Well, don't you have 60 votes in favor of the parks bill?" I said, probably more like 85 votes, maybe 90 votes, but we cannot get a cloture motion filed until the majority leader decides to call the bill up. He has not done so to date.

He says he prefers to have every single Senator agree. Of course, Mr. President, that would be a wonderful thing if every single Senator would agree with this bill. Then we could get it done without a recorded vote, without the necessity of filing cloture. But surely it seems to me we would have a better way to make this bill the law of the land if that bill was to be pending and a cloture motion pending. I think that would bring people to the table in a faster manner, and if we were not able to achieve unanimity, we could then go to the cloture route.

So I am very disappointed that to date the majority leader has not chosen to bring the parks bill before the U.S. Senate. I urge him to do that right now. We are going to be here. We should be here doing our work. We all want to resolve the FAA dispute, and we will. We surely ought to want to work on this parks bill. I hope that the majority leader will bring that bill before us.

Every single Democrat has told me that he or she is very much for this bill. The vast majority of Republicans have said the same. So all we need to do is have the bill brought before us, and if someone did filibuster it, we could bring the debate to a close with 60 votes and get on with it, and, as I say, I believe the vote would be overwhelmingly in favor of this bill.

Mr. President, I want to explain why this bill is so important.

No. 1, it includes parks for 41 States. Forty-one States in the Nation will benefit from this parks bill, which has required 2 years of effort, Mr. President, to put together, 2 years of effort to put together this Presidio omnibus parks bill. We could see this chance evaporate. I hope we do not. I hope everyone will agree. I surely will be on my feet until the waning hours of this session, if need be, proposing that we pass this House bill unanimously.

What States are covered? Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Georgia, Hawaii, Idaho, Illinois, Kansas, Louisiana, Massachusetts, Maryland, Michigan, Mississippi, Missouri, Montana, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

As you go into the bill and you read the various titles, you see, Mr. President, that in many States there is more than one important parks project.

Mr. President, every one of these States is counting on us. I am very, very hopeful—very hopeful—that we can resolve our differences. I for one have been doing whatever I could do to talk to individual Senators.

There are some Senators who have disappointments that they did not get everything they wanted in this bill. I understand that. You know, the Presidio, for example, which is so important to us; we had to compromise on that legislation, Congresswoman PELOSI and I and Senator FEINSTEIN and Congressman MILLER. I want to thank all of them for everything they are continuing to do as we speak to make this work. I had a conversation with Congressman MILLER. I have been talking to Senator MURKOWSKI and his staff. We are trying to make this happen.

In Alabama we have the Selma to Montgomery Historic Trail designation.

In Alaska there are many, many important provisions, ranging from Alaska Peninsula land exchange to Federal

borough recognition, regulation of Alaska fishing, and University of Alaska.

In my State of California, Senator FEINSTEIN and I are so strongly in favor of this bill, not only because of what it will do for the rest of the country, but surely for our State. It includes setting up a trust, a nonprofit trust at the Presidio to make sure that, as this magnificent park takes shape from a historic military base that started so many years ago before California was a State—we need this trust to make the important decisions about the reuse of the various buildings and doing it in the right way and doing it in the environmentally sound way.

We have in that bill San Francisco Bay enhancement, Butte County conveyance, Modoc Forest boundary adjustment, Cleveland National Forest, Lagomarsino Visitor Center, Merced irrigation district land exchange, the Manzanar historic site exchange.

I see my friend from Illinois is here. The Manzanar Historic Site, we know this is where, during a very dark period of our country, Japanese Americans were held literally as prisoners in their own country. Manzanar is a historic site. In this bill it will be preserved. Very important.

The AIDS memorial grove, timber sale exchange, Santa Cruz Poland acquisition, Stanislaus Forest management, Del Norte School conveyance.

It goes on in Colorado, in Florida, in Georgia, in Hawaii.

I just want to mention one other very important—very important—issue. I see my friend from Alaska has come to the floor. How many times he has been to San Francisco to pledge to work to make this happen.

I know that the Sterling Forest in New Jersey is so very important to both Senators from New Jersey and to the entire bipartisan congressional delegation over in the House. We have Senator BRADLEY leaving after a distinguished career. I know he is working with Senator MURKOWSKI to try to resolve all of our problems that we have. Sterling Forest is the largest unbroken, undeveloped track of forest land still remaining along the New York-New Jersey border. The bill will allow an appropriation of up to $17.5 million for land acquisition. It designates the Palisades Interstate Park Commission, a Federal commission to manage this land. It goes on.

Most importantly for New Jersey are the billions of gallons of fresh clean drinking water that flow from the boundaries here.

When you look at the development that is possible for Sterling Forest, 14,000 homes, 8 million square feet of commercial space, even if the development were concentrated in the least environmentally critical and successful tracks, the construction will, according to Republicans and Democrats who support this acquisition, will irrevocably alter this land.

As I said when I took to the floor, I am mixed with disappointment and optimism. Clearly, I reiterate, not every single thing is in here that Senators feel ought to be in here. I so well understand it. I am working to see if there are ways to get those things done. I am looking forward to the remarks of my colleague from Nebraska who may be here on this topic. I hope that we are moving closer.

I can assure the Senator that if we can get this done, I will work with him do everything I can in the next Congress to move forward to address some of the concerns that he has raised. I have tried to do that, talking with the administration, as late as very late last night.

I hope when I come back to the floor I can speak more with hope and speak with more belief that we will, in fact, get this done.

I yield the floor.

GRATITUDE TO SENATE STAFF

Mr. SIMON. Mr. President, I am grateful to my colleagues who have been so good to me in my years in Congress, but let me also express my gratitude to a lot of others who are not as visible: The pages who serve us so effectively; the people in front, including Bill Lackey, Bob Dove, Scott Bates, all the people who work with us at the front desk; the court reporters, including the distinguished reporter from Menard County, IL; the people in the cloakroom, and the officers.

I rise today specifically because I just learned yesterday that Ed Litton, who has been an officer in the Dirksen Building through the years and has been marvelous to me and to the other Senators, but, equally important, and this is true for all the people around here, they are good to the public, and I think make a great impression for American Government.

Ed Litton is going to retire October 30. He is going to beat me into retirement. He has just been superb. He is good to people, and I think typifies the police officers in the Capitol area. They have really contributed immensely.

I just wish Ed Litton and his family the very best on his retirement. He can look back on his years of service with a great deal of satisfaction.

As I leave the Senate, I leave with a great sense of gratitude to all the people who have served us so well, most of whom I regret to say I probably have not thanked as I should.

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. MURKOWSKI. 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. MURKOWSKI. I thank the Chair.

ALASKA SUBSISTENCE HUNTING AND FISHING ACT

Mr. MURKOWSKI. Mr. President, I rise this morning for the purpose of speaking on legislation I introduced yesterday. This legislation is very important to my State of Alaska. The intention of the legislation is to try and address some of the issues regarding subsistence hunting and fishing in Alaska. I am under no false hope that at this late date this legislation will move through the Senate this year, but I want it to appear in the RECORD for the purposes of starting a dialog in our State and starting a dialog with the various Federal agencies involved.

Mr. President, the issue of subsistence hunting and fishing in Alaska has caused a great deal of divisiveness in our State and has led to the State of Alaska becoming the only State in the Union which no longer retains the sole control of its fish and game resources on public lands. This is an extraordinary departure from the norm, but nevertheless it is a reality. The influence of the Federal Government over fish and wildlife resources in Alaska continues to grow and expand with each passing month.

This legislation calls for the Presidential appointment of a special master to come up with nonbinding recommendations to the Secretary of Agriculture, the Secretary of the Interior, the Governor of the State of Alaska, the State of Alaska legislature and to the Congress, as well. The recommendation will be on how to return management of fish and game resources to the State and how best to provide for the continuation of a subsistence lifestyle for Alaska's residence.

I hope to have significant discussions with the people of Alaska on this issue in the coming months during the recess and be prepared to move forward with the 105th Congress when we return in January. It would be my intention to introduce more definitive legislation on the subsistence issue at that time.

What we are attempting to do is set, if you will, a skeleton schedule in place so we can build on it by generating public input.

Mr. President, I ask unanimous consent that the text of the bill, S. 2172, be printed in the RECORD.

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

S. 2172

SECTION 1. FINDINGS.

The Congress finds that—

(a) The State of Alaska received management authority and responsibility for fish and game resources in the State at the time of statehood.

(b) The Alaska Constitution requires equal access for all the citizens of the state to these fish and game resources.

(c) The State of Alaska developed statutes to implement a rural subsistence priority.

(d) In 1980 Congress passed the Alaska National Interest Lands Conservation Act providing that the "taking on public lands of fish and wildlife for nonwasteful subsistence uses shall be accorded priority over the taking on such lands of fish and wildlife for other purposes."

(e) In 1989 the Alaska Supreme Court ruled in *McDowell* v. *Alaska* that the rural preference contained in the State's subsistence statute violated the equal provision of the Alaska Constitution putting the State's subsistence program out of compliance with Title VIII of ANILCA resulting in the Secretaries of Agriculture and the Interior assuming subsistence management on the public lands in Alaska.

(f) The Governor and the Lieutenant Governor of Alaska are to be complimented on their several attempts to resolve the issue and return management responsibilities of fish and game back to the state; however, these efforts have not been successful.

(g) There continues to remain an impasse that is creating a divisive atmosphere in Alaska among sport hunters, sport fishermen, commercial fishermen, Alaska natives, as well as urban and rural residents.

(h) The Congress hereby declares that it is timely and essential to conduct a review of Federal and State policies and programs affecting subsistence in order to identify specific actions that may be taken by the United States and the State of Alaska to help assure that a fair subsistence priority is provided to the citizens of Alaska and that management authority over fish and game resources is maintained by the State of Alaska.

SEC. 2. APPOINTMENT OF SPECIAL MASTER.

(a)(1) The President shall hereby appoint a Special Master to mediate the issues involved in this impasse, and

(2) In making the appointment of the Special Master, the President shall give careful consideration to recommendations submitted by the Governor of the State of Alaska and the president of the Alaska State Senate, and the Speaker of the Alaska State House.

(b)(1) The principal office of the Special Master shall be in the State of Alaska.

(2) The Special Master shall—

(A) review existing state and federal laws regarding subsistence use in Alaska, and

(B) after consultation with all interested parties, including, but not limited to, Alaska natives, sport and commercial fishing interests, sport hunting groups recreation groups, the Governor of Alaska, the Alaska legislature, The Secretaries of Agriculture and the Interior, and the members of the Alaska Congressional delegation, recommend specific actions to the Congress and to the State of Alaska including state statutory amendments, changes in existing management structures, constitutional amendments, and changes to Title VIII of the ANILCA, that—

(i) assure the State of Alaska recovers and retains management authority and responsibility for fish and game on all lands in Alaska, and

(ii) provide for the continuation of the opportunity for subsistence uses by residents of Alaska, including both Natives and non-natives, on the public lands and by Alaska Natives on Native lands which is essential for Native physical, economic, traditional, and cultural existence and to non-native physical, economic, traditional, and social existence,

(c) submit, by no later than the date that is six months after appointment, a report on the recommendations developed under paragraph (2), to the Secretary, the Congress, the Governor of the State of Alaska, and the legislature of the State of Alaska, and make such report available to the public.

(d) The Special Master shall have the power to—

(1) procure, as authorized by section 3109 of title 5, United States Code, temporary and intermittent services to the same extent as is authorized by law for agencies in the executive branch, but at rates not to exceed the daily equivalent of the maximum annual rate of basic pay in effect for grade GS–18 of such General Schedule.

(e) service as a Special Master shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a Special Master, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

(f)(1) The Special Master is authorized to—

(A) hold such hearings and sit and act at such times,

(B) take such testimony,

(C) have such printing and binding done,

(D) enter into such contracts and other arrangements,

(E) make such expenditures, and

(F) take such other actions, as the Special Master may seem advisable.

(2) The Special Master is authorized to establish task forces which include individuals appointed for the purpose of gathering information on specific subjects identified by the Special Master as requiring the knowledge and expertise of such individuals. No compensation may be paid to members of a task force solely for their service on the task force, but the Special Master may authorize the reimbursement of members of a task force for travel and per diem in lieu of subsistence expenses during the performance of duties while away from the home, or regular place of business, of the member, in accordance with subchapter I of chapter 57 of title 5, United States Code. The Special Master shall not authorize the appointment of personnel to act as staff for the task force.

(3) The Special Master is authorized to accepts gifts of services, or funds and to expend funds derived from sources other than the Federal Government, including the State of Alaska, private nonprofit organizations, corporations, or foundations which are determined appropriate and necessary to carry out the provisions of this section.

(4) The Special Master is authorized to secure directly from any officer, department, agency, establishment, or instrumentality of the Federal Government such information as the Special Master may require for the purpose of this section, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Special Master, upon request

(g) The provisions of the Federal Advisory Committee Act shall not apply to the Special Master established under this section.

(h) Upon the request of the Special Master, the head of any Federal department, agency, or instrumentality is authorized to make any of the facilities and services of such department, agency, or instrumentality available to the Special Master and detail any of the personnel of such department, agency, or instrumentality to the commission, on a nonreimbursable basis, to assist the Special Master in carrying out its duties under this section.

(i) The Special Master may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(j) The Special Master shall cease to exist on the date that is one hundred eighty days after the date on which the Special Master submits the report required under subsection (c)(5). All records, documents, and materials of the Special Master shall be transferred to the National Archives and Records Administration on the date on which the Special Master ceases to exist.

(k) There is authorized to be appropriated to the Special Master $250,000 to provide for the salaries and expenses to carry out the provisions of this section. Such sum shall remain available, without fiscal year limitation, until expended.

ASIAN DEVELOPMENT BANK

Mr. PRESSLER. Mr. President, I would like to take a moment to commend the Asian Development Bank [ADB] for its role in the growth and continuing prosperity in Asian and Pacific developing countries. Further, I urge the ADB to involve our Nation's small business community in efforts to further prosperity in this part of the world. The economic and social evolution underway in Asia has taken place at an incredible rate over the past decade. The ADB is playing an important role in this development, providing funds to improve and strengthen Asia's infrastructure.

As my colleagues know, the Asian Development Bank was founded in 1966 to function as an international development finance institution for the Asian and Pacific region. Headquartered in Manila, in the Philippines, the ADB had 56 member countries—40 within the Asian and Pacific region and 16 from outside the region—as of March 31, 1996. The ADB is engaged in promoting the economic and social progress of the Asian and Pacific region. Development banks in the world today with similar roles include the Inter-American Development Bank, the World Bank, and the African Development Bank.

Specifically, the ADB extends low interest loans to fund special projects in Asian and Pacific developing countries. The ADB finances infrastructure projects such as power plants, roads, bridges, and other ventures which have a strong impact on the designated area. This kind of financial support is critical to further the dynamic growth of Asian economies—growth that presents tremendous opportunities for U.S. businesses. Established businesses in the

United States, such as AT&T and Price Waterhouse, as well as smaller agricultural firms, such as Seminole Fertilizer Corp., benefit greatly from the exponential growth and progress of Asia. I encourage the ADB to seek opportunities for greater participation by U.S. small businesses as part of its future projects. The ADB assists private enterprises in undertaking financially viable projects which also have significant economic development merit and catalyzing the flow of domestic and external resources to such projects. For example, the bank allocated over $3.3 billion to develop telecommunications services in Asia's poorest areas and will invest almost $1 billion on telecommunications networks in India alone.

The ADB also provides loans, equity investments, and technical assistance, and also cofinances projects with bilateral and multilateral agencies as well as export credit and commercial sources. As of June 30, 1995, the bank had approved $51.9 billion in loans for 1,236 projects in 34 countries and $3.9 billion for 3,539 technical assistance grants.

As a donor member, the United States has contributed to the Asian Development Fund [ADF], which is the ADB's window for concessional lending to its borrowing member countries. Each year, ADB extends loans to fund projects and activities in Asian and Pacific developing countries, and provides several billion U.S. dollars worth of contracts to procure goods and consulting services. In 1995, the United States ranked first among donor member countries in total procurement, with a donor amount of $333 million dollars. The ADF, which is crucial to the bank's ability to grant loans, is the ADB's main soft-loan program. This soft-loan program lets donor countries apply for grants at a generous interest-free level, which makes it feasible for many poor countries to apply and receive loans to improve their environment, transportation, infrastructure, and communications.

A country that requests an interest-free loan from the ADF must fulfill requirements set by the ADB. The ADB stresses that the member countries have good governance which will permit a successful management of the development process, which encourages economic and political stability in the region. As a development partner, the ADB has a clear and direct interest in the capacity of borrowing governments to fulfill their economic role by implementing the associated policies. The success of the ADB's project investments depends on the efficacy of the institutional framework in development member countries [DMC]. In addition, governments are expected to perform certain key functions, including maintaining macroeconomic stability; developing infrastructure; providing public goods; preventing market failures; and promoting equity. Without macroeconomic stability, business prospects are uncertain and investment risks are high.

Further, the bank advises the developing countries regarding human rights, social and environmental policies, and other areas before accepting the country for a grant.

Mr. President, the replenishment of the ADF has been a ongoing problem. At present, ADF is expected to run out of money by year-end. In that respect, the ADB, along with other development banks, have been trying to arrange financing through private financial institutions. Multilateral agencies, such as ADB, likely will shift more funding to socially-oriented projects in the future, and have vast projects financed by private financial institutions.

The ADB has confronted and overcome many challenges, thanks to the efforts of its leadership. I would like to commend the diligent efforts of Ambassador Yang of the Asian Development Bank. Former California Savings and Loan Commissioner Linda Tsao Yang of Davis, CA, is the U.S. ambassador on the 12 member board of executive directors of the ADB. Ms. Yang has operated her own financial consulting firm since stepping down from the State S&L post in 1982. Her expertise during these challenging times is certainly welcome at the ADB.

I may not always agree with the bank's direction on a specific issue, but the overall direction of the ADB has been positive. Ambassador Yang is aggressively pursuing creative roles for the ADB to play in a manner which advances our Nation's commercial interests in that part of the world. Thanks in part to these creative efforts, the Asian continent is an exciting and promising region of the world for the residents and for those playing a part in its development.

TRIBUTE TO SENATOR AL SIMPSON

Mr. PRESSLER. Mr. President, we near the close of the 104th Congress will adjourn. Adjournment also will bring to a close the distinguished Senate career of Wyoming's senior Senator, the honorable AL SIMPSON. I am confident that Senate historians will see AL SIMPSON the way his colleagues already see him: as one of the truly great Senators of his era. I will miss AL SIMPSON—his leadership, his guidance, his wit, and most of all, his friendship.

AL SIMPSON and I entered the Senate at the same time—in 1979. At that time, he already had accumulated some Senate experience as the son of another legendary Wyoming Senator, Milward Simpson.

A story is told that Abraham Lincoln once began a meeting of his closest advisors by reading to them a piece from the humorist Artemus Ward. Lincoln seemed to be the only one who enjoyed the piece and found himself the only one laughing. Lincoln was said to have chastised his colleagues: "Why don't you laugh? With the fearful strain that is upon me night and day, if I did not laugh I should die, and you need this medicine as much as I do."

All of my colleagues would agree that the medicine of humor is best dispensed by our senior colleague from Wyoming. Perhaps not since Abraham Lincoln has Washington had a better practitioner in the art of medicinal humor. It has become a fond and regular experience to come to the floor for a vote, or visit the cloakrooms and see a small group of Senators listening delightfully to the yarns spun by our friend from Wyoming. When Senator SIMPSON formally addresses the Senate, we can count on his statements to be both informative and entertaining. I will miss AL SIMPSON's good nature and quick wit.

The full measure of AL SIMPSON is more than good humor. He is a man of enormous intellect and profound leadership. AL SIMPSON is sharp—as sharp as a tack, and as tough as a good piece of saddle leather, as he would probably say. But to see how tough AL SIMPSON is, and to understand his deep belief in the cause of public service, one need only take a look at the issues he has championed. Senator SIMPSON's extraordinary career no doubt will be remembered for his efforts on three very challenging issues—immigration, veterans affairs and entitlement reform. Each of those issues is vitally important, but frankly each can be thankless tasks.

It is appropriate that the 104th Congress will conclude with the passage of a comprehensive bill to address the serious problem of illegal immigration. This is the third major immigration bill shepherded in large measure by our friend from Wyoming. That is quite a record of legislative achievement given the volatile emotions that underlie this issue and the diverse interests involved. It's even more amazing when one considers that Senator SIMPSON hails from a great State not known for being a magnet for illegal immigrants. The tremendous leadership he has demonstrated on this issue is a testament to Senator SIMPSON's commitment to pursue what's in our Nation's interest, and to pursue such issues vigorously.

The same vigor is shown in Senator SIMPSON's commitment to our Nation's veterans. The Senator from Wyoming, like myself, is a veteran of the U.S. Army. Few have the level of understanding, the strong sense of compassion and fairness, that AL SIMPSON has displayed toward our veterans. As chairman of the Veterans Affairs Committee during a time of tremendous budgetary constraints, AL SIMPSON has

made sure that this Nation maintains its commitment to the brave veterans who answered the call and made sacrifices for their country. All men and women who once adorned a military uniform to defend our country, as well as this Senate, and this Nation will miss this true friend of the American veteran.

Finally, Senator AL SIMPSON is a man of great vision—a man who believes that Congress has a duty to anticipate and prevent future problems. He's right. No example demonstrates this belief more than his almost lonely effort to address the lurking problem of Federal entitlements, from Social Security to Medicare. Along with our friend from Nebraska, Senator KERREY, Senator SIMPSON chaired the Bipartisan Commission on Entitlement and Tax Reform. This commission found ominous signs that indicate now is the time to begin the process of reforming our Social Security and Medicare systems. It's no secret that both systems are incredibly important to our senior citizens. No doubt, this Nation owes a great debt of gratitude to AL SIMPSON for embarking this Senate, this Congress, and this Nation on what we all hope is the road toward true reform of Federal entitlements.

Now our dear friend from Wyoming soon will be speaking not from the Senate floor but from a Harvard lecture hall. The Senate's loss is certainly Harvard's gain. No doubt the fortunate young people who attend Professor SIMPSON's class will be entertained and informed. I hope the academic world will appreciate one basic fact: AL SIMPSON tells it like it is. For that, he has my admiration.

I will miss my Senate classmate. My wife Harriet and I always have enjoyed Senator SIMPSON and his wife Ann. They are great friends, and we look forward to seeing them should our travels take us to Cambridge or their's to Washington or South Dakota. I hope my friend from Wyoming doesn't mind if I drop in on his class on occasion, not just to gain the benefit of his thoughtful insights, but to hear again his homespun stories and receive yet another dose of his tremendous good humor. I wish AL and Ann Simpson the very, very best.

NOTICE OF ISSUANCE OF FINAL REGULATIONS

Mr. THURMOND. Mr. President, pursuant to section 304(d) of the Congressional Accountability Act of 1995 (2 U.S.C. sec. 1384(d)), a notice of issuance of final regulations was submitted by the Office of Compliance, U.S. Congress. The notice contains final regulations related to Federal Service Labor-Management Relations (Regulations under section 220(d) of the Congressional Accountability Act.)

The Congressional Accountability Act requires this notice be printed in the CONGRESSIONAL RECORD, therefore I ask unanimous consent that the notice be printed in the RECORD.

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

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS, PROTECTIONS AND RESPONSIBILITIES UNDER CHAPTER 71 OF TITLE 5, UNITED STATES CODE, RELATING TO FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS (REGULATIONS UNDER SECTION 220(d) OF THE CONGRESSIONAL ACCOUNTABILITY ACT)

NOTICE OF ISSUANCE OF FINAL REGULATIONS

On July 9, 1996, the Board of Directors of the Office of Compliance adopted and submitted for publication in the Congressional Record final regulations implementing section 220(d) of the Congressional Accountability Act of 1995 (CAA), which extends to the Congress certain rights, protections, and responsibilities under chapter 71 of title 5, United States Code, relating to Federal service labor-management relations. On August 2, 1996, the House agreed both to H. Res. 504, to provide for the approval of final regulations that are applicable to the employing offices and covered employees of the House, and to H. Con. Res. 207, to provide for approval of final regulations that are applicable to the instrumentalities of the Congress, i.e., the employing offices and employees other than those offices and employees of the House and the Senate. On September 28, 1996, the Senate agreed to H. Con. Res. 207, covering the instrumentalities, and in addition approved S. Res. 304, to provide for the approval of the final regulations that are applicable to employing offices and covered employees of the Senate,

Together with the House's prior approval of H. Res. 504 and H. Con. Res. 207, the Senate's concurrence in H. Con. Res. 207 and its approval of S. Res. 304 constitute approval under section 304(c) of the CAA of the Board's section 220(d) regulations as applicable both to employing offices and covered employees of the House and of the Senate (other than those House and Senate offices expressly listed in section 220(e)(2)) and to the instrumentalities of the Congress. Accordingly, pursuant to section 304(d) of the CAA, the Board submits these regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for issuance by publication in the Congressional Record.

Pursuant to paragraph (3) of section 304(d) of the CAA, the Board finds good cause for advancing the effective date of the House regulations from 60 days after their issuance to October 1, 1996. That date corresponds with the effective date of application of CAA section 220 to the Congress. The Board finds that the effective implementation of the CAA is furthered by making these regulations effective for the House, the Senate, and the instrumentalities on that effective date rather than allowing the provisions of the CAA contained in section 411 and the derivative regulations of the executive branch to control the administration of the statute during the sixty day period otherwise required by section 304(d)(3) of the CAA.

Signed at Washington, D.C. on this 30th day of September, 1996.

GLEN D. NAGER,
Chair of the Board, Office of Compliance.

Accordingly, the Board of Directors of the Office of Compliance hereby issues the following final regulations:

[Final Regulations]

Subchapter C

2420 Purpose and scope
2421 Meaning of terms as used in this subchapter
2422 Representation proceedings
2423 Unfair labor practice proceedings
2424 Expedited review of negotiability issues
2425 Review of arbitration awards
2426 National consultation rights and consultation rights on Government-wide rules or regulations
2427 General statements of policy or guidance
2428 Enforcement of Assistant Secretary standards of conduct decisions and orders
2429 Miscellaneous and general requirements

Subchapter D

2470 General
2471 Procedures of the Board in impasse proceedings

SUBCHAPTER C

Part 2420—Purpose and Scope

§ 2420.1 Purpose and scope.

The regulations contained in this subchapter are designed to implement the provisions of chapter 71 of title 5 of the United States Code, as applied by section 220 of the Congressional Accountability Act (CAA). They prescribe the procedures, basic principles or criteria under which the Board and the General Counsel, as applicable, will:

(a) Determine the appropriateness of units for labor organization representation under 5 U.S.C. 7112, as applied by the CAA;

(b) Supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a majority of the employees in an appropriate unit and otherwise administer the provisions of 5 U.S.C. 7111, as applied by the CAA, relating to the according of exclusive recognition to labor organizations;

(c) Resolve issues relating to the granting of national consultation rights under 5 U.S.C. 7113, as applied by the CAA;

(d) Resolve issues relating to determining compelling need for employing office rules and regulations under 5 U.S.C. 7117(b), as applied by the CAA;

(e) Resolve issues relating to the duty to bargain in good faith under 5 U.S.C. 7117(c), as applied by the CAA;

(f) Resolve issues relating to the granting of consultation rights with respect to conditions of employment under 5 U.S.C. 7117(d), as applied by the CAA;

(g) Conduct hearings and resolve complaints of unfair labor practices under 5 U.S.C. 7118, as applied by the CAA;

(h) Resolve exceptions to arbitrators' awards under 5 U.S.C. 7122, as applied by the CAA; and

(i) Take such other actions as are necessary and appropriate effectively to administer the provisions of chapter 71 of title 5 of the United States Code, as applied by the CAA.

§ 2420.2

Notwithstanding any other provisions of these regulations, the Board may, in deciding an issue, add to, delete from or modify otherwise applicable requirements as the Board deems necessary to avoid a conflict of interest or the appearance of a conflict of interest.

Part 2421—Meaning of Terms as Used in This Subchapter

Sec.
2421.1 Act; CAA.
2421.2 Chapter 71.
2421.3 General Definitions.
2421.4 National consultation rights; consultation rights on Government-wide rules or regulations; exclusive recognition; unfair labor practices.
2421.5 Activity.
2421.6 Primary national subdivision.
2421.7 Executive Director.
2421.8 Hearing Officer.
2421.9 Party.
2421.10 Intervenor.
2421.11 Certification.
2421.12 Appropriate unit.
2421.13 Secret ballot.
2421.14 Showing of interest.
2421.15 Regular and substantially equivalent employment.
2421.16 Petitioner.
2421.17 Eligibility Period.
2421.18 Election Agreement.
2421.19 Affected by Issues raised.
2421.20 Determinative challenged ballots.

§ 2421.1—Act; CAA.

The terms "Act" and "CAA" mean the Congressional Accountability Act of 1995 (P.L. 104-1, 109 Stat. 3, 2 U.S.C. §§1301-1438).

§ 2421.2—Chapter 71.

The term "chapter 71" means chapter 71 of title 5 of the United States Code.

§ 2421.3—General definitions.

(a) The term "person" means an individual, labor organization or employing office.

(b) Except as noted in subparagraph (3) of this subsection, the term "employee" means an individual—

(1) Who is a current employee, applicant for employment, or former employee of: the House of Representatives; the Senate; the Capitol Guide Service; the Capitol Police; the Congressional Budget Office; the Office of the Architect of the Capitol; the Office of the Attending Physician; the Office of Compliance; or the Office of Technology Assessment; or

(2) Whose employment in an employing office has ceased because of any unfair labor practice under section 7116 of title 5 of the United States Code, as applied by the CAA, and who has not obtained any other regular and substantially equivalent employment as determined under regulations prescribed by the Board, but does not include—

(i) An alien or noncitizen of the United States who occupies a position outside of the United States;

(ii) A member of the uniformed services;

(iii) A supervisor or a management official or;

(iv) Any person who participates in a strike in violation of section 7311 of title 5 of the United States Code, as applied the CAA.

(3) For the purpose of determining the adequacy of a showing of interest or eligibility for consultation rights, except as required by law, applicants for employment and former employees are not considered employees.

(c) The term "employing office" means—

(1) The personal office of a Member of the House of Representatives or of a Senator;

(2) A committee of the House of Representatives or the Senate or a joint committee;

(3) Any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or

(4) The Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment.

(d) The term "labor organization" means an organization composed in whole or in part of employees, in which employees participate and pay dues, and which has as a purpose the dealing with an employing office concerning grievances and conditions of employment, but does not include—

(1) An organization which, by its constitution, bylaws, tacit agreement among its members, or otherwise, denies membership because of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or disability;

(2) An organization which advocates the overthrow of the constitutional form of government of the United States;

(3) An organization sponsored by an employing office; or

(4) An organization which participates in the conduct or a strike against the Government or any agency thereof or imposes a duty or obligation to conduct, assist, or participate in such a strike.

(e) The term "dues" means dues, fees, and assessments.

(f) The term "Board" means the Board of Directors of the Office of Compliance.

(g) The term "collective bargaining agreement" means an agreement entered into as a result of collective bargaining pursuant to the provisions of chapter 71 of title 5 of the United States Code, as applied by the CAA.

(h) The term "grievance" means any complaint—

(1) By any employee concerning any matter relating to the employment of the employee;

(2) By any labor organization concerning any matter relating to the employment of any employee; or

(3) By any employee, labor organization, or employing office concerning—

(i) The effect or interpretation, or a claim of breach, of a collective bargaining agreement; or

(ii) Any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

(i) The term "supervisor" means an individual employed by an employing office having authority in the interest of the employing office to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature, but requires the consistent exercise of independent judgment, except that, with respect to any unit which includes firefighters or nurses, the term "supervisor" includes only those individuals who devote a preponderance of their employment time to exercising such authority.

(j) The term "management official" means an individual employed by an employing office in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the employing office.

(k) The term "collective bargaining" means the performance of the mutual obligation of the representative of an employing office and the exclusive representative of employees in an appropriate unit in the employing office to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph does not compel either party to agree to a proposal or to make a concession.

(l) The term "confidential employee" means an employee who acts in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor-management relations.

(m) The term "conditions of employment" means personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, affecting working conditions, except that such term does not include policies, practices, and matters—

(1) Relating to political activities prohibited under subchapter III of chapter 73 of title 5 of the United States Code, as applied by the CAA;

(2) Relating to the classification of any position; or

(3) To the extent such matters are specifically provided for by Federal statute.

(n) The term "professional employee" means—

(1) An employee engaged in the performance of work—

(i) Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital (as distinguished from knowledge acquired by a general academic education, or from an apprenticeship, or from training in the performance of routine mental, manual, mechanical, or physical activities);

(ii) Requiring the consistent exercise of discretion and judgment in its performance;

(iii) Which is predominantly intellectual and varied in character (as distinguished from routine mental, manual, mechanical, or physical work); and

(iv) Which is of such character that the output produced or the result accomplished by such work cannot be standardized in relation to a given period of time; or

(2) An employee who has completed the courses of specialized intellectual instruction and study described in subparagraph (1)(i) of this paragraph and is performing related work under appropriate direction and guidance to qualify the employee as a professional employee described in subparagraph (1) of this paragraph.

(o) The term "exclusive representative" means any labor organization which is certified as the exclusive representative of employees in an appropriate unit pursuant to section 7111 of title 5 of the United States Code, as applied by the CAA.

(p) The term "firefighter" means any employee engaged in the performance of work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment.

(q) The term "United States" means the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

(r) The term "General Counsel" means the General Counsel of the Office of Compliance.

(s) The term "Assistant Secretary" means the Assistant Secretary of Labor for Labor-Management Relations.

§ 2421.4 National consultation rights; consultation rights on Government-wide rules or regulations; exclusive recognition; unfair labor practices.

(a)(1) The term "national consultation rights" means that a labor organization that

is the exclusive representative of a substantial number of the employees of the employing office, as determined in accordance with criteria prescribed by the Board, shall—

(i) Be informed of any substantive change in conditions of employment proposed by the employing office; and

(ii) Be permitted reasonable time to present its views and recommendations regarding the changes.

(2) National consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Board. Any issue relating to any labor organization s eligibility for, or continuation of, national consultation rights shall be subject to determination by the Board.

(b)(1) The term "consultation rights on Government-wide rules or regulations" means that a labor organization which is the exclusive representative of a substantial number of employees of an employing office determined in accordance with criteria prescribed by the Board, shall be granted consultation rights by the employing office with respect to any Government-wide rule or regulation issued by the employing office effecting any substantive change in any condition of employment. Such consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Board. Any issue relating to a labor organization's eligibility for, or continuation of, such consultation rights shall be subject to determination by the Board.

(2) A labor organization having consultation rights under paragraph (1) of this subsection shall—

(i) Be informed of any substantive change in conditions of employment proposed by the employing office; and

(ii) shall be permitted reasonable time to present its views and recommendations regarding the changes.

(3) If any views or recommendations are presented under paragraph (2) of this subsection to an employing office by any labor organization—

(i) The employing office shall consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

(ii) The employing office shall provide the labor organization a written statement of the reasons for taking the final action.

(c) The term "exclusive recognition" means that a labor organization has been selected as the sole representative, in a secret ballot election, by a majority of the employees in an appropriate unit who cast valid ballots in an election.

(d) The term "unfair labor practices" means—

(1) Any of the following actions taken by an employing office—

(i) Interfering with, restraining, or coercing any employee in the exercise by the employee of any right under chapter 71, as applied by the CAA;

(ii) Encouraging or discouraging membership in any labor organization by discrimination in connection with hiring, tenure, promotion, or other condition of employment;

(iii) Sponsoring, controlling, or otherwise assisting any labor organization, other than to furnish, upon request, customary and routine services and facilities if the services and facilities are also furnished on an impartial basis to other labor organizations having equivalent status;

(iv) Disciplining or otherwise discriminating against an employee because the employee has filed a complaint, affidavit, or petition, or has given any information or testimony under chapter 71, as applied by the CAA;

(v) Refusing to consult or negotiate in good faith with a labor organization as required by chapter 71, as applied by the CAA;

(vi) Failing or refusing to cooperate in impasse procedures and impasse decisions as required by chapter 71, as applied by the CAA;

(vii) Enforcing any rule or regulation (other than a rule or regulation implementing section 2302 of this title) which is in conflict with any applicable collective bargaining agreement if the agreement was in effect before the date the rule or regulation was prescribed; or

(viii) Otherwise failing or refusing to comply with any provision of chapter 71, as applied by the CAA;

(2) Any of the following actions taken by a labor organization—

(i) Interfering with, restraining, or coercing any employee in the exercise by the employee of any right under this chapter;

(ii) Causing or attempting to cause an employing office to discriminate against any employee in the exercise by the employee of any right under this chapter;

(iii) Coercing, disciplining, fining, or attempting to coerce a member of the labor organization as punishment, reprisal, or for the purpose of hindering or impeding the member's work performance or productivity as an employee or the discharge of the member's duties as an employee;

(iv) Discriminating against an employee with regard to the terms or conditions of membership in the labor organization on the basis of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or disability;

(v) Refusing to consult or negotiate in good faith with an employing office as required by chapter 71, as applied by the CAA;

(vi) Failing or refusing to cooperate in impasse procedures and impasse decisions as required by chapter 71, as applied by the CAA;

(vii)(A) Calling, or participating in, a strike, work stoppage, or slowdown, or picketing of an employing office in a labor-management dispute if such picketing interferes with an employing office s operations; or

(B) Condoning any activity described in subparagraph (A) of this paragraph by failing to take action to prevent or stop such activity; or

(viii) Otherwise failing or refusing to comply with any provision of chapter 71, as applied by the CAA;

(3) Denial of membership by an exclusive representative to any employee in the appropriate unit represented by such exclusive representative except for failure—

(i) To meet reasonable occupational standards uniformly required for admission, or

(ii) To tender dues uniformly required as a condition of acquiring and retaining membership.

§ 2421.5 Activity.

The term "activity" means any facility, organizational entity, or geographical subdivision or combination thereof, of any employing office.

§ 2421.6 Primary national subdivision.

"Primary national subdivision" of an employing office means a first-level organizational segment which has functions national in scope that are implemented in field activities.

§ 2421.7 Executive director.

"Executive Director" means the Executive Director of the Office of Compliance.

§ 2421.8 Hearing officer.

The term "Hearing Officer" means any individual designated by the Executive Director to preside over a hearing conducted pursuant to section 405 of the CAA on matters within the Office's jurisdiction, including a hearing arising in cases under 5 U.S.C. 7116, as applied by the CAA, and any other such matters as may be assigned.

§ 2421.9 Party.

The term "party" means:

(a) Any labor organization, employing office or employing activity or individual filing a charge, petition, or request;

(b) Any labor organization or employing office or activity

(1) Named as

(i) A charged party in a charge,

(ii) A respondent in a complaint, or

(iii) An employing office or activity or an incumbent labor organization in a petition;

(2) Whose intervention in a proceeding has been permitted or directed by the Board; or

(3) Who participated as a party

(i) In a matter that was decided by an employing office head under 5 U.S.C. 7117, as applied by the CAA, or

(ii) In a matter where the award of an arbitrator was issued; and

(c) The General Counsel, or the General Counsel's designated representative, in appropriate proceedings.

§ 2421.10 Intervenor.

The term "intervenor" means a party in a proceeding whose intervention has been permitted or directed by the Board, its agents or representatives.

§ 2421.11 Certification.

The term "certification" means the determination by the Board, its agents or representatives, of the results of an election, or the results of a petition to consolidate existing exclusively recognized units.

2421.12 Appropriate unit.

The term "appropriate unit" means that grouping of employees found to be appropriate for purposes of exclusive recognition under 5 U.S.C. 7111, as applied by the CAA, and for purposes of allotments to representatives under 5 U.S.C. 7115(c), as applied by the CAA, and consistent with the provisions of 5 U.S.C. 7112, as applied by the CAA.

§ 2421.13 Secret ballot.

The term "secret ballot" means the expression by ballot, voting machine or otherwise, but in no event by proxy, of a choice with respect to any election or vote taken upon any matter, which is cast in such a manner that the person expressing such choice cannot be identified with the choice expressed, except in that instance in which any determinative challenged ballot is opened.

§ 2421.14 Showing of interest.

The term "showing of interest" means evidence of membership in a labor organization; employees' signed and dated authorization cards or petitions authorizing a labor organization to represent them for purposes of exclusive recognition; allotment of dues forms executed by an employee and the labor organization's authorized official; current dues records; an existing or recently expired agreement; current certification; employees' signed and dated petitions or cards indicating that they no longer desire to be represented for the purposes of exclusive recognition by the currently certified labor organization; employees' signed and dated petitions or cards indicating a desire that an election be held on a proposed consolidation

of units; or other evidence approved by the Board.

§ 2421.15 Regular and substantially equivalent employment.

The term "regular and substantially equivalent employment" means employment that entails substantially the same amount of work, rate of pay, hours, working conditions, location of work, kind of work, and seniority rights, if any, of an employee prior to the cessation of employment in an employing office because of any unfair labor practice under 5 U.S.C. 7116, as applied by the CAA.

§ 2421.16 Petitioner.

Petitioner means the party filing a petition under Part 2422 of this Subchapter.

§ 2421.17 Eligibility period.

The term "eligibility period" means the payroll period during which an employee must be in an employment status with an employing office or activity in order to be eligible to vote in a representation election under Part 2422 of this Subchapter.

§ 2421.18 Election agreement.

The term "election agreement" means an agreement under Part 2422 of this Subchapter signed by all the parties, and approved by the Board, the Executive Director, or any other individual designated by the Board, concerning the details and procedures of a representation election in an appropriate unit.

§ 2421.19 Affected by issues raised.

The phrase "affected by issues raised", as used in Part 2422, should be construed broadly to include parties and other labor organizations, or employing offices or activities that have a connection to employees affected by, or questions presented in, a proceeding.

§ 2421.20 Determinative challenged ballots.

"Determinative challenged ballots" are challenges that are unresolved prior to the tally and sufficient in number after the tally to affect the results of the election.

Part 2422—Representation Proceedings

Sec.
2422.1 Purposes of a petition.
2422.2 Standing to file a petition.
2422.3 Contents of a petition.
2422.4 Service requirements.
2422.5 Filing petitions.
2422.6 Notification of filing.
2422.7 Posting notice of filing of a petition.
2422.8 Intervention and cross-petitions.
2422.9 Adequacy of showing of interest.
2422.10 Validity of showing of interest.
2422.11 Challenge to the status of a labor organization.
2422.12 Timeliness of petitions seeking an election.
2422.13 Resolution of issues raised by a petition.
2422.14 Effect of withdrawal/dismissal.
2422.15 Duty to furnish information and cooperate.
2422.16 Election agreements or directed elections.
2422.17 Notice of pre-election investigatory hearing and prehearing conference.
2422.18 Pre-election investigatory hearing procedures.
2422.19 Motions.
2422.20 Rights of parties at a pre-election investigatory hearing.
2422.21 Duties and powers of the Executive Director in the conduct of the pre-election investigatory hearing.
2422.22 Objections to the conduct of the pre-election investigatory hearing.
2422.23 Election procedures.
2422.24 Challenged ballots.
2422.25 Tally of ballots.
2422.26 Objections to the election.
2422.27 Determinative challenged ballots and objections.
2422.28 Runoff elections.
2422.29 Inconclusive elections.
2422.30 Executive Director investigations, notices of pre-election investigatory hearings, and actions; Board Decisions and Orders.
2422.31 Application for review of an Executive Director action.
2422.32 Certifications and revocations.
2422.33 Relief obtainable under Part 2423.
2422.34 Rights and obligations during the pendency of representation proceedings.

§ 2422.1 Purposes of a petition.

A petition may be filed for the following purposes:

(a) *Elections or Eligibility for dues allotment.* To request:

(1)(i) An election to determine if employees in an appropriate unit wish to be represented for the purpose of collective bargaining by an exclusive representative; and/or

(ii) A determination of eligibility for dues allotment in an appropriate unit without an exclusive representative; or

(2) An election to determine if employees in a unit no longer wish to be represented for the purpose of collective bargaining by an exclusive representative.

(3) Petitions under this subsection must be accompanied by an appropriate showing of interest.

(b) *Clarification or Amendment.* To clarify, and/or amend:

(1) A certification then in effect; and/or

(2) Any other matter relating to representation.

(c) *Consolidation.* To consolidate two or more units, with or without an election, in an employing office and for which a labor organization is the exclusive representative.

§ 2422.2 Standing to file a petition.

A representation petition may be filed by: an individual; a labor organization; two or more labor organizations acting as a joint-petitioner; an individual acting on behalf of any employee(s); an employing office or activity; or a combination of the above: *provided, however*, that (a) only a labor organization has standing to file a petition pursuant to section 2422.1(a)(1); (b) only an individual has standing to file a petition pursuant to section 2422.1(a)(2); and (c) only an employing office or a labor organization may file a petition pursuant to section 2422.1 (b) or (c).

§ 2422.3 Contents of a petition.

(a) *What to file.* A petition must be filed on a form prescribed by the Board and contain the following information:

(1) The name and mailing address for each employing office or activity affected by issues raised in the petition, including street number, city, state and zip code.

(2) The name, mailing address and work telephone number of the contact person for each employing office or activity affected by issues raised in the petition.

(3) The name and mailing address for each labor organization affected by issues raised in the petition, including street number, city, state and zip code. If a labor organization is affiliated with a national organization, the local designation and the national affiliation should both be included. If a labor organization is an exclusive representative of any of the employees affected by issues raised in the petition, the date of the certification and the date any collective bargaining agreement covering the unit will expire or when the most recent agreement did expire should be included, if known.

(4) The name, mailing address and work telephone number of the contact person for each labor organization affected by issues raised in the petition.

(5) The name and mailing address for the petitioner, including street number, city, state and zip code. If a labor organization petitioner is affiliated with a national organization, the local designation and the national affiliation should both be included.

(6) A description of the unit(s) affected by issues raised in the petition. The description should generally indicate the geographic locations and the classifications of the employees included (or sought to be included) in, and excluded (or sought to be excluded) from, the unit.

(7) The approximate number of employees in the unit(s) affected by issues raised in the petition.

(8) A clear and concise statement of the issues raised by the petition and the results the petitioner seeks.

(9) A declaration by the person signing the petition, under the penalties of the Criminal Code (18 U.S.C. 1001), that the contents of the petition are true and correct to the best of the person's knowledge and belief.

(10) The signature, title, mailing address and telephone number of the person filing the petition.

(b) *Compliance with 5 U.S.C. 7111(e), as applied by the CAA.* A labor organization/petitioner complies with 5 U.S.C. 7111(e), as applied by the CAA, by submitting to the employing office or activity and to the Department of Labor a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives. By signing the petition form, the labor organization/petitioner certifies that it has submitted these documents to the employing activity or office and to the Department of Labor.

(c) *Showing of interest supporting a representation petition.* When filing a petition requiring a showing of interest, the petitioner must:

(1) So indicate on the petition form;

(2) Submit with the petition a showing of interest of not less than thirty percent (30%) of the employees in the unit involved in the petition; and

(3) Include an alphabetical list of the names constituting the showing of interest.

(d) *Petition seeking dues allotment.* When there is no exclusive representative, a petition seeking certification for dues allotment shall be accompanied by a showing of membership in the petitioner of not less than ten percent (10%) of the employees in the unit claimed to be appropriate. An alphabetical list of names constituting the showing of membership must be submitted.

§ 2422.4 Service requirements.

Every petition, motion, brief, request, challenge, written objection, or application for review shall be served on all parties affected by issues raised in the filing. The service shall include all documentation in support thereof, with the exception of a showing of interest, evidence supporting challenges to the validity of a showing of interest, and evidence supporting objections to an election. The filer must submit a written statement of service to the Executive Director.

§ 2422.5 Filing petitions.

(a) *Where to file.* Petitions must be filed with the Executive Director.

(b) *Number of copies.* An original and two (2) copies of the petition and the accompanying material must be filed with the Executive Director.

(c) *Date of filing.* A petition is filed when it is received by the Executive Director.

§ 2422.6 Notification of filing.

(a) *Notification to parties.* After a petition is filed, the Executive Director, on behalf of the Board, will notify any labor organization, employing office or employing activity that the parties have identified as being affected by issues raised by the petition, that a petition has been filed with the Office. The Executive Director, on behalf of the Board, will also make reasonable efforts to identify and notify any other party affected by the issues raised by the petition.

(b) *Contents of the notification.* The notification will inform the labor organization, employing office or employing activity of:

(1) The name of the petitioner;

(2) The description of the unit(s) or employees affected by issues raised in the petition; and,

(3) A statement that all affected parties should advise the Executive Director in writing of their interest in the issues raised in the petition.

§ 2422.7 Posting notice of filing of a petition.

(a) *Posting notice of petition.* When appropriate, the Executive Director, on behalf of the Board, after the filing of a representation petition, will direct the employing office or activity to post copies of a notice to all employees in places where notices are normally posted for the employees affected by issues raised in the petition and/or distribute copies of a notice in a manner by which notices are normally distributed.

(b) *Contents of notice.* The notice shall advise affected employees about the petition.

(c) *Duration of notice.* The notice should be conspicuously posted for a period of ten (10) days and not be altered, defaced, or covered by other material.

§ 2422.8 Intervention and cross-petitions.

(a) *Cross-petitions.* A cross-petition is a petition which involves any employees in a unit covered by a pending representation petition. Cross-petitions must be filed in accordance with this subpart.

(b) *Intervention requests and cross-petitions.* A request to intervene and a cross-petition, accompanied by any necessary showing of interest, must be submitted in writing and filed with the Executive Director before the pre-election investigatory hearing opens, unless good cause is shown for granting an extension. If no pre-election investigatory hearing is held, a request to intervene and a cross-petition must be filed prior to action being taken pursuant to § 2422.30.

(c) *Labor organization intervention requests.* Except for incumbent intervenors, a labor organization seeking to intervene shall submit a statement that it has complied with 5 U.S.C. 7111(e), as applied by the CAA, and one of the following:

(1) A showing of interest of ten percent (10%) or more of the employees in the unit covered by a petition seeking an election, with an alphabetical list of the names of the employees constituting the showing of interest; or

(2) A current or recently expired collective bargaining agreement covering any of the employees in the unit affected by issues raised in the petition; or

(3) Evidence that it is or was, prior to a reorganization, the certified exclusive representative of any of the employees affected by issues raised in the petition.

(d) *Incumbent.* An incumbent exclusive representative, without regard to the requirements of paragraph (c) of this section, will be considered a party in any representation proceeding raising issues that affect employees the incumbent represents, unless it serves the Board, through the Executive Director, with a written disclaimer of any representation interest in the claimed unit.

(e) *Employing office.* An employing office or activity will be considered a party if any of its employees are affected by issues raised in the petition.

(f) *Employing office or activity intervention.* An employing office or activity seeking to intervene in any representation proceeding must submit evidence that one or more employees of the employing office or activity may be affected by issues raised in the petition.

§ 2422.9 Adequacy of showing of interest.

(a) *Adequacy.* Adequacy of a showing of interest refers to the percentage of employees in the unit involved as required by §§ 2422.3(c) and (d) and 2422.8(c)(1).

(b) *Executive Director investigation and action.* The Executive Director, on behalf of the Board, will conduct such investigation as deemed appropriate. The Executive Director's determination, on behalf of the Board, that the showing of interest is adequate is final and binding and not subject to collateral attack at a representation hearing or on appeal to the Board. If the Executive Director determines, on behalf of the Board, that a showing of interest is inadequate, the Executive Director will dismiss the petition, or deny a request for intervention.

§ 2422.10 Validity of showing of interest.

(a) *Validity.* Validity questions are raised by challenges to a showing of interest on grounds other than adequacy.

(b) *Validity challenge.* The Executive Director or any party may challenge the validity of a showing of interest.

(c) *When and where validity challenges may be filed.* Party challenges to the validity of a showing of interest must be in writing and filed with the Executive Director before the pre-election investigatory hearing opens, unless good cause is shown for granting an extension. If no pre-election investigatory hearing is held, challenges to the validity of a showing of interest must be filed prior to action being taken pursuant to § 2422.30.

(d) *Contents of validity challenges.* Challenges to the validity of a showing of interest must be supported with evidence.

(e) *Executive Director investigation and action.* The Executive Director, on behalf of the Board, will conduct such investigation as deemed appropriate. The Executive Director's determination, on behalf of the Board, that a showing of interest is valid is final and binding and is not subject to collateral attack or appeal to the Board. If the Executive Director finds, on behalf of the Board, that the showing of interest is not valid, the Executive Director will dismiss the petition or deny the request to intervene.

§ 2422.11 Challenge to the status of a labor organization.

(a) *Basis of challenge to labor organization status.* The only basis on which a challenge to the status of a labor organization may be made is compliance with 5 U.S.C. 7103(a)(4), as applied by the CAA.

(b) *Format and time for filing a challenge.* Any party filing a challenge to the status of a labor organization involved in the processing of a petition must do so in writing to the Executive Director before the pre-election investigatory hearing opens, unless good cause is shown for granting an extension. If no hearing is held, challenges must be filed prior to action being taken pursuant to § 2422.30.

§ 2422.12 Timeliness of petitions seeking an election.

(a) *Election bar.* Where there is no certified exclusive representative, a petition seeking an election will not be considered timely if filed within twelve (12) months of a valid election involving the same unit or a subdivision of the same unit.

(b) *Certification bar.* Where there is a certified exclusive representative of employees, a petition seeking an election will not be considered timely if filed within twelve (12) months after the certification of the exclusive representative of the employees in an appropriate unit. If a collective bargaining agreement covering the claimed unit is pending employing office head review under 5 U.S.C. 7114(c), as applied by the CAA, or is in effect, paragraphs (c), (d), or (e) of this section apply.

(c) *Bar during employing office head review.* A petition seeking an election will not be considered timely if filed during the period of employing office head review under 5 U.S.C. 7114(c), as applied by the CAA. This bar expires upon either the passage of thirty (30) days absent employing office head action, or upon the date of any timely employing office head action.

(d) *Contract bar where the contract is for three (3) years or less.* Where a collective bargaining agreement is in effect covering the claimed unit and has a term of three (3) years or less from the date it became effective, a petition seeking an election will be considered timely if filed not more than one hundred and five (105) and not less than sixty (60) days prior to the expiration of the agreement.

(e) *Contract bar where the contract is for more than three (3) years.* Where a collective bargaining agreement is in effect covering the claimed unit and has a term of more than three (3) years from the date it became effective, a petition seeking an election will be considered timely if filed not more than one hundred and five (105) and not less than sixty (60) days prior to the expiration of the initial three (3) year period, and any time after the expiration of the initial three (3) year period.

(f) *Unusual circumstances.* A petition seeking an election or a determination relating to representation matters may be filed at any time when unusual circumstances exist that substantially affect the unit or majority representation.

(g) *Premature extension.* Where a collective bargaining agreement with a term of three (3) years or less has been extended prior to sixty (60) days before its expiration date, the extension will not serve as a basis for dismissal of a petition seeking an election filed in accordance with this section.

(h) *Contract requirements.* Collective bargaining agreements, including agreements that go into effect under 5 U.S.C. 7114(c), as applied by the CAA, and those that automatically renew without further action by the parties, do not constitute a bar to a petition seeking an election under this section unless a clear and unambiguous effective date, renewal date where applicable, duration, and termination date are ascertainable from the agreement and relevant accompanying documentation.

§ 2422.13 Resolution of issues raised by a petition.

(a) *Meetings prior to filing a representation petition.* All parties affected by the representation issues that may be raised in a petition are encouraged to meet prior to the filing of the petition to discuss their interests and narrow and resolve the issues. If requested by all parties a representative of the Office will participate in these meetings.

(b) *Meetings to narrow and resolve the issues after the petition is filed.* After a petition is

filed, the Executive Director may require all affected parties to meet to narrow and resolve the issues raised in the petition.

§ 2422.14 Effect of withdrawal/dismissal.

(a) *Withdrawal/dismissal less than sixty (60) days before contract expiration.* When a petition seeking an election that has been timely filed is withdrawn by the petitioner or dismissed by the Executive Director or the Board less than sixty (60) days prior to the expiration of an existing agreement between the incumbent exclusive representative and the employing office or activity or any time after the expiration of the agreement, another petition seeking an election will not be considered timely if filed within a ninety (90) day period from either:

(1) The date the withdrawal is approved; or

(2) The date the petition is dismissed by the Executive Director when no application for review is filed with the Board; or

(3) The date the Board rules on an application for review; or

(4) The date the Board issues a Decision and Order dismissing the petition.

Other pending petitions that have been timely filed under this Part will continue to be processed.

(b) *Withdrawal by petitioner.* A petitioner who submits a withdrawal request for a petition seeking an election that is received by the Executive Director after the notice of pre-election investigatory hearing issues or after approval of an election agreement, whichever occurs first, will be barred from filing another petition seeking an election for the same unit or any subdivision of the unit for six (6) months from the date of the approval of the withdrawal by the Executive Director.

(c) *Withdrawal by incumbent.* When an election is not held because the incumbent disclaims any representation interest in a unit, a petition by the incumbent seeking an election involving the same unit or a subdivision of the same unit will not be considered timely if filed within six (6) months of cancellation of the election.

§ 2422.15 Duty to furnish information and cooperate.

(a) *Relevant information.* After a petition is filed, all parties must, upon request of the Executive Director, furnish the Executive Director and serve all parties affected by issues raised in the petition with information concerning parties, issues, and agreements raised in or affected by the petition.

(b) *Inclusions and exclusions.* After a petition seeking an election is filed, the Executive Director, on behalf of the Board, may direct the employing office or activity to furnish the Executive Director and all parties affected by issues raised in the petition with a current alphabetized list of employees and job classifications included in and/or excluded from the existing or claimed unit affected by issues raised in the petition.

(c) *Cooperation.* All parties are required to cooperate in every aspect of the representation process. This obligation includes cooperating fully with the Executive Director, submitting all required and requested information, and participating in prehearing conferences and pre-election investigatory hearings. The failure to cooperate in the representation process may result in the Executive Director or the Board taking appropriate action, including dismissal of the petition or denial of intervention.

§ 2422.16 Election agreements or directed elections.

(a) *Election agreements.* Parties are encouraged to enter into election agreements.

(b) *Executive Director directed election.* If the parties are unable to agree on procedural matters, specifically, the eligibility period, method of election, dates, hours, or locations of the election, the Executive Director, on behalf of the Board, will decide election procedures and issue a Direction of Election, without prejudice to the rights of a party to file objections to the procedural conduct of the election.

(c) *Opportunity for an investigatory hearing.* Before directing an election, the Executive Director shall provide affected parties an opportunity for a pre-election investigatory hearing on other than procedural matters.

(d) *Challenges or objections to a directed election.* A Direction of Election issued under this section will be issued without prejudice to the right of a party to file a challenge to the eligibility of any person participating in the election and/or objections to the election.

§ 2422.17 Notice of pre-election investigatory hearing and prehearing conference.

(a) *Purpose of notice of an investigatory hearing.* The Executive Director, on behalf of the Board, may issue a notice of pre-election investigatory hearing involving any issues raised in the petition.

(b) *Contents.* The notice of hearing will advise affected parties about the pre-election investigatory hearing. The Executive Director will also notify affected parties of the issues raised in the petition and establish a date for the prehearing conference.

(c) *Prehearing conference.* A prehearing conference will be conducted by the Executive Director or her designee, either by meeting or teleconference. All parties must participate in a prehearing conference and be prepared to fully discuss, narrow and resolve the issues set forth in the notification of the prehearing conference.

(d) *No interlocutory appeal of investigatory hearing determination.* The Executive Director's determination of whether to issue a notice of pre-election investigatory hearing is not appealable to the Board.

§ 2422.18 Pre-election investigatory hearing procedures.

(a) *Purpose of a pre-election investigatory hearing.* Representation hearings are considered investigatory and not adversarial. The purpose of the hearing is to develop a full and complete record of relevant and material facts.

(b) *Conduct of hearing.* Pre-election investigatory hearings will be open to the public unless otherwise ordered by the Executive Director or her designee. There is no burden of proof, with the exception of proceedings on objections to elections as provided for in § 2422.27(b). Formal rules of evidence do not apply.

(c) *Pre-election investigatory hearing.* Pre-election investigatory hearings will be conducted by the Executive Director or her designee.

(d) *Production of evidence.* Parties have the obligation to produce existing documents and witnesses for the investigatory hearing in accordance with the instructions of the Executive Director or her designee. If a party willfully fails to comply with such instructions, the Board may draw an inference adverse to that party on the issue related to the evidence sought.

(e) *Transcript.* An official reporter will make the official transcript of the pre-election investigatory hearing. Copies of the official transcript may be examined in the Office during normal working hours. Requests by parties to purchase copies of the official transcript should be made to the official hearing reporter.

§ 2422.19 Motions.

(a) *Purpose of a motion.* Subsequent to the issuance of a notice of pre-election investigatory hearing in a representation proceeding, a party seeking a ruling, an order, or relief must do so by filing or raising a motion stating the order or relief sought and the grounds therefor. Challenges and other filings referenced in other sections of this subpart may, in the discretion of the Executive Director or her designee, be treated as a motion.

(b) *Prehearing motions.* Prehearing motions must be filed in writing with the Executive Director. Any response must be filed with the Executive Director within five (5) days after service of the motion. The Executive Director shall rule on the motion.

(c) *Motions made at the investigatory hearing.* During the pre-election investigatory hearing, motions will be made to the Executive Director or her designee, and may be oral on the record, unless otherwise required in this subpart to be in writing. Responses may be oral on the record or in writing, but, absent permission of the Executive Director or her designee, must be provided before the hearing closes. The Executive Director or her designee will rule on motions made at the hearing.

(d) *Posthearing motions.* Motions made after the hearing closes must be filed in writing with the Board. Any response to a posthearing motion must be filed with the Board within five (5) days after service of the motion.

§ 2422.20 Rights of parties at a pre-election investigatory hearing.

(a) *Rights.* A party at a pre-election investigatory hearing will have the right:

(1) To appear in person or by a representative;

(2) To examine and cross-examine witnesses; and

(3) To introduce into the record relevant evidence.

(b) *Documentary evidence and stipulations.* Parties must submit two (2) copies of documentary evidence to the Executive Director or her designee and copies to all other parties. Stipulations of fact between/among the parties may be introduced into evidence.

(c) *Oral argument.* Parties will be entitled to a reasonable period prior to the close of the hearing for oral argument. Presentation of a closing oral argument does not preclude a party from filing a brief under paragraph (d) of this section.

(d) *Briefs.* A party will be afforded an opportunity to file a brief with the Board.

(1) An original and two (2) copies of a brief must be filed with the Board within thirty (30) days from the close of the hearing.

(2) A written request for an extension of time to file a brief must be filed with and received by the Board no later than five (5) days before the date the brief is due.

(3) No reply brief may be filed without permission of the Board.

§ 2422.21 Duties and powers of the Executive Director in the conduct of the pre-election investigatory hearing.

(a) *Duties.* The Executive Director or her designee, on behalf of the Board, will receive evidence and inquire fully into the relevant and material facts concerning the matters that are the subject of the investigatory hearing, and may make recommendations on the record to the Board.

(b) *Powers.* During the period a case is assigned to the Executive Director or her designee for pre-election investigatory hearing

and prior to the close of the hearing, the Executive Director or her designee may take any action necessary to schedule, conduct, continue, control, and regulate the pre-election investigatory hearing, including ruling on motions when appropriate.

§ 2422.22 Objections to the conduct of the pre-election investigatory hearing.

(a) *Objections.* Objections are oral or written complaints concerning the conduct of a pre-election investigatory hearing.

(b) *Exceptions to rulings.* There are automatic exceptions to all adverse rulings.

§ 2422.23 Election procedures.

(a) *Executive Director conducts or supervises election.* The Executive Director, on behalf of the Board, will decide to conduct or supervise the election. In supervised elections, employing offices or activities will perform all acts as specified in the Election Agreement or Direction of Election.

(b) *Notice of election.* Prior to the election a notice of election, prepared by the Executive Director, will be posted by the employing office or activity in places where notices to employees are customarily posted and/or distributed in a manner by which notices are normally distributed. The notice of election will contain the details and procedures of the election, including the appropriate unit, the eligibility period, the date(s), hour(s) and location(s) of the election, a sample ballot, and the effect of the vote.

(c) *Sample ballot.* The reproduction of any document purporting to be a copy of the official ballot that suggests either directly or indirectly to employees that the Board endorses a particular choice in the election may constitute grounds for setting aside an election if objections are filed under § 2422.26.

(d) *Secret ballot.* All elections will be by secret ballot.

(e) *Intervenor withdrawal from ballot.* When two or more labor organizations are included as choices in an election, an intervening labor organization may, prior to the approval of an election agreement or before the direction of an election, file a written request with the Executive Director to remove its name from the ballot. If the request is not received prior to the approval of an election agreement or before the direction of an election, unless the parties and the Executive Director, on behalf of the Board, agree otherwise, the intervening labor organization will remain on the ballot. The Executive Director's decision on the request is final and not subject to the filing of an application for review with the Board.

(f) *Incumbent withdrawal from ballot in an election to decertify an incumbent representative.* When there is no intervening labor organization, an election to decertify an incumbent exclusive representative will not be held if the incumbent provides the Executive Director with a written disclaimer of any representation interest in the unit. When there is an intervenor, an election will be held if the intervening labor organization proffers a thirty percent (30%) showing of interest within the time period established by the Executive Director.

(g) *Petitioner withdraws from ballot in an election.* When there is no intervening labor organization, an election will not be held if the petitioner provides the Executive Director with a written request to withdraw the petition. When there is an intervenor, an election will be held if the intervening labor organization proffers a thirty percent (30%) showing of interest within the time period established by the Executive Director.

(h) *Observers.* All parties are entitled to representation at the polling location(s) by observers of their own selection subject to the Executive Director's approval.

(1) Parties desiring to name observers must file in writing with the Executive Director a request for specifically named observers at least fifteen (15) days prior to an election. The Executive Director may grant an extension of time for filing a request for specifically named observers for good cause where a party requests such an extension or on the Executive Director's own motion. The request must name and identify the observers requested.

(2) An employing office or activity may use as its observers any employees who are not eligible to vote in the election, except:

(i) Supervisors or management officials;

(ii) Employees who have any official connection with any of the labor organizations involved; or

(iii) Non-employees of the legislative branch.

(3) A labor organization may use as its observers any employees eligible to vote in the election, except:

(i) Employees on leave without pay status who are working for the labor organization involved; or

(ii) Employees who hold an elected office in the union.

(4) Objections to a request for specific observers must be filed with the Executive Director stating the reasons in support within five (5) days after service of the request.

(5) The Executive Director's ruling on requests for and objections to observers is final and binding and is not subject to the filing of an application for review with the Board.

§ 2422.24 Challenged ballots.

(a) *Filing challenges.* A party or the Executive Director may, for good cause, challenge the eligibility of any person to participate in the election prior to the employee voting.

(b) *Challenged ballot procedure.* An individual whose eligibility to vote is in dispute will be given the opportunity to vote a challenged ballot. If the parties and the Region are unable to resolve the challenged ballot(s) prior to the tally of ballots, the unresolved challenged ballot(s) will be impounded and preserved until a determination can be made, if necessary, by the Executive Director or the Board.

§ 2422.25 Tally of ballots.

(a) *Tallying the ballots.* When the election is concluded, the Executive Director or her designee will tally the ballots.

(b) *Service of the tally.* When the tally is completed, the Executive Director will serve the tally of ballots on the parties in accordance with the election agreement or direction of election.

(c) *Valid ballots cast.* Representation will be determined by the majority of the valid ballots cast.

§ 2422.26 Objections to the election.

(a) *Filing objections to the election.* Objections to the procedural conduct of the election or to conduct that may have improperly affected the results of the election may be filed by any party. Objections must be filed and received by the Executive Director within five (5) days after the tally of ballots has been served. Any objections must be timely regardless of whether the challenged ballots are sufficient in number to affect the results of the election. The objections must be supported by clear and concise reasons. An original and two (2) copies of the objections must be received by the Executive Director.

(b) *Supporting evidence.* The objecting party must file with the Executive Director evidence, including signed statements, documents and other materials supporting the objections within ten (10) days after the objections are filed.

§ 2422.27 Determinative challenged ballots and objections.

(a) *Investigation.* The Executive Director, on behalf of the Board, will investigate objections and/or determinative challenged ballots that are sufficient in number to affect the results of the election.

(b) *Burden of proof.* A party filing objections to the election bears the burden of proof by a preponderance of the evidence concerning those objections. However, no party bears the burden of proof on challenged ballots.

(c) *Executive Director action.* After investigation, the Executive Director will take appropriate action consistent with § 2422.30.

(d) *Consolidated hearing on objections and/or determinative challenged ballots and an unfair labor practice hearing.* When appropriate, and in accordance with § 2422.33, objections and/or determinative challenged ballots may be consolidated with an unfair labor practice hearing. Such consolidated hearings will be conducted by a Hearing Officer. Exceptions and related submissions must be filed with the Board and the Board will issue a decision in accordance with Part 2423 of this chapter and section 406 of the CAA, except for the following:

(1) Section 2423.18 of this Subchapter concerning the burden of proof is not applicable;

(2) The Hearing Officer may not recommend remedial action to be taken or notices to be posted; and,

(3) References to "charge" and "complaint" in Part 2423 of this chapter will be omitted.

§ 2422.28 Runoff elections.

(a) *When a runoff may be held.* A runoff election is required in an election involving at least three (3) choices, one of which is "no union" or "neither," when no choice receives a majority of the valid ballots cast. However, a runoff may not be held until the objections to the election and determinative challenged ballots have been resolved.

(b) *Eligibility.* Employees who were eligible to vote in the original election and who are also eligible on the date of the runoff election may vote in the runoff election.

(c) *Ballot.* The ballot in the runoff election will provide for a selection between the two choices receiving the largest and second largest number of votes in the election.

§ 2422.29 Inconclusive elections.

(a) *Inconclusive elections.* An inconclusive election is one where challenged ballots are not sufficient to affect the outcome of the election and one of the following occurs:

(1) The ballot provides for at least three (3) choices, one of which is "no union" or "neither" and the votes are equally divided; or

(2) The ballot provides for at least three (3) choices, the choice receiving the highest number of votes does not receive a majority, and at least two other choices receive the next highest and same number of votes; or

(3) When a runoff ballot provides for a choice between two labor organizations and results in the votes being equally divided; or

(4) When the Board determines that there have been significant procedural irregularities.

(b) *Eligibility to vote in a rerun election.* A current payroll period will be used to determine eligibility to vote in a rerun election.

(c) *Ballot.* If a determination is made that the election is inconclusive, the election will be rerun with all the choices that appeared on the original ballot.

(d) *Number of reruns.* There will be only one rerun of an inconclusive election. If the rerun results in another inconclusive election, the tally of ballots will indicate a majority of valid ballots has not been cast for any choice and a certification of results will be issued. If necessary, a runoff may be held when an original election is rerun.

§2422.30 Executive Director investigations, notices of pre-election investigatory hearings, and actions; Board Decisions and Orders.

(a) *Executive Director investigation.* The Executive Director, on behalf of the Board, will make such investigation of the petition and any other matter as the Executive Director deems necessary.

(b) *Executive Director notice of pre-election investigatory hearing.* On behalf of the Board, the Executive Director will issue a notice of pre-election investigatory hearing to inquire into any matter about which a material issue of fact exists, where there is an issue as to whether a question concerning representation exists, and any time there is reasonable cause to believe a question exists regarding unit appropriateness.

(c) *Executive Director action.* After investigation and/or hearing, when a pre-election investigatory hearing has been ordered, the Executive Director may, on behalf of the Board, approve an election agreement, dismiss a petition or deny intervention where there is an inadequate or invalid showing of interest, or dismiss a petition where there is an undisputed bar to further processing of the petition under law, rule or regulation.

(d) *Appeal of Executive Director action.* A party may file with the Board an application for review of an Executive Director action taken pursuant to section (c) above.

(e) *Contents of the Record.* When no pre-election investigatory hearing has been conducted all material submitted to and considered by the Executive Director during the investigation becomes a part of the record. When a pre-election investigatory hearing has been conducted, the transcript and all material entered into evidence, including any posthearing briefs, become a part of the record.

(f) *Transfer of record to Board; Board Decisions and Orders.* In cases that are submitted to the Board for decision in the first instance, the Board shall decide the issues presented based upon the record developed by the Executive Director, including the transcript of the pre-election investigatory hearing, if any, documents admitted into the record and briefs and other approved submissions from the parties. The Board may direct that a secret ballot election be held, issue an order dismissing the petition, or make such other disposition of the matter as it deems appropriate.

§2422.31 Application for review of an Executive Director action.

(a) *Filing an application for review.* A party must file an application for review with the Board within sixty (60) days of the Executive Director's action. The sixty (60) day time limit provided for in 5 U.S.C. 7105(f), as applied by the CAA, may not be extended or waived.

(b) *Contents.* An application for review must be sufficient to enable the Board to rule on the application without recourse to the record; however, the Board may, in its discretion, examine the record in evaluating the application. An application must specify the matters and rulings to which exception(s) is taken, include a summary of evidence relating to any issue raised in the application, and make specific reference to page citations in the transcript if a hearing was held. An application may not raise any issue or rely on any facts not timely presented to the Executive Director.

(c) *Review.* The Board may, in its discretion, grant an application for review when the application demonstrates that review is warranted on one or more of the following grounds:

(1) The decision raises an issue for which there is an absence of precedent;

(2) Established law or policy warrants reconsideration; or,

(3) There is a genuine issue over whether the Executive Director has:

(i) Failed to apply established law;

(ii) Committed a prejudicial procedural error;

(iii) Committed a clear and prejudicial error concerning a substantial factual matter.

(d) *Opposition.* A party may file with the Board an opposition to an application for review within ten (10) days after the party is served with the application. A copy must be served on the Executive Director and all other parties and a statement of service must be filed with the Board.

(e) *Executive Director action becomes the Board's action.* An action of the Executive Director becomes the action of the Board when:

(1) No application for review is filed with the Board within sixty (60) days after the date of the Executive Director's action; or

(2) A timely application for review is filed with the Board and the Board does not undertake to grant review of the Executive Director's action within sixty (60) days of the filing of the application; or

(3) The Board denies an application for review of the Executive Director's action.

(f) *Board grant of review and stay.* The Board may rule on the issue(s) in an application for review in its order granting the application for review. Neither filing nor granting an application for review shall stay any action ordered by the Executive Director unless specifically ordered by the Board.

(g) *Briefs if review is granted.* If the Board does not rule on the issue(s) in the application for review in its order granting review, the Board may, in its discretion, afford the parties an opportunity to file briefs. The briefs will be limited to the issue(s) referenced in the Board's order granting review.

§2422.32 Certifications and revocations.

(a) *Certifications.* The Executive Director, on behalf of the Board, will issue an appropriate certification when:

(1) After an election, runoff, or rerun,

(i) No objections are filed or challenged ballots are not determinative, or

(ii) Objections and determinative challenged ballots are decided and resolved; or

(2) The Executive Director takes an action requiring a certification and that action becomes the action of the Board under §2422.31(e) or the Board otherwise directs the issuance of a certification.

(b) *Revocations.* Without prejudice to any rights and obligations which may exist under the CAA, the Executive Director, on behalf of the Board, will revoke a recognition or certification, as appropriate, and provide a written statement of reasons when an incumbent exclusive representative files, during a representation proceeding, a disclaimer of any representational interest in the unit.

§2422.33 Relief obtainable under Part 2423.

Remedial relief that was or could have been obtained as a result of a motion, objection, or challenge filed or raised under this subpart, may not be the basis for similar relief if filed or raised as an unfair labor practice under Part 2423 of this Chapter: *provided, however,* that related matters may be consolidated for hearing as noted in §2422.27(d) of this subpart.

§2422.34 Rights and obligations during the pendency of representation proceedings.

(a) *Existing recognitions, agreements, and obligations under the CAA.* During the pendency of any representation proceeding, parties are obligated to maintain existing recognitions, adhere to the terms and conditions of existing collective bargaining agreements, and fulfill all other representational and bargaining responsibilities under the CAA.

(b) *Unit status of individual employees.* Notwithstanding paragraph (a) of this section and except as otherwise prohibited by law, a party may take action based on its position regarding the bargaining unit status of individual employees, pursuant to 5 U.S.C. 7103(a)(2), 7112 (b) and (c), as applied by the CAA: *provided, however,* that its actions may be challenged, reviewed, and remedied where appropriate.

Part 2423—Unfair Labor Practice Proceedings

Sec.
2423.1 Applicability of this part.
2423.2 Informal proceedings.
2423.3 Who may file charges.
2423.4 Contents of the charge; supporting evidence and documents.
2423.5 Selection of the unfair labor practice procedure or the negotiability procedure.
2423.6 Filing and service of copies.
2423.7 Investigation of charges.
2423.8 Amendment of charges.
2423.9 Action by the General Counsel.
2423.10 Determination not to file complaint.
2423.11 Settlement or adjustment of issues.
2423.12 Filing and contents of the complaint.
2423.13 Answer to the complaint.
2423.14 Prehearing disclosure; conduct of hearing.
2423.15 Intervention.
2423.16 [Reserved]
2423.17 [Reserved]
2423.18 Burden of proof before the Hearing Officer.
2423.19 Duties and powers of the Hearing Officer.
2423.20 [Reserved]
2423.21 [Reserved]
2423.22 [Reserved]
2423.23 [Reserved]
2423.24 [Reserved]
2423.25 [Reserved]
2423.26 Hearing Officer decisions; entry in records of the Office.
2423.27 Appeal to the Board.
2423.28 [Reserved]
2423.29 Action by the Board.
2423.30 Compliance with decisions and orders of the Board.
2423.31 Backpay proceedings.

§2423.1 Applicability of this part.

This part is applicable to any charge of alleged unfair labor practices occurring on or after October 1, 1996.

§2423.2 Informal proceedings.

(a) The purposes and policies of chapter 71, as applied by the CAA, can best be achieved by the cooperative efforts of all persons covered by the program. To this end, it shall be the policy of the Board and the General Counsel to encourage all persons alleging unfair labor practices and persons against whom such allegations are made to meet and, in good faith, attempt to resolve such matters prior to the filing of unfair labor practice charges.

(b) In furtherance of the policy referred to in paragraph (a) of this section, and noting the 180 day period of limitation set forth in section 220(c)(2) of the CAA, it shall be the policy of the Board and the General Counsel to encourage the informal resolution of unfair labor practice allegations subsequent to the filing of a charge and prior to the filing of a complaint by the General Counsel.

(c) In order to afford the parties an opportunity to implement the policy referred to in paragraphs (a) and (b) of this section, the investigation of an unfair labor practice charge by the General Counsel will normally not commence until the parties have been afforded a reasonable amount of time, not to exceed fifteen (15) days from the filing of the charge, during which period the parties are urged to attempt to informally resolve the unfair labor practice allegation.

§ 2423.3 Who may file charges.

An employing office, employing activity, or labor organization may be charged by any person with having engaged in or engaging in any unfair labor practice prohibited under 5 U.S.C. 7116, as applied by the CAA.

§ 2423.4 Contents of the charge; supporting evidence and documents.

(a) A charge alleging a violation of 5 U.S.C. 7116, as applied by the CAA, shall be submitted on forms prescribed by the General Counsel and shall contain the following:

(1) The name, address and telephone number of the person(s) making the charge;

(2) The name, address and telephone number of the employing office or activity, or labor organization against whom the charge is made;

(3) A clear and concise statement of the facts constituting the alleged unfair labor practice, a statement of the section(s) and subsection(s) of chapter 71 of title 5 of the United States Code made applicable by the CAA alleged to have been violated, and the date and place of occurrence of the particular acts; and

(4) A statement of any other procedure invoked involving the subject matter of the charge and the results, if any, including whether the subject matter raised in the charge (i) has been raised previously in a grievance procedure; (ii) has been referred to the Board under Part 2471 of these regulations, or the Federal Mediation and Conciliation Service, or (iii) involves a negotiability issue raised by the charging party in a petition pending before the Board pursuant to Part 2424 of this subchapter.

(b) Such charge shall be in writing and signed and shall contain a declaration by the person signing the charge, under the penalties of the Criminal Code (18 U.S.C. 1001), that its contents are true and correct to the best of that person's knowledge and belief.

(c) When filing a charge, the charging party shall submit to the General Counsel any supporting evidence and documents.

§ 2423.5 Selection of the unfair labor practice procedure or the negotiability procedure.

Where a labor organization files an unfair labor practice charge pursuant to this part which involves a negotiability issue, and the labor organization also files pursuant to part 2424 of this subchapter a petition for review of the same negotiability issue, the Board and the General Counsel ordinarily will not process the unfair labor practice charge and the petition for review simultaneously. Under such circumstances, the labor organization must select under which procedure to proceed. Upon selection of one procedure, further action under the other procedure will ordinarily be suspended. Such selection must be made regardless of whether the unfair labor practice charge or the petition for review of a negotiability issue is filed first. Notification of this selection must be made in writing at the time that both procedures have been invoked, and must be served on the Board, the General Counsel and all parties to both the unfair labor practice case and the negotiability case. Cases which solely involve an employing office's allegation that the duty to bargain in good faith does not extend to the matter proposed to be bargained and which do not involve actual or contemplated changes in conditions of employment may only be filed under part 2424 of this subchapter.

§ 2423.6 Filing and service of copies.

(a) An original and four (4) copies of the charge together with one copy for each additional charged party named shall be filed with the General Counsel.

(b) Upon the filing of a charge, the charging party shall be responsible for the service of a copy of the charge (without the supporting evidence and documents) upon the person(s) against whom the charge is made, and for filing a written statement of such service with the General Counsel. The General Counsel will, as a matter of course, cause a copy of such charge to be served on the person(s) against whom the charge is made, but shall not be deemed to assume responsibility for such service.

(c) A charge will be deemed to be filed when it is received by the General Counsel in accordance with the requirements in paragraph (a) of this section.

§ 2423.7 Investigation of charges.

(a) The General Counsel shall conduct such investigation of the charge as the General Counsel deems necessary. Consistent with the policy set forth in § 2423.2, the investigation will normally not commence until the parties have been afforded a reasonable amount of time, not to exceed fifteen (15) days from the filing of the charge, to informally resolve the unfair labor practice allegation.

(b) During the course of the investigation all parties involved will have an opportunity to present their evidence and views to the General Counsel.

(c) In connection with the investigation of charges, all persons are expected to cooperate fully with the General Counsel.

(d) The purposes and policies of chapter 71, as applied by the CAA, can best be achieved by the full cooperation of all parties involved and the voluntary submission of all potentially relevant information from all potential sources during the course of the investigation. To this end, it shall be the policy of the Board and the General Counsel to protect the identity of individuals and the substance of the statements and information they submit or which is obtained during the investigation as a means of assuring the Board's and the General Counsel's continuing ability to obtain all relevant information.

§ 2423.8 Amendment of charges.

Prior to the issuance of a complaint, the charging party may amend the charge in accordance with the requirements set forth in § 2423.6.

§ 2423.9 Action by the General Counsel.

(a) The General Counsel shall take action which may consist of the following, as appropriate:

(1) Approve a request to withdraw a charge;

(2) Refuse to file a complaint;

(3) Approve a written settlement and recommend that the Executive Director approve a written settlement agreement in accordance with the provisions of section 414 of the CAA;

(4) File a complaint;

(5) Upon agreement of all parties, transfer to the Board for decision, after filing of a complaint, a stipulation of facts in accordance with the provisions of § 2429.1(a) of this subchapter; or

(6) Withdraw a complaint.

§ 2423.10 Determination not to file complaint.

(a) If the General Counsel determines that the charge has not been timely filed, that the charge fails to state an unfair labor practice, or for other appropriate reasons, the General Counsel may request the charging party to withdraw the charge, and in the absence of such withdrawal within a reasonable time, decline to file a complaint.

(b) The charging party may not obtain a review of the General Counsel's decision not to file a complaint.

§ 2423.11 Settlement or adjustment of issues.

(a) At any stage of a proceeding prior to hearing, where time, the nature of the proceeding, and the public interest permit, all interested parties shall have the opportunity to submit to the Executive Director or General Counsel, as appropriate, for consideration, all facts and arguments concerning offers of settlement, or proposals of adjustment.

Precomplaint settlements

(b)(1) Prior to the filing of any complaint or the taking of other formal action, the General Counsel will afford the charging party and the respondent a reasonable period of time in which to enter into a settlement agreement to be submitted to and approved by the General Counsel and the Executive Director. Upon approval by the General Counsel and Executive Director and compliance with the terms of the settlement agreement, no further action shall be taken in the case. If the respondent fails to perform its obligations under the settlement agreement, the General Counsel may determine to institute further proceedings.

(2) In the event that the charging party fails or refuses to become a party to a settlement agreement offered by the respondent, if the General Counsel concludes that the offered settlement will effectuate the policies of chapter 71, as applied by the CAA, the agreement shall be between the respondent and the General Counsel and the latter shall decline to file a complaint.

Post complaint settlement policy

(c) Consistent with the policy reflected in paragraph (a) of this section, even after the filing of a complaint, the Board favors the settlement of issues. Such settlements may be accomplished as provided in paragraph (b) of this section. The parties may, as part of the settlement, agree to waive their right to a hearing and agree further that the Board may issue an order requiring the respondent to take action appropriate to the terms of the settlement. Ordinarily such a settlement agreement will also contain the respondent's consent to the Board's application for the entry of a decree by the United States Court of Appeals for the Federal Circuit enforcing the Board's order.

Post complaint prehearing settlements

(d)(1) If, after the filing of a complaint, the charging party and the respondent enter into a settlement agreement, and such agreement is accepted by the General Counsel, the settlement agreement shall be submitted to the Executive Director for approval.

(2) If, after the filing of a complaint, the charging party fails or refuses to become a party to a settlement agreement offered by the respondent, and the General Counsel concludes that the offered settlement will effectuate the policies of chapter 71, as applied by the CAA, the agreement shall be between the respondent and the General Counsel. The charging party will be so informed and provided a brief written statement by the General Counsel of the reasons therefor. The settlement agreement together with the charging party's objections, if any, and the General Counsel's written statements, shall be submitted to the Executive Director for approval. The Executive Director may approve or disapprove any settlement agreement.

(3) After the filing of a complaint, if the General Counsel concludes that it will effectuate the policies of chapter 71, as applied by the CAA, the General Counsel may withdraw the complaint.

Settlements after the opening of the hearing

(e)(1) After filing of a complaint and after opening of the hearing, if the General Counsel concludes that it will effectuate the policies of chapter 71, as applied by the CAA, the General Counsel may request the Hearing Officer for permission to withdraw the complaint and, having been granted such permission to withdraw the complaint, may approve a settlement and recommend that the Executive Director approve the settlement pursuant to paragraph (b) of this section.

(2) If, after filing of a complaint and after opening of the hearing, the parties enter into a settlement agreement that contains the respondent's consent to the Board's application for the entry of a decree by the United States Court of Appeals for the Federal Circuit enforcing the Board's order, the General Counsel may request the Hearing Officer and the Executive Director to approve such settlement agreement, and upon such approval, to transmit the agreement to the Board for approval.

(3) If the charging party fails or refuses to become a party to a settlement agreement, offered by the respondent, that contains the respondent's consent to the Board's application for the entry of a decree by the United States Court of Appeals for the Federal Circuit enforcing the Board's order, and the General Counsel concludes that the offered settlement will effectuate the policies of chapter 71, as applied to the CAA, the agreement shall be between the respondent and the General Counsel. After the charging party is given an opportunity to state on the record or in writing the reasons for opposing the settlement, the General Counsel may request the Hearing Officer and the Executive Director to approve such settlement agreement, and upon such approval, to transmit the agreement to the Board for approval. The Board may approve or disapprove any such settlement agreement or return the case to the Hearing Officer for other appropriate action.

§ 2423.12 Filing and contents of the complaint.

(a) After a charge is filed, if it appears to the General Counsel that formal proceedings in respect thereto should be instituted, the General Counsel shall file a formal complaint: *Provided, however*, that a determination by the General Counsel to file a complaint shall not be subject to review.

(b) The complaint shall include:

(1) Notice of the charge;

(2) Any information required pursuant to the Procedural Rules of the Office.

(c) Any such complaint may be withdrawn before the hearing by the General Counsel.

§ 2423.13 Answer to the complaint.

A respondent shall file an answer to a complaint in accordance with the requirements of the Procedural Rules of the Office.

§ 2423.14 Prehearing disclosure; conduct of hearing.

The procedures for prehearing discovery and the conduct of the hearing are set forth in the Procedural Rules of the Office.

§ 2423.15 Intervention.

Any person involved and desiring to intervene in any proceeding pursuant to this part shall file a motion in accordance with the procedures set forth in the Procedural Rules of the Office. The motion shall state the grounds upon which such person claims involvement.

§ 2423.16 [Reserved]

§ 2423.17 [Reserved]

§ 2423.18 Burden of proof before the hearing officer.

The General Counsel shall have the responsibility of presenting the evidence in support of the complaint and shall have the burden of proving the allegations of the complaint by a preponderance of the evidence.

2423.19 Duties and powers of the Hearing Officer.

It shall be the duty of the Hearing Officer to inquire fully into the facts as they relate to the matter before such Hearing Officer, subject to the rules and regulations of the Office and the Board.

§ 2423.20 [Reserved]

§ 2423.21 [Reserved]

§ 2423.22 [Reserved]

§ 2423.23 [Reserved]

§ 2423.24 [Reserved]

§ 2423.25 [Reserved]

§ 2423.26 Hearing officer decisions; entry in records of the office.

In accordance with the Procedural Rules of the Office, the Hearing Officer shall issue a written decision and that decision will be entered into the records of the Office.

§ 2423.27 Appeal to the Board.

An aggrieved party may seek review of a decision and order of the Hearing Officer in accordance with the Procedural Rules of the Office.

§ 2423.28 [Reserved]

§2423.29 Action by the Board.

(a) If an appeal is filed, the Board shall review the decision of the Hearing Officer in accordance with section 406 of the CAA, and the Procedural Rules of the Office.

(b) Upon finding a violation, the Board shall issue an order:

(1) To cease and desist from any such unfair labor practice in which the employing office or labor organization is engaged;

(2) Requiring the parties to renegotiate a collective bargaining agreement in accordance with the order of the Board and requiring that the agreement, as amended, be given retroactive effect;

(3) Requiring reinstatement of an employee with backpay in accordance with 5 U.S.C. 5596; or

(4) Including any combination of the actions described in paragraphs (1) through (3) of this paragraph (b), or such other action as will carry out the purpose of the chapter 71, as applied by the CAA.

(c) Upon finding no violation, the Board shall dismiss the complaint.

§ 2423.30 Compliance with decisions and orders of the Board.

When remedial action is ordered, the respondent shall report to the Office within a specified period that the required remedial action has been effected. When the General Counsel or the Executive Director finds that the required remedial action has not been effected, the General Counsel or the Executive Director shall take such action as may be appropriate, including referral to the Board for enforcement.

§ 2423.31 Backpay proceedings.

After the entry of a Board order directing payment of backpay, or the entry of a court decree enforcing such order, if it appears to the General Counsel that a controversy exists which cannot be resolved without a formal proceeding, the General Counsel may issue and serve on all parties a backpay specification accompanied by a request for hearing or a request for hearing without a specification. Upon receipt of the request for hearing, the Executive Director will appoint an independent Hearing Officer. The respondent shall, within twenty (20) days after the service of a backpay specification, file an answer thereto in accordance with the Office's Procedural Rules. No answer need be filed by the respondent to a notice of hearing issued without a specification. After the issuance of a notice of hearing, with or without a backpay specification, the hearing procedures provided in the Procedural Rules of the Office shall be followed insofar as applicable.

Part 2424—Expedited Review of Negotiability Issues

Subpart A—Instituting an Appeal

Sec.
2424.1 Conditions governing review.
2424.2 Who may file a petition.
2424.3 Time limits for filing.
2424.4 Content of petition; service.
2424.5 Selection of the unfair labor practice procedure or the negotiability procedure.
2424.6 Position of the employing office; time limits for filing; service.
2424.7 Response of the exclusive representative; time limits for filing; service.
2424.8 Additional submissions to the Board.
2424.9 Hearing.
2424.10 Board decision and order; compliance.

Subpart B—Criteria for Determining Compelling Need for Employing Office Rules and Regulations

2424.11 Illustrative criteria.

SUBPART A—INSTITUTING AN APPEAL

§ 2424.1 Conditions governing review.

The Board will consider a negotiability issue under the conditions prescribed by 5 U.S.C. 7117 (b) and (c), as applied by the CAA, namely: If an employing office involved in collective bargaining with an exclusive representative alleges that the duty to bargain in good faith does not extend to any matter proposed to be bargained because, as proposed, the matter is inconsistent with law, rule or regulation, the exclusive representative may appeal the allegation to the Board when—

(a) It disagrees with the employing office's allegation that the matter as proposed to be bargained is inconsistent with any Federal law or any Government-wide rule or regulation; or

(b) It alleges, with regard to any employing office rule or regulation asserted by the employing office as a bar to negotiations on the matter, as proposed, that:

(1) The rule or regulation violates applicable law, or rule or regulation of appropriate authority outside the employing office;

(2) The rule or regulation was not issued by the employing office or by any primary national subdivision of the employing office, or

otherwise is not applicable to bar negotiations with the exclusive representative, under 5 U.S.C. 7117(a)(3), as applied by the CAA; or

(3) No compelling need exists for the rule or regulation to bar negotiations on the matter, as proposed, because the rule or regulation does not meet the criteria established in subpart B of this part.

§ 2424.2 Who may file a petition.

A petition for review of a negotiability issue may be filed by an exclusive representative which is a party to the negotiations.

§ 2424.3 Time limits for filing.

The time limit for filing a petition for review is fifteen (15) days after the date the employing office's allegation that the duty to bargain in good faith does not extend to the matter proposed to be bargained is served on the exclusive representative. The exclusive representative shall request such allegation in writing and the employing office shall make the allegation in writing and serve a copy on the exclusive representative: *provided, however,* that review of a negotiability issue may be requested by an exclusive representative under this subpart without a prior written allegation by the employing office if the employing office has not served such allegation upon the exclusive representative within ten (10) days after the date of the receipt by any employing office bargaining representative at the negotiations of a written request for such allegation.

§ 2424.4 Content of petition; service.

(a) A petition for review shall be dated and shall contain the following:

(1) A statement setting forth the express language of the proposal sought to be negotiated as submitted to the employing office

(2) An explicit statement of the meaning attributed to the proposal by the exclusive representative including:

(i) Explanation of terms of art, acronyms, technical language, or any other aspect of the language of the proposal which is not in common usage; and

(ii) Where the proposal is concerned with a particular work situation, or other particular circumstances, a description of the situation or circumstances which will enable the Board to understand the context in which the proposal is intended to apply;

(3) A copy of all pertinent material, including the employing office's allegation in writing that the matter, as proposed, is not within the duty to bargain in good faith, and other relevant documentary material; and

(4) Notification by the petitioning labor organization whether the negotiability issue is also involved in an unfair labor practice charge filed by such labor organization under part 2423 of this subchapter and pending before the General Counsel.

(b) A copy of the petition including all attachments thereto shall be served on the employing office head and on the principal employing office bargaining representative at the negotiations.

(c)(1) Filing an incomplete petition for review will result in the exclusive representative being asked to provide the missing or incomplete information. Noncompliance with a request to complete the record may result in dismissal of the petition.

(2) The processing priority accorded to an incomplete petition, relative to other pending negotiability appeals, will be based upon the date when the petition is completed—not the date it was originally filed.

§ 2424.5 Selection of the unfair labor practice procedure or the negotiability procedure.

Where a labor organization files an unfair labor practice charge pursuant to part 2423 of this subchapter which involves a negotiability issue, and the labor organization also files pursuant to this part a petition for review of the same negotiability issue, the Board and the General Counsel ordinarily will not process the unfair labor practice charge and the petition for review simultaneously. Under such circumstances, the labor organization must select under which procedure to proceed. Upon selection of one procedure, further action under the other procedure will ordinarily be suspended. Such selection must be made regardless of whether the unfair labor practice charge or the petition for review of a negotiability issue is filed first. Notification of this selection must be made in writing at the time that both procedures have been invoked, and must be served on the Board, the General Counsel and all parties to both the unfair labor practice case and the negotiability case. Cases which solely involve an employing office's allegation that the duty to bargain in good faith does not extend to the matter proposed to be bargained and which do not involve actual or contemplated changes in conditions of employment may only be filed under this part.

§ 2424.6 Position of the employing office; time limits for filing; service.

(a) Within thirty (30) days after the date of the receipt by the head of an employing office of a copy of a petition for review of a negotiability issue the employing office shall file a statement—

(1) Withdrawing the allegation that the duty to bargain in good faith does not extend to the matter proposed to be negotiated; or

(2) Setting forth in full its position on any matters relevant to the petition which it wishes the Board to consider in reaching its decision, including a full and detailed statement of its reasons supporting the allegation. The statement shall cite the section of any law, rule or regulation relied upon as a basis for the allegation and shall contain a copy of any internal employing office rule or regulation so relied upon. The statement shall include:

(i) Explanation of the meaning the employing office attributes to the proposal as a whole, including any terms of art, acronyms, technical language or any other aspect of the language of the proposal which is not in common usage; and

(ii) Description of a particular work situation, or other particular circumstance the employing office views the proposal to concern, which will enable the Board to understand the context in which the proposal is considered to apply by the employing office.

(b) A copy of the employing office's statement of position, including all attachments thereto shall be served on the exclusive representative.

§ 2424.7 Response of the exclusive representative; time limits for filing; service.

(a) Within fifteen (15) days after the date of the receipt by an exclusive representative of a copy of an employing office's statement of position the exclusive representative shall file a full and detailed response stating its position and reasons for:

(1) Disagreeing with the employing office's allegation that the matter, as proposed to be negotiated, is inconsistent with any Federal law or Government-wide rule or regulation; or

(2) Alleging that the employing office's rules or regulations violate applicable law, or rule or regulation or appropriate authority outside the employing office; that the rules or regulations were not issued by the employing office or by any primary national subdivision of the employing office, or otherwise are not applicable to bar negotiations under 5 U.S.C. 7117(a)(3), as applied by the CAA; or that no compelling need exists for the rules or regulations to bar negotiations.

(b) The response shall cite the particular section of any law, rule or regulation alleged to be violated by the employing office's rules or regulations; or shall explain the grounds for contending the employing office rules or regulations are not applicable to bar negotiations under 5 U.S.C. 7117(a)(3), as applied by the CAA, or fail to meet the criteria established in subpart B of this part, or were not issued at the employing office headquarters level or at the level of a primary national subdivision.

(c) A copy of the response of the exclusive representative including all attachments thereto shall be served on the employing office head and on the employing office's representative of record in the proceeding before the Board.

§ 2424.8 Additional submissions to the board.

The Board will not consider any submission filed by any party, whether supplemental or responsive in nature, other than those authorized under § 2424.2 through 2424.7 unless such submission is requested by the Board; or unless, upon written request by any party, a copy of which is served on all other parties, the Board in its discretion grants permission to file such submission.

§ 2424.9 Hearing.

A hearing may be held, in the discretion of the Board, before a determination is made under 5 U.S.C. 7117(b) or (c), as applied by the CAA. If a hearing is held, it shall be expedited to the extent practicable and shall not include the General Counsel as a party.

§ 2424.10 Board decision and order; compliance.

(a) Subject to the requirements of this subpart the Board shall expedite proceedings under this part to the extent practicable and shall issue to the exclusive representative and to the employing office a written decision on the allegation and specific reasons therefor at the earliest practicable date.

(b) If the Board finds that the duty to bargain extends to the matter proposed to be bargained, the decision of the Board shall include an order that the employing office shall upon request (or as otherwise agreed to by the parties) bargain concerning such matter. If the Board finds that the duty to bargain does not extend to the matter proposed to be negotiated, the Board shall so state and issue an order dismissing the petition for review of the negotiability issue. If the Board finds that the duty to bargain extends to the matter proposed to be bargained only at the election of the employing office, the Board shall so state and issue an order dismissing the petition for review of the negotiability issue.

(c) When an order is issued as provided in paragraph (b) of this section, the employing office or exclusive representative shall report to the Executive Director within a specified period failure to comply with an order that the employing office shall upon request (or as otherwise agreed to by the parties) bargain concerning the disputed matter.

SUBPART B CRITERIA FOR DETERMINING COMPELLING NEED FOR EMPLOYING OFFICE RULES AND REGULATIONS

§ 2424.11—Illustrative criteria.

A compelling need exists for an employing office rule or regulation concerning any condition of employment when the employing office demonstrates that the rule or regulation meets one or more of the following illustrative criteria:

(a) The rule or regulation is essential, as distinguished from helpful or desirable, to the accomplishment of the mission or the execution of functions of the employing office or primary national subdivision in a manner which is consistent with the requirements of an effective and efficient government.

(b) The rule or regulation is necessary to insure the maintenance of basic merit principles.

(c) The rule or regulation implements a mandate to the employing office or primary national subdivision under law or other outside authority, which implementation is essentially nondiscretionary in nature.

Part 2425—Review of Arbitration Awards

Sec.
2425.1 Who may file an exception; time limits for filing; opposition; service.
2425.2 Content of exception.
2425.3 Grounds for review.
2425.4 Board decision.

§ 2425.1 Who may file an exception; time limits for filing; opposition; service.

(a) Either party to arbitration under the provisions of chapter 71 of title 5 of the United States Code, as applied by the CAA, may file an exception to an arbitrator's award rendered pursuant to the arbitration.

(b) The time limit for filing an exception to an arbitration award is thirty (30) days beginning on the date the award is served on the filing party.

(c) An opposition to the exception may be filed by a party within thirty (30) days after the date of service of the exception.

(d) A copy of the exception and any opposition shall be served on the other party.

§ 2425.2 Content of exception.

An exception must be a dated, self-contained document which sets forth in full:

(a) A statement of the grounds on which review is requested;

(b) Evidence or rulings bearing on the issues before the Board;

(c) Arguments in support of the stated grounds, together with specific reference to the pertinent documents and citations of authorities; and

(d) A legible copy of the award of the arbitrator and legible copies of other pertinent documents; and

(e) The name and address of the arbitrator.

§ 2425.3 Grounds for review.

The Board will review an arbitrator's award to which an exception has been filed to determine if the award is deficient—

(a) Because it is contrary to any law, rule or regulation; or

(b) On other grounds similar to those applied by Federal courts in private sector labor-management relations.

§ 2425.4 Board decision.

The Board shall issue its decision and order taking such action and making such recommendations concerning the award as it considers necessary, consistent with applicable laws, rules, or regulations.

Part 2426—National Consultation Rights and Consultation Rights on Government-Wide Rules or Regulations

Subpart A—National Consultation Rights

Sec.
2426.1 Requesting; granting; criteria.
2426.2 Requests; petition and procedures for determination of eligibility for national consultation rights.
2426.3 Obligation to consult.

Subpart B—Consultation Rights on Government-wide Rules or Regulations

2426.11 Requesting; granting; criteria.
2426.12 Requests; petition and procedures for determination of eligibility for consultation rights on Government-wide rules or regulations.
2426.13 Obligation to consult.

SUBPART A—NATIONAL CONSULTATION RIGHTS

§ 2426.1 Requesting; granting; criteria.

(a) An employing office shall accord national consultation rights to a labor organization that:

(1) Requests national consultation rights at the employing office level; and

(2) Holds exclusive recognition for ten percent (10%) or more of the total number of personnel employed by the employing office.

(b) An employing office's primary national subdivision which has authority to formulate conditions of employment shall accord national consultation rights to a labor organization that:

(1) Requests national consultation rights at the primary national subdivision level; and

(2) Holds exclusive recognition for ten percent (10%) or more of the total number of personnel employed by the primary national subdivision.

(c) In determining whether a labor organization meets the requirements as prescribed in paragraphs (a)(2) and (b)(2) of this section, the following will not be counted:

(1) At the employing office level, employees represented by the labor organization under national exclusive recognition granted at the employing office level.

(2) At the primary national subdivision level, employees represented by the labor organization under national exclusive recognition granted at the agency level or at that primary national subdivision level.

(d) An employing office or a primary national subdivision of an employing office shall not grant national consultation rights to any labor organization that does not meet the criteria prescribed in paragraphs (a), (b) and (c) of this section.

§ 2426.2 Requests; petition and procedures for determination of eligibility for national consultation rights.

(a) Requests by labor organizations for national consultation rights shall be submitted in writing to the headquarters of the employing office or the employing office's primary national subdivision, as appropriate, which headquarters shall have fifteen (15) days from the date of service of such request to respond thereto in writing.

(b) Issues relating to a labor organization's eligibility for, or continuation of, national consultation rights shall be referred to the Board for determination as follows:

(1) A petition for determination of the eligibility of a labor organization for national consultation rights under criteria set forth in § 2426.1 may be filed by a labor organization.

(2) A petition for determination of eligibility for national consultation rights shall be submitted on a form prescribed by the Board and shall set forth the following information:

(i) Name and affiliation, if any, of the petitioner and its address and telephone number;

(ii) A statement that the petitioner has submitted to the employing office or the primary national subdivision and to the Assistant Secretary a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives;

(iii) A declaration by the person signing the petition, under the penalties of the Criminal Code (18 U.S.C. 1001), that its contents are true and correct to the best of such person's knowledge and belief;

(iv) The signature of the petitioner's representative, including such person's title and telephone number;

(v) The name, address, and telephone number of the employing office or primary national subdivision in which the petitioner seeks to obtain or retain national consultation rights, and the persons to contact and their titles, if known;

(vi) A showing that petitioner holds adequate exclusive recognition as required by § 2426.1; and

(vii) A statement as appropriate:

(A) That such showing has been made to and rejected by the employing office or primary national subdivision, together with a statement of the reasons for rejection, if any, offered by that employing office or primary national subdivision;

(B) That the employing office or primary national subdivision has served notice of its intent to terminate existing national consultation rights, together with a statement of the reasons for termination; or

(C) That the employing office or primary national subdivision has failed to respond in writing to a request for national consultation rights made under § 2426.2(a) within fifteen (15) days after the date the request is served on the employing office or primary national subdivision.

(3) The following regulations govern petitions filed under this section:

(i) A petition for determination of eligibility for national consultation rights shall be filed with the Executive Director.

(ii) An original and four (4) copies of a petition shall be filed, together with a statement of any other relevant facts and of all correspondence.

(iii) Copies of the petition together with the attachments referred to in paragraph (b)(3)(ii) of this section shall be served by the petitioner on all known interested parties, and a written statement of such service shall be filed with the Executive Director.

(iv) A petition shall be filed within thirty (30) days after the service of written notice by the employing office or primary national subdivision of its refusal to accord national consultation rights pursuant to a request under § 2426.2(a) or its intention to terminate existing national consultation rights. If an employing office or primary national subdivision fails to respond in writing to a request for national consultation rights made under § 2426.2(a) within fifteen (15) days after the date the request is served on the employing office or primary national subdivision, a petition shall be filed within thirty (30) days after the expiration of such fifteen (15) day period.

(v) If an employing office or primary national subdivision wishes to terminate national consultation rights, notice of its intention to do so shall include a statement of its reasons and shall be served not less than thirty (30) days prior to the intended termination date. A labor organization, after receiving such notice, may file a petition within the time period prescribed herein, and thereby cause to be stayed further action by the employing office or primary national subdivision pending disposition of the petition. If no petition has been filed within the provided time period, an employing office or primary national subdivision may terminate national consultation rights.

(vi) Within fifteen (15) days after the receipt of a copy of the petition, the employing office or primary national subdivision shall file a response thereto with the Executive Director raising any matter which is relevant to the petition.

(vii) The Executive Director, on behalf of the Board, shall make such investigations as the Executive Director deems necessary and thereafter shall issue and serve on the parties a determination with respect to the eligibility for national consultation rights which shall be final: *provided, however*, that an application for review of the Executive Director's determination may be filed with the Board in accordance with the procedure set forth in §2422.31 of this subchapter. A determination by the Executive Director to issue a notice of hearing shall not be subject to the filing of an application for review. On behalf of the Board, the Executive Director, if appropriate, may cause a notice of hearing to be issued to all interested parties where substantial factual issues exist warranting an investigatory hearing. Investigatory hearings shall be conducted by the Executive Director or her designee in accordance with §2422.17 through 2422.22 of this subchapter and after the close of the investigatory hearing a Decision and Order shall be issued by the Board in accordance with §2422.30 of this subchapter.

§2426.3 Obligation to consult.

(a) When a labor organization has been accorded national consultation rights, the employing office or the primary national subdivision which has granted those rights shall, through appropriate officials, furnish designated representatives of the labor organization:

(1) Reasonable notice of any proposed substantive change in conditions of employment; and

(2) Reasonable time to present its views and recommendations regarding the change.

(b) If a labor organization presents any views or recommendations regarding any proposed substantive change in conditions of employment to an employing office or a primary national subdivision, that employing office or primary national subdivision shall:

(1) Consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

(2) Provide the labor organization a written statement of the reasons for taking the final action.

(c) Nothing in this subpart shall be construed to limit the right of any employing office or exclusive representative to engage in collective bargaining.

SUBPART B—CONSULTATION RIGHTS ON GOVERNMENT-WIDE RULES OR REGULATIONS

§2426.11 Requesting; granting; criteria.

(a) An employing office shall accord consultation rights on Government-wide rules or regulations to a labor organization that:

(1) Requests consultation rights on Government-wide rules or regulations from an employing office; and

(2) Holds exclusive recognition for 350 or more covered employees within the legislative branch.

(b) An employing office shall not grant consultation rights on Government-wide rules or regulations to any labor organization that does not meet the criteria prescribed in paragraph (a) of this section.

§2426.12 Requests; petition and procedures for determination of eligibility for consultation rights on Government-wide rules or regulations.

(a) Requests by labor organizations for consultation rights on Government-wide rules or regulations shall be submitted in writing to the headquarters of the employing office, which headquarters shall have fifteen (15) days from the date of service of such request to respond thereto in writing.

(b) Issues relating to a labor organization's eligibility for, or continuation of, consultation rights on Government-wide rules or regulations shall be referred to the Board for determination as follows:

(1) A petition for determination of the eligibility of a labor organization for consultation rights under criteria set forth in §2426.11 may be filed by a labor organization.

(2) A petition for determination of eligibility for consultation rights shall be submitted on a form prescribed by the Board and shall set forth the following information:

(i) Name and affiliation, if any, of the petitioner and its address and telephone number;

(ii) A statement that the petitioner has submitted to the employing office and to the Assistant Secretary a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives;

(iii) A declaration by the person signing the petition, under the penalties of the Criminal Code (18 U.S.C. 1001), that its contents are true and correct to the best of such person's knowledge and belief;

(iv) The signature of the petitioner's representative, including such person's title and telephone number;

(v) The name, address, and telephone number of the employing office in which the petitioner seeks to obtain or retain consultation rights on Government-wide rules or regulations, and the persons to contact and their titles, if known;

(vi) A showing that petitioner meets the criteria as required by §2426.11; and

(vii) A statement, as appropriate:

(A) That such showing has been made to and rejected by the employing office, together with a statement of the reasons for rejection, if any, offered by that employing office;

(B) That the employing office has served notice of its intent to terminate existing consultation rights on Government-wide rules or regulations, together with a statement of the reasons for termination; or

(C) That the employing office has failed to respond in writing to a request for consultation rights on Government-wide rules or regulations made under §2426.12(a) within fifteen (15) days after the date the request is served on the employing office.

(3) The following regulations govern petitions filed under this section:

(i) A petition for determination of eligibility for consultation rights on Government-wide rules or regulations shall be filed with the Executive Director.

(ii) An original and four (4) copies of a petition shall be filed, together with a statement of any other relevant facts and of all correspondence.

(iii) Copies of the petition together with the attachments referred to in paragraph (b)(3)(ii) of this section shall be served by the petitioner on the employing office, and a written statement of such service shall be filed with the Executive Director.

(iv) A petition shall be filed within thirty (30) days after the service of written notice by the employing office of its refusal to accord consultation rights on Government-wide rules or regulations pursuant to a request under §2426.12(a) or its intention to terminate such existing consultation rights. If an employing office fails to respond in writing to a request for consultation rights on Government-wide rules or regulations made under §2426.12(a) within fifteen (15) days after the date the request is served on the employing office, a petition shall be filed within thirty (30) days after the expiration of such fifteen (15) day period.

(v) If an employing office wishes to terminate consultation rights on Government-wide rules or regulations, notice of its intention to do so shall be served not less than thirty (30) days prior to the intended termination date. A labor organization, after receiving such notice, may file a petition within the time period prescribed herein, and thereby cause to be stayed further action by the employing office pending disposition of the petition. If no petition has been filed within the provided time period, an employing office may terminate such consultation rights.

(vi) Within fifteen (15) days after the receipt of a copy of the petition, the employing office shall file a response thereto with the Executive Director raising any matter which is relevant to the petition.

(vii) The Executive Director, on behalf of the Board, shall make such investigation as the Executive Director deems necessary and thereafter shall issue and serve on the parties a determination with respect to the eligibility for consultation rights which shall be final: *Provided, however*, That an application for review of the Executive Director's determination may be filed with the Board in accordance with the procedure set forth in §2422.31 of this subchapter. A determination by the Executive Director to issue a notice of investigatory hearing shall not be subject to the filing of an application for review. On behalf of the Board, the Executive Director, if appropriate, may cause a notice of investigatory hearing to be issued where substantial factual issues exist warranting a hearing. Investigatory hearings shall be conducted by the Executive Director or her designee in accordance with §2422.17 through 2422.22 of this chapter and after the close of the investigatory hearing a Decision and Order shall be issued by the Board in accordance with §2422.30 of this subchapter.

§2426.13 Obligation to consult.

(a) When a labor organization has been accorded consultation rights on Government-wide rules or regulations, the employing office which has granted those rights shall, through appropriate officials, furnish designated representatives of the labor organization:

(1) Reasonable notice of any proposed Government-wide rule or regulation issued by the employing office affecting any substantive change in any condition of employment; and

(2) Reasonable time to present its views and recommendations regarding the change.

(b) If a labor organization presents any views or recommendations regarding any proposed substantive change in any condition of employment to an employing office, that employing office shall:

(1) Consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

(2) Provide the labor organization a written statement of the reasons for taking the final action.

Part 2427—General Statements of Policy or Guidance

Sec.
2427.1 Scope.
2427.2 Requests for general statements of policy or guidance.
2427.3 Content of request.
2427.4 Submissions from interested parties.
2427.5 Standards governing issuance of general statements of policy or guidance.

§ 2427.1 Scope.

This part sets forth procedures under which requests may be submitted to the Board seeking the issuance of general statements of policy or guidance under 5 U.S.C. 7105(a)(1), as applied by the CAA.

§ 2427.2 Requests for general statements of policy or guidance.

(a) The head of an employing office (or designee), the national president of a labor organization (or designee), or the president of a labor organization not affiliated with a national organization (or designee) may separately or jointly ask the Board for a general statement of policy or guidance. The head of any lawful association not qualified as a labor organization may also ask the Board for such a statement provided the request is not in conflict with the provisions of chapter 71 of title 5 of the United States Code, as applied by the CAA, or other law.

(b) The Board ordinarily will not consider a request related to any matter pending before the Board or General Counsel.

§ 2427.3 Content of request.

(a) A request for a general statement of policy or guidance shall be in writing and must contain:

(1) A concise statement of the question with respect to which a general statement of policy or guidance is requested together with background information necessary to an understanding of the question;

(2) A statement of the standards under § 2427.5 upon which the request is based;

(3) A full and detailed statement of the position or positions of the requesting party or parties;

(4) Identification of any cases or other proceedings known to bear on the question which are pending under the CAA; and

(5) Identification of other known interested parties.

(b) A copy of each document also shall be served on all known interested parties, including the General Counsel, where appropriate.

§ 2427.4 Submissions from interested parties.

Prior to issuance of a general statement of policy or guidance the Board, as it deems appropriate, will afford an opportunity to interested parties to express their views orally or in writing.

§ 2427.5 Standards governing issuance of general statements of policy or guidance.

In deciding whether to issue a general statement of policy or guidance, the Board shall consider:

(a) Whether the question presented can more appropriately be resolved by other means;

(b) Where other means are available, whether a Board statement would prevent the proliferation of cases involving the same or similar question;

(c) Whether the resolution of the question presented would have general applicability under chapter 71, as applied by the CAA;

(d) Whether the question currently confronts parties in the context of a labor-management relationship;

(e) Whether the question is presented jointly by the parties involved; and

(f) Whether the issuance by the Board of a general statement of policy or guidance on the question would promote constructive and cooperative labor-management relationships in the legislative branch and would otherwise promote the purposes of chapter 71, as applied by the CAA.

Part 2428—Enforcement of Assistant Secretary Standards of Conduct Decisions and Orders

Sec.

2428.1 Scope.
2428.2 Petitions for enforcement.
2428.3 Board decision.

§ 2428.1 Scope.

This part sets forth procedures under which the Board, pursuant to 5 U.S.C. 7105(a)(2)(I), as applied by the CAA, will enforce decisions and orders of the Assistant Secretary in standards of conduct matters arising under 5 U.S.C. 7120, as applied by the CAA.

§ 2428.2 Petitions for enforcement.

(a) The Assistant Secretary may petition the Board to enforce any Assistant Secretary decision and order in a standards of conduct case arising under 5 U.S.C. 7120, as applied by the CAA. The Assistant Secretary shall transfer to the Board the record in the case, including a copy of the transcript if any, exhibits, briefs, and other documents filed with the Assistant Secretary. A copy of the petition for enforcement shall be served on the labor organization against which such order applies.

(b) An opposition to Board enforcement of any such Assistant Secretary decision and order may be filed by the labor organization against which such order applies twenty (20) days from the date of service of the petition, unless the Board, upon good cause shown by the Assistant Secretary, sets a shorter time for filing such opposition. A copy of the opposition to enforcement shall be served on the Assistant Secretary.

§ 2428.3 Board decision.

The Board shall issue its decision on the case enforcing, enforcing as modified, or refusing to enforce, the decision and order of the Assistant Secretary.

Part 2429—Miscellaneous and General Requirements

Subpart A—Miscellaneous

Sec.

2429.1 Transfer of cases to the Board.
2429.2 [Reserved]
2429.3 Transfer of record.
2429.4 Referral of policy questions to the Board.
2429.5 Matters not previously presented; official notice.
2429.6 Oral argument.
2429.7 [Reserved]
2429.8 [Reserved]
2429.9 [Reserved]
2429.10 Advisory opinions.
2429.11 [Reserved]
2429.12 [Reserved]
2429.13 Official time.
2429.14 Witness fees.
2429.15 Board requests for advisory opinions.
2429.16 General remedial authority.
2429.17 [Reserved]
2429.18 [Reserved]

Subpart B—General Requirements

2429.21 [Reserved]
2429.22 [Reserved]
2429.23 Extension; waiver.
2429.24 [Reserved]
2429.25 [Reserved]
2429.26 [Reserved]
2429.27 [Reserved]
2429.28 Petitions for amendment of regulations.

SUBPART A—MISCELLANEOUS

§ 2429.1 Transfer of cases to the board.

In any unfair labor practice case under part 2423 of this subchapter in which, after the filing of a complaint, the parties stipulate that no material issue of fact exists, the Executive Director may, upon agreement of all parties, transfer the case to the Board; and the Board may decide the case on the basis of the formal documents alone. Briefs in the case must be filed with the Board within thirty (30) days from the date of the Executive Director's order transferring the case to the Board. The Board may also remand any such case to the Executive Director for further processing. Orders of transfer and remand shall be served on all parties.

§ 2429.2 [Reserved]

§ 2429.3 Transfer of record.

In any case under part 2425 of this subchapter, upon request by the Board, the parties jointly shall transfer the record in the case, including a copy of the transcript, if any, exhibits, briefs and other documents filed with the arbitrator, to the Board.

§ 2429.4 Referral of policy questions to the board.

Notwithstanding the procedures set forth in this subchapter, the General Counsel, or the Assistant Secretary, may refer for review and decision or general ruling by the Board any case involving a major policy issue that arises in a proceeding before any of them. Any such referral shall be in writing and a copy of such referral shall be served on all parties to the proceeding. Before decision or general ruling, the Board shall obtain the views of the parties and other interested persons, orally or in writing, as it deems necessary and appropriate. The Board may decline a referral.

§ 2429.5 Matters not previously presented; official notice.

The Board will not consider evidence offered by a party, or any issue, which was not presented in the proceedings before the Executive Director, Hearing Officer, or arbitrator. The Board may, however, take official notice of such matters as would be proper.

§ 2429.6 Oral argument.

The Board or the General Counsel, in their discretion, may request or permit oral argument in any matter arising under this subchapter under such circumstances and conditions as they deem appropriate.

§ 2429.7 [Reserved]

§ 2429.8 [Reserved]

§2429.9 [Reserved]

§ 2429.10 Advisory opinions.

The Board and the General Counsel will not issue advisory opinions.

§ 2429.11 [Reserved]

§ 2429.12 [Reserved]

§ 2429.13 Official time.

If the participation of any employee in any phase of any proceeding before the Board under section 220 of the CAA, including the investigation of unfair labor practice charges and representation petitions and the participation in hearings and representation elections, is deemed necessary by the Board, the Executive Director, the General Counsel, any Hearing Officer, or other agent of the Board designated by the Board, such employee shall be granted official time for such participation, including necessary travel time, as occurs during the employee's regular work hours and when the employee would otherwise be in a work or paid leave status.

§ 2429.14 Witness fees.

(a) Witnesses (whether appearing voluntarily, or under a subpena) shall be paid the fee and mileage allowances which are paid subpenaed witnesses in the courts of the United States: *Provided*, that any witness who is employed by the Federal Government shall not be entitled to receive witness fees in addition to compensation received pursuant to § 2429.13.

(b) Witness fees and mileage allowances shall be paid by the party at whose instance the witnesses appear, except when the witness receives compensation pursuant to §2429.13.

§2429.15 Board requests for advisory opinions.

(a) Whenever the Board, pursuant to 5 U.S.C. 7105(i), as applied by the CAA, requests an advisory opinion from the Director of the Office of Personnel Management concerning the proper interpretation of rules, regulations, or policy directives issued by that Office in connection with any matter before the Board, a copy of such request, and any response thereto, shall be served upon the parties in the matter.

(b) The parties shall have fifteen (15) days from the date of service of a copy of the response of the Office of Personnel Management to file with the Board comments on that response which the parties wish the Board to consider before reaching a decision in the matter. Such comments shall be in writing and copies shall be served upon the other parties in the matter and upon the Office of Personnel Management.

§2429.16 General remedial authority.

The Board shall take any actions which are necessary and appropriate to administer effectively the provisions of chapter 71 of title 5 of the United States Code, as applied by the CAA.

§2429.17 [Reserved]

§2429.18 [Reserved]

SUBPART B—GENERAL REQUIREMENTS

§2429.21 [Reserved]

§2429.22 [Reserved]

§2429.23 Extension; waiver.

(a) Except as provided in paragraph (d) of this section, the Board or General Counsel, or their designated representatives, as appropriate, may extend any time limit provided in this subchapter for good cause shown, and shall notify the parties of any such extension. Requests for extensions of time shall be in writing and received by the appropriate official not later than five (5) days before the established time limit for filing, shall state the position of the other parties on the request for extension, and shall be served on the other parties.

(b) Except as provided in paragraph (d) of this section, the Board or General Counsel, or their designated representatives, as appropriate, may waive any expired time limit in this subchapter in extraordinary circumstances. Request for a waiver of time limits shall state the position of the other parties and shall be served on the other parties.

(c) The time limits established in this subchapter may not be extended or waived in any manner other than that described in this subchapter.

(d) Time limits established in 5 U.S.C. 7105(f), 7117(c)(2) and 7122(b), as applied by the CAA, may not be extended or waived under this section.

§2429.24 [Reserved]

§2429.25 [Reserved]

§2429.26 [Reserved]

§2429.27 [Reserved]

§2429.28 Petitions for amendment of regulations.

Any interested person may petition the Board in writing for amendments to any portion of these regulations. Such petition shall identify the portion of the regulations involved and provide the specific language of the proposed amendment together with a statement of grounds in support of such petition.

SUBCHAPTER D—IMPASSES

Part 2470—General

Subpart A—Purpose

Sec.
2470.1 Purpose.

Subpart B—Definitions

2470.2 Definitions.

SUBPART A—PURPOSE

§2470.1 Purpose.

The regulations contained in this subchapter are intended to implement the provisions of section 7119 of title 5 of the United States Code, as applied by the CAA. They prescribe procedures and methods which the Board may utilize in the resolution of negotiation impasses when voluntary arrangements, including the services of the Federal Mediation and Conciliation Service or any other third-party mediation, fail to resolve the disputes.

SUBPART B—DEFINITIONS

§2470.2 Definitions.

(a) The terms *Executive Director, employing office, labor organization,* and *conditions of employment* as used herein shall have the meaning set forth in Part 2421 of these rules.

(b) The terms *designated representative* or *designee* of the Board means a Board member, a staff member, or other individual designated by the Board to act on its behalf.

(c) The term *hearing* means a factfinding hearing, arbitration hearing, or any other hearing procedure deemed necessary to accomplish the purposes of 5 U.S.C. 7119, as applied by the CAA.

(d) The term *impasse* means that point in the negotiation of conditions of employment at which the parties are unable to reach agreement, notwithstanding their efforts to do so by direct negotiations and by the use of mediation or other voluntary arrangements for settlement.

(e) The term *Board* means the Board of Directors of the Office of Compliance.

(f) The term *party* means the agency or the labor organization participating in the negotiation of conditions of employment.

(g) The term *voluntary arrangements* means any method adopted by the parties for the purpose of assisting them in their resolution of a negotiation dispute which is not inconsistent with the provisions of 5 U.S.C. 7119, as applied by the CAA.

Part 2471—Procedures of the Board in Impasse Proceedings

Sec.
2471.1 Request for Board consideration; request for Board approval of binding arbitration.
2471.2 Request form.
2471.3 Content of request.
2471.4 Where to file.
2471.5 Copies and service.
2471.6 Investigation of request; Board recommendation and assistance; approval of binding arbitration.
2471.7 Preliminary hearing procedures.
2471.8 Conduct of hearing and prehearing conference.
2471.9 Report and recommendations.
2471.10 Duties of each party following receipt of recommendations.
2471.11 Final action by the Board.
2471.12 Inconsistent labor agreement provisions.

§2471.1 Request for board consideration; request for board approval of binding arbitration.

If voluntary arrangements, including the services of the Federal Mediation and Conciliation Services or any other third-party mediation, fail to resolve a negotiation impasse:

(a) Either party, or the parties jointly, may request the Board to consider the matter by filing a request as hereinafter provided; or the Board may, pursuant to 5 U.S.C. 7119(c)(1), as applied by the CAA, undertake consideration of the matter upon request of (i) the Federal Mediation and Conciliation Service, or (ii) the Executive Director; or

(b) The parties may jointly request the Board to approve any procedure, which they have agreed to adopt, for binding arbitration of the negotiation impasse by filing a request as hereinafter provided.

§2471.2 Request form.

A form has been prepared for use by the parties in filing a request with the Board for consideration of an impasse or approval of a binding arbitration procedure. Copies are available from the Executive Director, Office of Compliance.

§2471.3 Content of request.

(a) A request from a party or parties to the Board for consideration of an impasse must be in writing and include the following information:

(1) Identification of the parties and individuals authorized to act on their behalf;

(2) Statement of issues at impasse and the summary positions of the initiating party or parties with respect to those issues; and

(3) Number, length, and dates of negotiation and mediation sessions held, including the nature and extent of all other voluntary arrangements utilized.

(b) A request for approval of a binding arbitration procedure must be in writing, jointly filed by the parties, and include the following information about the pending impasse:

(1) Identification of the parties and individuals authorized to act on their behalf;

(2) Brief description of the impasse including the issues to be submitted to the arbitrator;

(3) Number, length, and dates of negotiation and mediation sessions held, including the nature and extent of all other voluntary arrangements utilized;

(4) Statement that the proposals to be submitted to the arbitrator contain no questions concerning the duty to bargain; and

(5) Statement of the arbitration procedures to be used, including the type of arbitration, the method of selecting the arbitrator, and the arrangement for paying for the proceedings or, in the alternative, those provisions of the parties' labor agreement which contain this information.

§2471.4 Where to file.

Requests to the Board provided for in this part, and inquiries or correspondence on the status of impasses or other related matters, should be addressed to the Executive Director, Office of Compliance.

§2471.5 Copies and service.

(a) Any party submitting a request for Board consideration of an impasse or a request for approval of a binding arbitration procedure shall file an original and one copy with the Board and shall serve a copy of such request upon all counsel of record or other designated representative(s) of parties, upon parties not so represented, and upon any mediation service which may have been utilized. When the Board acts on a request from the Federal Mediation and Conciliation Service or acts on a request from the Executive Director, it will notify the parties to the dispute, their counsel of record or designated representatives, if any, and any mediation service which may have been utilized. A clean copy capable of being used as an original for purposes such as further reproduction

may be submitted for the original. Service upon such counsel or representative shall constitute service upon the party, but a copy also shall be transmitted to the party.

(b) Any party submitting a response to or other document in connection with a request for Board consideration of an impasse or a request for approval of a binding arbitration procedure shall file an original and one copy with the Board and shall serve a copy of the document upon all counsel of record or other designated representative(s) of parties, or upon parties not so represented. A clean copy capable of being used as an original for purposes such as further reproduction may be submitted for the original. Service upon such counsel or representative shall constitute service upon the party, but a copy also shall be transmitted to the party.

(c) A signed and dated statement of service shall accompany each document submitted to the Board. The statement of service shall include the names of the parties and persons served, their addresses, the date of service, the nature of the document served, and the manner in which service was made.

(d) The date of service or date served shall be the day when the matter served is deposited in the U.S. mail or is delivered in person.

(e) Unless otherwise provided by the Board or its designated representatives, any document or paper filed with the Board under these rules, together with any enclosure filed therewith, shall be submitted on 8½" 11 inch size paper.

§2471.6 Investigation of request; board recommendation and assistance; approval of binding arbitration.

(a) Upon receipt of a request for consideration of an impasse, the Board or its designee will promptly conduct an investigation, consulting when necessary with the parties and with any mediation service utilized. After due consideration, the Board shall either:

(1) Decline to assert jurisdiction in the event that it finds that no impasse exists or that there is other good cause for not asserting jurisdiction, in whole or in part, and so advise the parties in writing, stating its reasons; or

(2) Recommend to the parties procedures, including but not limited to arbitration, for the resolution of the impasse and/or assist them in resolving the impasse through whatever methods and procedures the Board considers appropriate.

(b) Upon receipt of a request for approval of a binding arbitration procedure, the Board or its designee will promptly conduct an investigation, consulting when necessary with the parties and with any mediation service utilized. After due consideration, the Board shall either approve or disapprove the request; *provided, however*, that when the request is made pursuant to an agreed-upon procedure for arbitration contained in an applicable, previously negotiated agreement, the Board may use an expedited procedure and promptly approve or disapprove the request, normally within five (5) workdays.

§2471.7 Preliminary hearing procedures.

When the Board determines that a hearing is necessary under §2471.6, it will:

(a) Appoint one or more of its designees to conduct such hearing; and

(b) Issue and serve upon each of the parties a notice of hearing and a notice of prehearing conference, if any. The notice will state: (1) The names of the parties to the dispute; (2) the date, time, place, type, and purpose of the hearing; (3) the date, time, place, and purpose of the prehearing conference, if any; (4) the name of the designated representatives appointed by the Board; (5) the issues to be resolved; and (6) the method, if any, by which the hearing shall be recorded.

§2471.8 Conduct of hearing and prehearing conference.

(a) A designated representative of the Board, when so appointed to conduct a hearing, shall have the authority on behalf of the Board to:

(1) Administer oaths, take the testimony or deposition of any person under oath, receive other evidence, and issue subpoenas;

(2) Conduct the hearing in open, or in closed session at the discretion of the designated representative for good cause shown;

(3) Rule on motions and requests for appearance of witnesses and the production of records;

(4) Designate the date on which posthearing briefs, if any, shall be submitted;

(5) Determine all procedural matters concerning the hearing, including the length of sessions, conduct of persons in attendance, recesses, continuances, and adjournments; and take any other appropriate procedural action which, in the judgment of the designated representative, will promote the purpose and objectives of the hearing.

(b) A prehearing conference may be conducted by the designated representative of the Board in order to:

(1) Inform the parties of the purpose of the hearing and the procedures under which it will take place;

(2) Explore the possibilities of obtaining stipulations of fact;

(3) Clarify the positions of the parties with respect to the issues to be heard; and

(4) Discuss any other relevant matters which will assist the parties in the resolution of the dispute.

§2471.9 Report and recommendations.

(a) When a report is issued after a hearing conducted pursuant to §2471.7 and 2471.8, it normally shall be in writing and, when authorized by the Board, shall contain recommendations.

(b) A report of the designated representative containing recommendations shall be submitted to the parties, with two (2) copies to the Executive Director, within a period normally not to exceed thirty (30) calendar days after receipt of the transcript or briefs, if any.

(c) A report of the designated representative not containing recommendations shall be submitted to the Board with a copy to each party within a period normally not to exceed thirty (30) calendar days after receipt of the transcript or briefs, if any. The Board shall then take whatever action it may consider appropriate or necessary to resolve the impasse.

§2471.10 Duties of each party following receipt of recommendations.

(a) Within thirty (30) calendar days after receipt of a report containing recommendations of the Board or its designated representative, each party shall, after conferring with the other, either:

(1) Accept the recommendations and so notify the Executive Director; or

(2) Reach a settlement of all unresolved issues and submit a written settlement statement to the Executive Director; or

(3) Submit a written statement to the Executive Director setting forth the reasons for not accepting the recommendations and for not reaching a settlement of all unresolved issues.

(b) A reasonable extension of time may be authorized by the Executive Director for good cause shown when requested in writing by either party prior to the expiration of the time limits.

§2471.11 Final action by the board.

(a) If the parties do not arrive at a settlement as a result of or during actions taken under §2471.6(a)(2), 2471.7, 2471.8, 2471.9, and 2471.10, the Board may take whatever action is necessary and not inconsistent with 5 U.S.C. chapter 71, as applied by the CAA, to resolve the impasse, including but not limited to, methods and procedures which the Board considers appropriate, such as directing the parties to accept a factfinder's recommendations, ordering binding arbitration conducted according to whatever procedure the Board deems suitable, and rendering a binding decision.

(b) In preparation for taking such final action, the Board may hold hearings, administer oaths, and take the testimony or deposition of any person under oath, or it may appoint or designate one or more individuals pursuant to 5 U.S.C. 7119(c)(4), as applied by the CAA, to exercise such authority on its behalf.

(c) When the exercise of authority under this section requires the holding of a hearing, the procedure contained in §2471.8 shall apply.

(d) Notice of any final action of the Board shall be promptly served upon the parties, and the action shall be binding on such parties during the term of the agreement, unless they agree otherwise.

§2471.12 Inconsistent labor agreement provisions.

Any provisions of the parties' labor agreements relating to impasse resolution which are inconsistent with the provisions of either 5 U.S.C. 7119, as applied by the CAA, or the procedures of the Board shall be deemed to be superseded.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, September 30, the Federal debt stood at $5,224,810,939,135.73.

Five years ago, September 30, 1991, the Federal debt stood at $3,665,303,000,000.

Ten years ago, September 30, 1986, the Federal debt stood at $2,125,303,000,000.

Fifteen years ago, September 30, 1981, the Federal debt stood at $997,855,000,000.

Twenty-five years ago, September 30, 1971, the Federal debt stood at $412,268,000,000. This reflects an increase of more than $4 trillion—$4,812,542,939,135.73—during the 25 years from 1971 to 1996.

ADM. LEIGHTON W. SMITH, JR., USN

Mr. HEFLIN. Mr. President, I rise today to pay tribute to an exceptional American hero and one of Alabama's favored sons, Adm. Leighton W. Smith, Jr. Recently concluding his 34 years of service in the U.S. Navy, Admiral Smith has served this Nation as a man of honor, integrity, and great courage.

It is this leadership which has led our forces through many challenges, most recently in Bosnia.

On April 4, 1994, Admiral Smith assumed command of Allied Forces Southern Europe, Commander Joint Task Force Provide Promise, and Commander U.S. Naval Forces Europe. Twenty eight hours later, under his command, NATO conducted its first ever air-to-ground combat operations near Gorazde, Bosnia. On numerous occasions between that April and August, 1995, NATO air forces supported the U.N. forces in Bosnia with close air support and air strikes. Simultaneously, as Commander Joint Task Force Provide Promise, he continued to oversee airland and airdrop support to the U.N. refugee program in Bosnia, saving thousands of lives.

As tensions continued to rise in the fall of 1995, Admiral Smith directed Operation Deliberate Force, NATO air operations against Bosnian Serb targets. These successful operations brought the warring parties to the peace accords in Dayton that November.

In December 1995, Admiral Smith assumed a fourth command hat—Commander Peace Implementation Forces, NATO's first ever ground operation entrusted with implementing the Dayton Peace Agreement. The JFOR became nearly 60,000 strong from 34 different countries. The mission was to create a militarily secure environment in order to build peace in a country which had been devastated from three and a half years of war.

Prior to Admiral Smith's most recent outstanding service, his record speaks to the numerous challenging situations he has faced and overcome. He was directly involved in operations in support of our men and women in Desert Shield/Desert Storm. This included directing combat operations into Iraq, the evacuation of civilians from Liberia and humanitarian support for the Kurdish refugees in northern Iraq. As the Deputy Chief of Naval Operations for Plans, Policy and Operations, Admiral Smith was a major contributor to Navy staff reorganization and the development of the naval strategy for the 21st century.

Throughout his Naval career, Admiral Smith has received numerous awards including two Defense Distinguished Service Medals, the Navy Distinguished Service Medals and three Legion of Merits, among others.

Whether you know him as Leighton, Smitty, Snuffy or Snoofoir, the Admiral is a down-home man of grit and tenacity who has committed himself fully to the duties associated with service. While his easy-going humor may be disarming, Admiral Smith has the tenacity of a pit bull. He will tell you pig-farming stories from his youth and how he made the upper 95 percent of his class at the Naval Academy look good, while simultaneously going toe to toe with our adversaries in order to protect, defend and support our men and women in uniform. His honor and integrity have anchored those who have had the privilege of serving with him through both internal turmoil and international instability.

On his retirement, my wife and I extend our personal wishes to Admiral Smith, his wife Dottie and their three children, Leighton III, Page, and Dee Dee.

SOME DEPARTING THOUGHTS ON OUR NATIONAL DEFENSE AND FOREIGN POLICY

Mr. HEFLIN. Mr. President, this is one of a series of general policy speeches I am delivering as my tenure in the Senate draws to a close. I will focus here on national defense and foreign policy issues—what my priorities have been as a Senator, where we stand in terms of our preparedness, and what the future might bring. It is not my intent here to be entirely comprehensive, for that would necessitate far more time than we realistically have. Instead, what I want to do here is simply to look back over my 18 years in the Senate and draw upon specific debates, crises, decisions, programs, and legislative efforts to reflect upon where we were when I came here, where we are now, and where we might go tomorrow, after I am again a private citizen.

First, I wish to emphasize that we as a nation should be grateful that we face no immediate threat to our borders from foreign military powers. I am particularly proud that I have played some role in rebuilding our Armed Forces and military strength during the aftermath of the Vietnam war. This commitment on the part of our Nation contributed substantially to the collapse of the old Soviet Union and its Communist philosophy. In my opinion, it was probably the major reason. This commitment proved itself again during the Persian Gulf war.

With my own experiences in World War II and observations since that time, I have felt compelled that we must at all times endeavor to obtain lasting peace, and that the primary road to achieving this goal is through military strength.

It is often stated on this floor of the U.S. Senate that for the first time in decades there is no Soviet missile targeted at the United States. In general, we are fortunate that our national security and defense policy are no longer focused on a single massive Soviet adversary. But, in other ways, our decisions are now far more complex, for they must take into account far more players, some of whom may not be clearly identifiable. Moreover, I believe the United States needs to continue the development of certain initiatives originally intended to respond to the Soviet military threat. Although we no longer need to fear a nuclear superpower, other countries now have access to Soviet weapons. Many countries also have achieved the technological capability to produce nuclear weapons and other weapons of mass destruction. We still face the threat of an accidental launched missile with no reliable means of defending the continental United States.

Former President Reagan deserves a great deal of credit for pursuing his Strategic Defense Initiative in 1983. SDI has faced tough opposition from its inception. I have fought with many of my colleagues to fund the program in the Senate. In 1984, we managed to save the program and, in fact, the American Security Council, then-majority leader Howard Baker, and the President credited me with swaying the critical votes to save funding for that year. I will always remember the President phoning me and saying "Bless you. Bless you." It has remained a difficult task to continue to provide research and development funds for this program. In 1989, changing relations with the former Soviet Union continued to fuel the opponents of the program and debate has continued into the post-cold-war era.

I feel that we must continue our efforts here in Congress to deploy an antiballistic missile system. And in my opinion, we should do it in evolutionary stages. The space-based laser incarnation of the antiballistic missile program must have continued research technology for the future. Today, we have the technology to develop and deploy a missile system to defend against an attack or accidental launches. We should develop and utilize that technology.

Actually, I advocated this position some time before President Reagan called for the development of the SDI program. In fact, in a meeting with him, I urged him to call for such a program. When the President established an inter-agency panel to recommend the best way to proceed with the strategic defense initiative, I lobbied for this approach, and was quite pleased to learn that the panel reached the same conclusion. In later years, I introduced amendments that would require the focus of the strategic defense initiative to the deployment of ground-based systems first. Then, as now, we need a ground-based technology rather than a space-based system, like Brilliant Pebbles. The ground-based system proved itself in a theater concept during the Persian Gulf war.

The Anti-Ballistic Missile Treaty has been both a consideration and a limitation in the deployment of this technology. I called for reconsideration of the ABM Treaty with the Soviets before it came up for review in 1982 while the nuclear arms race was ongoing. It seems to me a wiser approach to develop weapons that will be used only in

a defensive nature. More recently, I urged the immediate deployment of a single antiballistic missile site that would be considered treaty compliant, and I have strongly advocated negotiations to allow the deployment of multiple ABM sites. Ultimately, the Congress hammered out a compromise the President could accept and which complied with the treaty to allow an unspecified number of sites to be deployed in the year 2003.

Since the very early days, when critics labeled the strategic defense initiative as an absurdly futuristic plan, public opinion of ABM technology has changed. A poll last year indicated that 90 percent of the American people believe that the United States should develop a missile defense system. The Congress and the President of the United States have the support of the people, the technology to accomplish this and the means to deploy these systems. I strongly urge my colleagues in this Congress and future Congresses to not let this initiative die.

Mr. President, in order to continue the preeminence of the U.S. military strength, I believe we need to continue with the development of smart weapons technology connected directly or indirectly to strategic defense. A few examples of programs I have supported over the years include the ASAT [Anti-Satellite Missiles], THAAD and other ABM technology.

Even though the United States is preeminent in military technology, we must maintain a large and well-prepared conventional military force. Throughout my Senate tenure, I have always been a proponent of the American arms buildup. President Carter called for NATO nations to increase its military spending by 3 percent, which I supported. This was the first step toward rebuilding our military. In 1980, I pushed for increased defense spending because I feared that the Soviets had surpassed us in many ways, including conventional weaponry, chemical warfare, and most importantly, trained manpower. In the following years of President Reagan's two terms, I consistently supported his efforts to increase national security.

More recently, I have urged a slowing to our military cutbacks. I supported President Clinton's decision to seek higher defense spending levels to deal with increasing need for the U.S. involvement in world affairs, including Haiti, Somalia, Rwanda and Kuwait.

The conventional forces of the United States have assumed an additional role during my time in the Senate. In order to cope with the number of small-scale threats around the world, our Nation desperately needs to maintain its quick-strike capabilities. I first advocated this type of force during the Iranian hostage crisis. At that time, it became obvious to everyone that the United States could no longer rely on its nuclear arsenal to combat the increasing number of brush fires around the world. We in Congress must make a commitment to see that the men and women in the Armed Forces have the training, the support, and technology that is deserving of the commitment these young people have made to protect our interests all around the world.

Manpower remains a significant element of our national defense posture. After the Soviet invasion of Afghanistan in late 1979, I supported the reinstatement of draft registration. I have also advocated increased compensation for the men and women in the military. The quality of our forces is essential to our security. Although I opposed including women in the draft and in combat, I have fought to ensure the military uses all of its personnel to the best of their abilities. I joined in introducing a bill in 1979 to end sexual discrimination in promotions, particularly in the Navy and Marine Corps.

The Navy may well be the most important element of our conventional forces. When I first came to the Senate, the United States had two ocean naval fleets. The Iranian Hostage Crisis, however, led me to believe that the United States needed to maintain a presence in the Indian Ocean and the Persian Gulf. I advocated this position at the time, but of course, it is even more important now. This region will continue to be a focal point in defense and foreign policy for years to come. We must be prepared to address unforseen developments in other regions as well.

In 1981, I was alarmed to learn that our Navy had halved its strength since 1969. President Reagan and Secretary John Lehman's leadership called for the creation of a 600-ship Navy. This buildup turned out to be an effective tool in the cold war and we cannot allow too large a reduction in our current naval force. We need to maintain the ability to convey our Forces around the world and provide the strike potential of our carrier groups. For these reasons, I was particularly proud to support naming a carrier after President Reagan.

I also believe that the United States must continue to focus on continuing to improve air forces. Air superiority on the battle field often times determines the outcome before the ground forces are ever deployed. The United States must continue to upgrade its fleet of B–52 bombers. In fact, this was an issue in my first campaign. I have been a supporter of the B–1 bomber since 1979, because even then, the 30-year old B–52's needed replacement. Stealth technology was still on the design table and this aircraft in my opinion was the most reasonable alternative. Opponents argued that the United States did not need a manned bomber; however, I think the need was proven in the Persian Gulf war. We must continue to embrace the stealth technology and improve upon it to maintain our air superiority.

In this post Communist world, weapons proliferation still poses serious threat to our national security. For this reason, I would like to commend my colleagues, Senator NUNN and Senator LUGAR, for their hard work to prevent the distribution of the weapon stockpile of the former Soviet Union. We must also not lose focus and emphasis on the United States need to keep control over its own technology. I have opposed certain nuclear sales in the past, such as President Carter's uranium fuel deal with India. India was, in my opinion, a blatant violator of the 1978 Nuclear Nonproliferation Act and I believe India also violated the 1963 act by using United States supplied nuclear fuel to build a bomb. I tried to prevent similar sales by joining in offering an amendment to the Export Administration Act of 1984 to require nuclear regulatory commission guidelines in fuel sales.

Chemical warfare is another increasing threat to American security. In 1980, I attended a briefing in Fort McClellan, Alabama and learned that the Soviets greatly outmatched our defensive chemical capabilities. The Soviets had significantly more trained specialists and their regular troops were much better equipped and informed. Furthermore, reports indicated that the Soviets were willing to use offensive chemical weapons, and in fact, they had delivered chemical attacks in Afghanistan, Cambodia, Laos, and Yemen. I was pleased that Secretary Haig called attention to this threat in 1981.

To respond to this threat, I supported the construction of a binary chemical weapons facility at Fort Smith, AR. My recollection is that then-Vice President Bush voted to break the tie vote on this issue after I cast the tie vote. The existing U.S. chemical weapons dated back 30 years; I felt they were obsolete and relatively ineffective. The threat of chemical warfare has not lessened. In fact, the potential danger is probably even greater now, as we learned in the gulf war. Increasing terrorism, like the Tokyo subway bombing, also underscores the need for chemical weapon response readiness. In order to address this problem, the Senate passed a number of chemical weapons provisions in its antiterrorism bill last year, including an amendment I offered to criminalize the possession of toxic nerve gas, which I was shocked to learn was not illegal to possess.

With this in mind, I have fought since 1990 to keep Fort McClellan and its chemical school open. Senator SHELBY, Congressman BROWDER, and officials from Calhoun County and the Federal Affairs committee at the Calhoun County Chamber of Commerce headed by Gerald Powell deserve a tremendous amount of credit for their efforts to advocate our position before

the Base Closure Realignment Commission.

Even though the Defense Department last year recommended the closure of this facility, the BRAC Commission twice recognized the need to keep this facility open and viable. General Schwartzkoff offered a ringing endorsement to the U.S. Senate of the live agent training and the continued operation of Fort McClellen. The General noted that chemical training had bolstered the morale of troops serving in the gulf armed with the knowledge of dealing effectively with these deadly weapons. The commander of British chemical training also argued that live agent training greatly increased confidence and morale. Even though the third BRAC Commission voted to close Fort McClellen—mistakenly, in my view—I still hold the conviction that the United States must continue vital chemical warfare defensive training and it must keep the live agent training in the chemical school at the same facility.

In order to maintain America's conventional forces at the highest level during a time of continued fiscal austerity and national debt, I want to emphasize the necessity of keeping the Pentagon at its most cost effective. In 1981, I sponsored a measure to establish an inspector general for the Department of Defense. At that time, estimates indicated that the simple elimination of waste might cut defense spending by nearly one-third. In 1983, Congress created the office, but I thought it was a mistake to make the inspector general accountable to the Secretary of Defense rather than being an independent official. I argued that an independent solution would have been more effective.

I have also been an advocate of consolidated development efforts within the Pentagon, as well as revolving door and contract guidelines to increase competition. I also fought for the establishment of a central procurement office at the Pentagon. My efforts were driven to some degree by revelations made during judiciary subcommittee hearings held in 1985. At these hearings, we learned that the Pentagon had lost control of its spending, pouring hundreds, and sometimes thousands, of dollars into a single hammer or other simple item.

Another way of increasing the cost-effectiveness of our Armed Forces is maximizing efficiency through consolidation. I worked throughout my time here to enact such a plan at Fort Rucker, AL. Beginning in 1979, I advocated a plan to merge helicopter training from all four branches at the fort, and continued my efforts during President Reagan's first years in office. I urged the Defense Secretary and the OMB Director to adopt the plan, and solicited studies to examine its feasibility. Senator SHELBY and I renewed this effort under President Clinton, but again, we were unable to get the Department of Defense to carry out the implementation. However, I remain firmly convinced that such consolidation plans, if put into place across the country, are obvious, commonsense ways to address wasteful duplication of effort.

Increased profit through defense conversion will also be a helpful means of saving money. To this end, I supported President Clinton's technical reinvestment project to provide grants for small firms to convert from defense production to the development of technology with a dual-use, both civilian and military.

With regard to antiterrorism efforts, I believe the United States needs to maintain training to cope with attacks now more than ever in its history. One facility which has served our antiterrorism goals well is the bomb school at Redstone Arsenal, AL. When I came to the Senate, this school was the only facility of its type in the country. It was run by the Army and funded by the Law Enforcement Assistance Administration. Later, when the LEAA was eliminated, Congress decided to fund the school through the FBI. There was a gap in the funding for fiscal year 1981, and we succeeded in including a line-item appropriation for the school.

The importance of these programs only continues to increase. After the Oklahoma City bombing in 1995, the Judiciary Committee held hearings to consider ways to prevent and combat terrorism in the future. We listened to testimony from the FBI director and officials from the Southern Poverty Law Center, among others. In fact, the bombing hit close to home for me personally, since just a little over 5 years before, a terrorist mailed pipe bombs to four locations in the South. My close friend, Judge Bob Vance, died in one of these attacks. Of course, I strongly believe in the individual rights provided in the Constitution, but we must work to strike a balance which preserves these rights, yet also prevents individual terrorist acts.

Espionage has also taken on a different form in today's world. We are now faced with spies who embrace a new motivation—greed. They do not act out of ideology or beliefs, and have no goals but their own gain. I introduced legislation in 1985 to address this new motivation. It would have stripped any convicted spy of anything acquired through espionage, and it would have denied movie or book rights about treason.

Since then, the Aldridge Ames case has demonstrated that this problem is only growing. We cannot allow ourselves to think that espionage is a thing of the past, nor that it exists only as a remnant of the Cold War. Instead, it will continue to increase, and we have as much or more to lose in the future if we cannot combat it effectively.

We need to keep a close eye on our intelligence community. When Ames was finally caught, I learned that the FBI and CIA did not have access to his personal financial records. I introduced a bill to require financial disclosures from key intelligence officers at the CIA. I believe such a requirement would protect intelligence officers while also preserving our security.

I also want to stress the importance of increasing our self-sufficiency in terms of energy consumption. In the past, events such as the oil crisis in 1979–1980 have taught us that the United States is too heavily dependent on foreign countries for its defense materials. Those same countries which provide us with vital raw materials could become our adversaries. At that time, I called for contingency plans and investigation of the possibilities of utilizing our domestic resources, including the Alaska oil reserves. Since then, we have faced other energy scares, such as that which contributed to the Persian Gulf war. There is no reason to believe that such crises will not recur, and I urge Congress to continue exploring alternatives to dependence on foreign energy sources.

Military alignments among nations will be a major consideration in the future. One reason I supported the defense buildup in the 1980's was to reassert the U.S. position among our allies, which needs to be sustained. The expansion of NATO into the former Eastern bloc remains a key question of alignment. In 1993, NATO began to consider the admission of new members, including Poland, Hungary, and the Czech Republic, but Russia's position was unclear. The fall of communism did not bring a conflict-free Europe, but instead brought back some of the old alignments and hostilities that had existed before the two world wars. As chairman of the Senate delegation on the North Atlantic Assembly, I introduced a plan to provide specific guidelines for getting nations ready for NATO membership pursuant to the Partnership for Peace plan. Congressman DOUG BEREUTER of Nebraska, a vice chairman of the Assembly, joined me in this effort. Our plan calls for NATO applicants to demonstrate civilian control of the military and police, free and open elections, policies against international terrorism and crime, and other commitments desirable of NATO members. The plan also required the NAA's permanent committees to consider and report on any reform these countries might need to implement before NATO admission. I believe we need to be very cautious in the future about not treating NATO as a type of European United Nations, and remember that it is first and foremost a military alliance.

In my role as chairman and cochairman of the NAA Senate delegation, I have also gained direct input from European parliamentarians on such matters as lifting the arms embargo on Bosnia. Many of these leaders feared that a unilateral lifting of the embargo would cause a spillover. I argued that given the complexities of the war in Bosnia, there was simply no good way to know what effect it might have. With great reservation, I ultimately supported an amendment in the Senate to lift the embargo only under the auspices of the U.N. and NATO.

While I firmly believe in keeping our military strong—the best in the world—I also believe that reducing nuclear weapons and other weapons of mass destruction should remain a top priority. In so doing, we must again look at recent history as a guide. When President Carter signed the SALT II Treaty in 1979, I had serious reservations about its provisions. Could we rely on the Soviets to be honest about compliance? More importantly, could we confirm their compliance? These questions and others weighed heavily on my mind, as they undoubtedly did on those of all involved. There were methods available to verify Soviet missile tests and other related activities, including telemetry, satellites, and radar. But, if our then-adversary violated the treaty, the problem of dealing with noncompliance remained.

At that time, I advocated tough diplomacy backed up by definitive intelligence information. I felt this was the only realistic way to proceed. Of course, that was easier to say than do. What would the Soviet reaction have been? Would we have been able to rely on our own technology and intelligence for confirmation? Would they view such a stand as provocative or threatening?

Another problem was the fall of the Shah of Iran. A number of our primary detection stations were in Iran, and the CIA estimated that it would take at least 5 years to recover what we had lost, due to the instability there. Ultimately, the treaty died when the Soviet Union invaded Afghanistan.

To make the point even more clear, look at the situation in 1991, when Presidents Bush and Gorbechev signed the START agreement. I was very hesitant about ratifying that treaty. Its signing came shortly after the attempted coup in August of that year. This kind of instability would almost certainly come into play with other unpredictable nations who are becoming nuclear powers. In 1991, the outcome was favorable, but we cannot always bank on such an outcome.

When we do have to defend our vital national interests, economic sanctions and embargoes will continue to be an effective tool. I have usually supported sanctions over force, at least initially. I first called for the use of sanctions against Iran, after the hostage crisis began. I also introduced legislation to compensate the hostages from frozen Iranian assets in the United States. Similarly, I would have preferred the use of sanctions against Haiti rather than the threat of force.

But, we must be careful with the sanctions strategy, because it is not always effective, and sometimes it hurts Americans as much as the country we are trying to influence. I felt this was the case with the grain embargoes against the Soviet Union, which hurt United States farmers more than the Government of the U.S.S.R. Generally speaking, we should ensure the effectiveness of embargoes through a cooperative international effort.

Generally, I have been proud of the Senate for rallying behind the American President whenever he has determined the necessity of using our Armed Forces. The finest example of this resolve came during the Persian Gulf deployment in the fall and winter of 1990–91. I was 1 of 11 Democratic Senators to vote in favor of authorizing the use of force before the bombing began, although the entire Senate formally back President Bush after the hostilities began.

I have been consistent in embracing the philosophy of supporting the Commander in Chief, regardless of the party or what I might have felt personally could have been done differently or better. I supported President Carter throughout the Iranian hostage crisis. There was nothing to be gained by second-guessing his decisions—even after the failed rescue mission of April 1980. I felt this support was especially important given the Ayatollah's strategy of portraying a weak resolve on our part. Along these lines, I was particularly horrified by Ramsey Clark's kangaroo-court style probe of United States policy toward Iran, and pressed for a criminal investigation. I also supported the invasion of Grenada to protect American citizens and the removal of the corrupt Manuel Noriega to protect our vital interests in the Panama Canal region.

There have been other instances where I have been opposed to military action itself, but felt the President had the constitutional authority to initiate such action. Haiti was one example of this. I voted against a resolution requiring the President to adhere to a waiting period, although I did not want to see United States troops sent to Haiti. Another example was the deployment of ground troops in Bosnia, which I did not view as serving our vital national interests. However, I did argue that it was important to unite behind the President once his decision had been made and the troops had been deployed.

In conclusion, Mr. President, I want to urge the Congress to be extremely careful about cutting back our Armed Forces in the years to come. Despite what we think of as a relatively stable world, the future, in reality, is very uncertain and unclear. The nature of threats to our security is unfocused at this time. Tensions in Iraq have again flared, and instability may return to other areas of the world as well. Although world peace is our ultimate goal, it would be a serious mistake to allow ourselves to think we have reached that goal. The tensions that remain all around the world dictate that we continue our military preparedness in a manner that will allow America to be victors in any conflict that may arise with the fewest casualties possible.

REFLECTIONS ON PROGRESS IN CIVIL RIGHTS

Mr. HEFLIN. Mr. President, during my 18 years as a U.S. Senator, legislation of all sorts and in all issue areas has come before this body. Of course there were some issues I came to know best, sometimes because of the nature of my constituency, as was the case with agriculture and technology issues. But there are other topics the Senate addressed during this time which stand out in my mind for different reasons, such as judiciary and legal issues and national defense policy. Naturally, since I have a background in the law, I have a greater personal interest here than I do some other areas. But, of all the judicial work the Senate has tackled during my 18 years, its accomplishments in the area of general civil rights strike me as among its most commendable.

Since 1979, congressional action in the field of civil rights has been enormously significant. I think it would be appropriate to highlight some of these issues and events.

Of all the bills relating to civil rights, perhaps first in my mind is the extension of the Voting Rights Act of 1965, which passed during my first term. The fair housing bill, which enforced the provisions of the Fair Housing Act of 1968, also stands out. Another was the Civil Rights Restoration Act of 1991, which ensured that discrimination would not be tolerated in the workplace. But there were others, including the Dr. Martin Luther King, Jr., Holiday and Holiday Commission bills, the Civil Rights Restoration Act of 1987, the reauthorization of the Civil Rights Commission, and the Congress' efforts to save the Legal Services Corporation from the Reagan administration's cuts.

When the Congress considered each of these bills, Members on both sides took positions reflecting very different philosophies. But I believe that the need to reconcile various points of view is the essence of progress in civil rights. For this reason, I am extremely proud of the Senate for working out the necessary accords to pass these bills.

In addition to these specific bills, I am also very proud of the Senate for its advice and consent role in nominations for the Federal Judiciary and executive positions that affected the civil rights movement. During the time since my election, the Senate ensured the continued transition of the South from the 1950's into the next century. Many ills had yet to be addressed, and the Senate confirmed a number of individuals who will fight to resolve these ills and voted down some who might have furthered them.

In 1980, the Senate confirmed the first black district judges in Alabama. The Congress also worked to preserve the legacy of several judges from Alabama who had accomplished much in the area of civil rights, including Justice Hugo Black, Judge Frank Johnson, and Judge Robert Vance. All of these men furthered the cause of racial progress.

When it came to nominations, I would also like to note that the Senate occasionally felt it had to oppose some nominees, because it feared that these individuals might impinge on the enforcement of laws to protect individual rights. These nominees included some Federal judicial nominees as well as executive officials. But in each case, I did my best to remain open-minded until all of the facts were available and the arguments had been made. I might best compare my view of a Senator's role in the confirmation process to that of a judge rather than an advocate.

When it came to some of these bills and nominations, it happened that my own personal perspective and conscience compelled me to vote differently than some of my constituents might have liked. This was particularly true in some instances, including my very painful decision to oppose the special treatment extension of the insignia patent for the Daughters of the American Confederacy, which I will discuss later.

My goal here is to reflect upon some of the major legislation, nominations, and issues which have dominated the Senate's civil rights debate since I have been here.

GROVE CITY COLLEGE CIVIL RIGHTS RESTORATION BILL

In 1984, I supported the passage of a bill known as Grove City. Formally known as the Civil Rights Restoration Act of 1987, it did not pass until 1988. With this bill, the Congress essentially sought to restore civil rights guaranteed under several major laws restricted by the Supreme Court. It had a number of opponents among the religious community, especially, since abortion became a major controversy surrounding the bill. In fact, the Congress ultimately needed to override a veto to pass the bill.

Grove City took its name from a February 28, 1984, Supreme Court decision, Grove City College versus Bell. With this ruling, the Court altered the interpretation of title IX of the Education Amendments of 1972. It found that this law, which prohibited sex discrimination in federally funded institutions, applied only to the particular program or activity directly receiving the funds. Therefore, the entire school was not bound by the antidiscrimination language.

Perhaps the reason the Grove City case was so significant was its potential impact on three other civil rights laws. These laws were the Civil Rights Act, the Age Discrimination Act, and the Rehabilitation Act, all of which used practically the same language. The Court had clearly abridged the Government's rights and abilities to fight discrimination.

According to its stated purpose, the Civil Rights Restoration Act of 1987 sought to restore the "broad, institution-wide application" of Federal antidiscrimination laws. It pertained to each of the four civil rights laws, and like its previous incarnations, it sought to redefine "program or activity."

In 1988, Grove City became Public Law 100-259. But I wasn't necessarily pleased that the fight had been so hard. I had tremendous political pressure on me to oppose it. Immediately after I voted for the override, the vote was referred to as "another nail in my coffin." To put these thoughts in context, I received over 6,000 contacts, including phone calls or letters from constituents who criticized me for supporting the bill.

But I think that it was worth the fight. After its passage, the National Black Law Journal characterized the bill in these terms:

> The passage of S. 557 sends a clear signal: discrimination is illegal and will be prohibited through broad enforcement of the Civil Rights Restoration Act of 1987. Consequently, the enactment of S. 557 closes a major loophole in our civil rights laws and preserves two decades of hard-won civil rights for all Americans.

THE FAIR HOUSING BILL

Since my first year as a Senator in 1979, civil rights activists had been pushing the Congress for legislation to amend the 1968 Fair Housing Act, and I supported their efforts. However, a broad bill intended to enforce the provisions of the Fair Housing Act of 1968 did not pass the Congress until 1988.

My efforts in that first Congress included attaching a provision to the bill to allow discrimination complaints to be heard by HUD administrative law judges. A compromise version of this idea appeared in the final 1988 law.

In 1979, several national surveys spurred a House subcommittee to pass a fair housing bill. HUD Secretary Harris testified that it was necessary to improve the 1968 act. The act, she said, ". . . defined and prohibited discriminatory housing practices but failed to include the enforcement tools necessary to prevent such practices and provide relief to victims of discrimination."

A companion bill appeared before the Senate Judiciary Committee in the summer of the next year, 1980. During its markups, the committee adopted several of my amendments. One would allow HUD discrimination suits to be heard by administrative law judges. These judges would be appointed by a Fair Housing Review Commission authorized by the bill, and the President would appoint the commissioners. The Fair Housing Review Commission would have the authority to review and modify cases. The second of my amendments would limit suits to individuals who actually sought fair housing and who felt they had been victims of discrimination.

By this time, the House had passed its version. Its supporters included the NAACP, the AFL-CIO, the UAW, the League of Women Voters, and the ACLU. President Carter was also among this group, calling the bill "the most critical civil rights legislation before the Congress in years."

It was the House bill which ultimately came to the Senate floor. It had less luck in the Senate than the House, though; certain Senators led a filibuster which killed the bill.

Disagreement on the bill focused on two controversies, whether discrimination should be proven by results or intent, and whether cases should be heard by administrative law judges or Federal judges and juries. Civil rights groups supported provisions requiring the results standard of proof; Senate opponents wanted proof of intent. But there did not seem to be any middle ground. With regard to the administrative law judge provisions, Senator DECONCINI, offered a compromise to allow jury trials in some cases, but opponents were not receptive. This compromise just raised too many questions.

Unfortunately, we could not compromise that year, and the bill ultimately died in a filibuster.

In 1988, we finally passed a broad bill, H.R. 1158, to address the problem of racial and other discrimination in housing. This bill became Public Law 100-430, to amend the 1968 Fair Housing Act.

The new law authorized HUD to penalize those who discriminated in housing sales and rentals. In addition to prohibitions on discrimination according to race, color, religion, sex, or national origin specified by the 1968 act, the new law included protections for the handicapped and families with young children. According to Congressional Quarterly, this was the first time the Congress protected these latter categories under its laws.

Before the passage of this new law, HUD only possessed the authority to

mediate battles. The Justice Department could file suits in the case of discriminatory patterns, and individuals could bring their own suits. But this bill authorized HUD to pursue suits on a victim's behalf.

The final law included a compromise version of my administrative law judge scheme of the 96th Congress. It provided for cases filed by HUD to be heard in front of administrative law judges, if the parties involved chose to do so. Where compromise failed in 1980, however, the 1988 law also provided a second option: if just one of the parties chose it, the case would be heard in a jury trial. The law required the parties to choose within 20 days.

VOTING RIGHTS EXTENSION

In 1982, the Congress passed a law to extend the Voting Rights Act of 1965—H.R. 3112, Public Law 97-205. This new law contained four essential parts. First, it extended section 5 of the act, the major enforcement provision, for 25 years. This section, called the preclearance provision, required 9 States, including my own Alabama, and parts of 13 others to receive approval from the Department of Justice before they could change their election laws. Second, it allowed States that could prove a good voting rights record for the previous 10 years to bail out of the preclearance section after 1984. Beginning that year, States desiring to bail out would have to prove their case before a Federal panel of three judges in Washington, DC. Third, the extension amended the permanent provisions of the 1965 act under section 2 to make it easier to prove violations. Previously, intent to discriminate had to be proven, but under the new law, it would only be necessary to prove that laws had resulted in discrimination. Last, the new law also extended bilingual requirements under the act for 10 years.

But passing this bill was not easy. It had opponents in the Senate and in the administration. In fact, the chairman of the Senate Judiciary Committee was not friendly to its passage. Compromise was required to save the bill, and I worked behind the scenes, especially with Senator Dole, to find a proposal which would be acceptable to the committee.

Congressional Quarterly has since noted that Senator Dole and I played deciding roles on the Senate Judiciary Committee. As the bill came out of subcommittee, the publication noted that divisions on the full committee left us "* * * holding the balance of power." Seven members were publicly against the bill, and nine were for it. The committee had 18 members at the time, and a tie of nine to nine would have resulted in a failure to report the bill to the full Senate.

I had an agreement with Senator Dole to work together to forge a compromise which would get committee approval, but not to publicize my behind-the-scenes activity. The reason for my reluctance to receive any credit was due to the fact that this was an unpopular bill with white voters in Alabama, particularly in Mobile.

Notably, Senator Denton, from Alabama, was also a member of the Judiciary Committee, but he opposed the bill. On June 22, the Talladega Daily Home printed an editorial contrasting our positions. "The next time he comes before Alabama voters to be re-elected or retired," it read, "U.S. Senator HOWELL HEFLIN may have a problem explaining satisfactorily his vote to extend the so-called voting rights act for another 25 years." About Denton, who opposed the bill, the editorial wrote he "won't have the same problem."

And on May 6, the Mobile Register printed an editorial which condemned the compromise, writing that it was no compromise at all; instead, the Register called it "probably the most discriminatory legal garbage to ever hit Congress." This editorial called on me to lead a filibuster of the bill for Alabama and particularly Mobile. The Register wrote that, in light of Mobile versus Bolden, the Voting Rights Extension would allow any Federal judge to change local governments' election laws at a whim.

As I mentioned earlier, section 2 of the 1982 extension made it easier to prove violations by requiring proof of results rather than intent. This revision would effectively overturn a 1980 Supreme Court decision, Mobile versus Bolden, upholding the intent requirements.

It was this provision, known as the results test, which first snagged the bill in the Senate committee; the constitution subcommittee refused to incorporate the provision in its March markup. President Reagan's Attorney General told the panel that the administration was opposed to the new provisions.

During this markup, the Senate subcommittee extended section 5, the enforcement provisions, for 10 years. But by contrast, the House version of the bill extended section 5 indefinitely. Again, the Attorney General supported the Senate subcommittee's move, testifying that the administration opposed a longer extension.

Notably, in the month following this subcommittee vote, U.S. District Judge Virgil Pittman of Alabama issued an revised opinion on Mobile versus Bolden declaring that Mobile had discriminated against blacks based on the results test. This decision, based on results, bolstered the case of civil rights groups who supported the bill provisions under section 2.

With these revisions, the bill then came to the full Senate committee, whose members began to align for or against the extension. As I mentioned above, nine members supported the House version and seven opposed it; leaving Dole and me in the middle to work out something the whole committee could accept.

On May 4, the committee passed our compromise version of the bill, with only four Senators voting against it. This compromise included changes to section 2's results language to specify its meaning. Taken from a 1973 Supreme Court case, White versus Register, the final version declared that a violation could be proved:

> * * * "if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation.

The compromise also extended section 5 for 25 years, rather than 10, as the administration and some Senators wanted, or permanently, as the House wanted.

Still in the way, however, was a filibuster to stop the bill. But the Senate voted it down. In the end, the Senate amended the House bill to align it with its own compromise. The House accepted the Senate amendments on June 23, by unanimous consent.

THE MARTIN LUTHER KING FEDERAL HOLIDAY

In my first month as a Senator, I became a joint sponsor of a bill to establish a Federal holiday in honor of Dr. Martin Luther King, Jr. That bill, however, did not become law, and it was not until 1983 that we were able to establish the holiday. In 1983, I fully supported its passage—H.R. 3706, Public Law 98-144.

During the 1983 debate, the measure became the victim of a filibuster led by Senator JESSE HELMS. According to Congressional Quarterly, Senator HELMS objected to King's "action-oriented Marxism," and alleged that King had connections to the Communist Party. These claims seemed to me to be without merit.

When the Senate began consideration of the holiday measure, I voted to end the filibuster, and I opposed amendments which would effectively have killed the bill. However, there were two amendments I found to be in line with my own thinking. They were offered by Senators Randolph and Boren to require that the King, Washington, and Columbus holidays be held on the actual dates of the events. In fact, I cosponsored Boren's amendment, and after that amendment failed, I signed onto a bill to serve the same purpose. My reasons for supporting this condition were the cost of a new holiday—the holidays would occasionally fall on Saturdays and Sundays, saving a great deal of expense—and I also wanted to ensure the proper observance of significant historical events. Dr. King's birthday is a significant date in the history of civil rights in this country, and it is most fitting to remember its actual date.

The following year, Congress passed a bill establishing a Martin Luther King

Holiday Commission to encourage ceremonies for the first celebration of the holiday—H.R. 5890; Public Law 98–399. The bill mandated a 3-member panel to be funded by donations.

Five years later, I cosponsored a bill to make the Martin Luther King commission permanent. The bill became law—(H.R. 1385, Public Law 101–30,—and it expanded the commission's role to include the promotion of racial equality and nonviolent social change. Again, when this bill came to the Senate floor, a number of amendments effectively to kill it were offered, and I opposed them all. However, I did support an amendment to bar the Commission from encouraging civil disobedience.

I joined Senator SARBANES as a sponsor in support of four different bills, S. 322 in the 100th Congress, S. 619 in the 101st Congress, S. 239 in the 102d Congress, and S. 27 in the 103d Congress, to set aside a piece of Federal land in the District of Columbia for the Alpha Phi Alpha Fraternity to build a memorial to Dr. Martin Luther King, Jr. However, these bills did not pass.

FUNDING FOR HISTORICALLY BLACK COLLEGES

I am especially proud of my efforts to authorize funding for the 1890 land grant colleges, including the Tuskegee Institute—now Tuskegee University—and Alabama A&M in my home State of Alabama. Even though these land grant colleges date to the 19th century, they had been largely ignored until the late 1970's. I consider that this fact represents a great waste; certainly these institutions deserve equal treatment, and I believe they are, properly funded, a valuable asset to the Nation in the field of agricultural research.

First, I would like to give a brief history of the African-American, 1890 land-grant colleges. In 1862, the U.S. Congress passed the first Morrill Act, which established the basis for land-grant colleges. These would be established by the States to educate their citizens in agriculture, home economics, and other practical subjects.

However, the Southern States did not provide funding for black colleges under this law, so the Congress passed a second Morrill Act in 1890 specifically to support the African-American institutions. From this history comes the term "1890 Land-Grant Institutions," specifically applied to these historically African-American colleges. However, the agriculture department did not begin earnestly to fund the 1890 land-grant colleges until 1966. That year, Assistant Secretary Dr. George Mehren asked the National Academy of Sciences to suggest an allocation of $283,000 for research at these colleges—under Public Law 89–106.

In 1866, Lincoln University in Missouri became the first such historically black land-grant college." By 1976, there were 16 such universities. Of these 16, there are 2 in Alabama, the Tuskegee University and Alabama A&M University.

The Alabama State Legislature created the Tuskegee Institute in 1881; it was then called The Tuskegee State Normal School for the Training of Negro Teachers. Booker T. Washington became Tuskegee's first President and served until he died in 1915.

During these first years, the State legislature appropriated $3,000 for the institution and authorized it a single teacher. The school remained public until the State legislature granted its board the power of governance in 1893, but Tuskegee Institute continued to receive State funds even though they obtained private status.

In 1897, the legislature also established "The Tuskegee State Experiment Station." George Washington Carver became its director and served until his death in 1943.

In 1899, the U.S. Congress granted the school 25,000 acres, and in 1906, it established the formal extension program. In 1933, Tuskegee became a regionally accredited 4-year college, and in 1943 it opened its graduate schools. Accredited graduate programs now include architecture, chemistry, dietetics, engineering, nursing, and veterinary science. Tuskegee's funding from grants remained nominal until 1972.

Alabama A&M University was founded in 1875 by an ex-slave named William Hooper Councill. Originally, the Huntsville Normal School was on West Clinton Street in Huntsville, the school moved to Normal in 1890. After a decrease in enrollment, the institution was renamed in 1919 the State Agricultural and Mechanical Institute for Negroes and reduced to junior-level training.

During the subsequent years, the school lost its financial support and nearly fell apart, but in 1927 Dr. J.F. Drake became its new president and oversaw expansion of the grounds and the return to 4-year status. It was not until 1962, during the tenure of President Dr. Richard D. Morrison, that the school became a university, with its own graduate school.

With this history of great difficulty as well as great leadership in mind, I hold myself honored to have worked with these institutions. I am particularly proud of efforts to create the Chappie James Preventive Health Center at the Tuskegee Institute, and to pass perhaps the first serious funding authorization for the 1890 black land grant colleges.

During the first summer I was a Senator, I introduced a resolution to authorize the construction of the General Daniel "Chappie" James Memorial Center for Preventive Health at the Tuskegee Institute. When I introduced the bill on the Senate floor, I noted that it was the first preventative health center in the south, maybe the country. I also stated, proudly, that it would become a museum of the general's memorabilia.

Furthermore, I argued that the dedication was especially fitting because General James, the first African-American to rise to a four-star rank in the U.S. Air Force, had been a beneficiary of Tuskegee's programs years before. Tuskegee established the first training program for black pilots, and it was here that General James learned the skills which furthered his career.

Ultimately, we succeeded in passing the Chappie James Center bill as a rider to the 1980 reauthorization of the Higher Education Act of 1965. My amendment authorized $6 million for the center, and required that it be constructed at the Tuskegee Institute.

In May 1981, I introduced a bill to help all of the 1890 land grant colleges. Its language specified that the 1890 land grant colleges receive money for the purchase of equipment and land, and the planning, construction, alteration, or renovation of buildings to strengthen their capacity for research in the sciences of food and agriculture. That year, the House passed an identical companion bill unanimously.

As I have said many times, the 1890 schools had not, to that point, had the authorization to receive the benefit of the equipment and facilities they needed to be competitive. They had nothing from Congress to rely on, even though the Congress gave these historically black institutions the same mission as the 1862 schools mandated under the Morrill Act. Therefore, we owed them the means to fulfill that mission, research and development in the field of agriculture for the benefit of the whole country.

As with the Chappie James measure, this authorization passed as a rider, this time to the 1981 farm bill, Public Law 97–98). This amendment authorized $10 million annually to each of the historically black land-grant colleges through 1986—a total of $50 million for each.

BLACK ALABAMIANS BECOME FEDERAL JUDGES

In the spring of 1979, then-Senator Donald Stewart and I set out to find five U.S. district judges to fill vacancies in the State of Alabama. In order to do this, we formed two committees and clarified our intentions in charters for each. We called the first the Federal Judicial Nominating Commission of Alabama, and we called the second the Alabama Women and Minority Group Search Committee.

First, we intended to seek out the most qualified individuals in the State. This was the charge of the first committee. But we also sought to find qualified minorities to fill the slots. This task was the charge of the second panel, which would advise the first.

Through these efforts, two blacks were selected, and President Carter formally nominated them both. These men were U.W. Clemon, for Alabama's

northern Federal district, headquartered in Birmingham, and Fred Gray, for the State's middle Federal district, headquartered in Montgomery. U.W. Clemon had become a prominent Alabama State senator, and Fred Gray was a prominent lawyer who had served in many posts. He was perhaps most widely known as Rosa Parks' lawyer.

Although the hearings were not easy, the Senate confirmed U.W. Clemon the next year, and he became the first African-American Federal judge in Alabama. Fred Gray's nomination, however, did not survive the confirmation process. In his place, I recommended Myron Thompson, another black, who was confirmed.

As I said many times during this process, I believe that it is absolutely essential for blacks to serve in Federal courts. In the committee hearings on our recommended nominees, and on the floor after their confirmation, I stated that I believe we must make up for years of injustice in this country. For many long years, blacks were excluded from the Federal judicial nominating process. True equality under the law cannot be achieved under such a system. All Americans must feel they will be treated fairly by the Federal courts, but if certain citizens are precluded from serving on the bench, the courts cannot give the perception of fairness.

CIVIL RIGHTS COMMISSION EXTENSION

In 1983, authorization of the Commission on Civil Rights expired, and the Congress set about passing a reauthorization. However, President Reagan intruded, and he tried to restructure the commission for his own purposes.

In late May, Reagan announced he would replace three commissioners on the panel—Mary Frances Berry, Bladina Cardenas Ramirez, and Rabbi Murray Saltzman. According to Congressional Quarterly, the President sought to remove these commissioners because they had criticized his administration's policies. To replace them, the President announced that he would appoint Morris Abram, John Bunzel, and Robert Destro. Some alleged that Reagan selected these replacements because they opposed affirmative action and busing.

President Reagan had clearly challenged the independence of the commission. And the Senate Judiciary Committee responded by putting off the votes on his new nominees. Ralph G. Neas, executive director of the Leadership Conference on Civil Rights, deserves much credit for lobbying against Reagan's position.

In response, Reagan summarily fired the three commissioners he sought to replace. CQ wrote that a White House lobbyist admitted that Reagan fired these individuals because he could not get the votes for his own nominees. Both Houses of the Congress responded with concurrent resolutions declaring their intent to create a new commission whose members would be appointed by the Senate as well as the President. Dr. Berry and Ms. Ramierez went on to win a suit in the D.C. District Court which granted an injunction against Reagan's firings.

For my own part, I worked to save Mary Berry's seat through a compromise which restructured the commission. During final action, the Senate accepted this compromise amendment, offered by Senator Specter, Public Law 98–183. Under this compromise, Reagan would have four appointees, and the Congress would have four, two for each house. The Commission would therefore have two additional members. The compromise, among other things, also established that the President had to show cause for firings, and authorized funding for the Commission. In response to this last, the House restored funds it had cut from the appropriations bill.

But in the end, civil rights groups were angry to learn that Reagan had backed off on an informal part of the compromise. He had promised, they said, to reappoint two commissioners he had previously opposed, Louise Smith and Jill Ruckelshaus. Reagan, House Majority Leader Michel, and Senate Majority Leader Baker, ultimately refused to put these commissioners on the panel.

Much to my own pleasure, though, the Congress saved Mary Berry's seat. She is now the chairman of the Commission.

OPPOSITION TO VARIOUS NOMINEES AFFECTING CIVIL RIGHTS

As I stated before, I feel that the Senate's opposition to a number of nominees was as important as any of its other accomplishments. In the South, some changes for the good occurred, and the Senate's work helped achieve successes in the area of civil rights. It voted down some individuals because of reasonable doubts concerning their impartiality in carrying out the duties of the office for which they were being nominated. These men included William Bradford Reynolds, Judge Robert Bork, Clarence Thomas, Kenneth L. Ryskamp, William C. Lucas, and Jefferson Sessions.

With regard to these nominations, my opposition was based on doubts—doubts about qualifications and about their impartiality as to racial and civil rights matters. However, I always tried to maintain my sense of objectivity. I always tried to keep an open mind until the end of hearings, because I believe hearings are meaningless if Senators do not examine the facts impartially, if they enter into the proceedings with prejudice. In fact, I have consistently articulated this view in my opening statements: We, as Senators, need to act as judges in the confirmation process. I was often criticized as being indecisive because I withheld my decision until the end of committee consideration. But, if I was to be fair to the nominee, then I had to assume a judge's role.

WILLIAM BRADFORD REYNOLDS' NOMINATION

In 1985, President Reagan nominated William Bradford Reynolds to become Associate Attorney General. This position, No. 3 in the Justice Department's hierarchy, carried with it the responsibility for all Federal civil matters.

Previously, Reynolds had been the Assistant Attorney General for the Civil Rights Division, and his record there earned him opponents among the civil rights community. In fact, I based my own decision to oppose Reynolds on what I knew of his record.

Examples of Reynolds' opponents included Benjamin Hooks, executive director of the NAACP; W. Gordon Graham, of the Birmingham city government, who spoke for himself and Mayor Richard Arrington; William L. Taylor, director of the National Center for Policy Review; Judy Goldsmith, president of the National Organization for Women; and Marie Foster from Selma, who was involved in the civil rights movement in that city during the 1960's. These individuals all testified very critically on Reynolds' record, and they all told the committee that he had worked to set back civil rights.

On June 27, 1985, we voted the nomination down in the judiciary committee, and it did not go to the floor. My vote decided the outcome.

On June 30, the Huntsville Times reported that this final meeting and these votes involved "plenty of gavel-banging and shouting as red-faced senators fought bitterly over President Reagan's nomination for a top Justice Department post." I waited until that time to cast my vote, but when I did, I said that I wasn't even certain I felt comfortable with Reynolds in the position in which he was serving at the time. I also said I would find out if the Senate could remove him. In my view, he was deceptive, lacking in forthrightness, evasive, and misleading during his testimony.

ROBERT BORK'S NOMINATION

Another individual I ultimately decided to vote against was Judge Robert Bork, nominated to become an Associate Justice on the Supreme Court. I was somewhat disconcerted by comments he had made, particularly with regard to rights guaranteed by the constitution—rights he said he did not see, but which had been seen by the courts and Congress on numerous occasions. Most important, though, in the end, I did not feel confident I knew what Judge Bork would do on the Supreme Court. Since the nomination was for life, I just could not vote for Judge Bork.

President Reagan nominated Judge Bork, who was, at the time, serving on the D.C. Circuit Court of Appeals, in

1987. Bork's advocates argued that he was a conservative judge who tended to defer to legislatures on political matters. But his opponents said that he was an activist, seeking to implement his own agenda. From this dispute, and others, the Senate entered into one of the most contentious confirmation debates of my tenure.

Controversy developed because Bork had, in earlier statements and writings, criticized the constitutionality of a number of Supreme Court decisions affecting individual rights. He had argued for a restrictive interpretation of the 14th amendment with regard to sex. Bork had also criticized decisions which struck down laws because they impinged on individual privacy, a right Bork had argued was neither explicitly nor implicitly provided by the Constitution. The decisions he had cited included the striking of a Connecticut law which banned contraceptives, as well as the Roe versus Wade decision. Regardless of whether or not I agree with Roe versus Wade, I do believe in the right to privacy, and unlike Judge Bork, I do see it in the Constitution.

Notably, Bork had also written that the first amendment applied only to political speech in a 1971 law review article. He followed this with a television statement in 1987 in which he said "other kinds of speech, speech about moral issues, speech about moral values, religion and so forth—all of those things feed into the way we govern ourselves."

During his testimony before the Judiciary Committee, we questioned Bork on his earlier statements and decisions. Several of us argued that Bork was trying to relax his image during these hearings. In fact, Senator LEAHY called Bork's seemingly changing beliefs "confirmation conversion." Uncertain of Bork's actual position, I cited Bork's "confirmation protestations" when I stated my final decision.

I voted against the nominee in the Judiciary Committee, and I also voted against him in the full Senate. I gave statements before that committee and on the floor reciting many of the reasons for my opposition to his confirmation. The bottom line was that I just did not known how Bork would treat essential, fundamental rights in his rulings.

The debate over Judge Bork, I might note, was a particularly unpleasant one. The media became so involved and the attempts to politicize the debate from both sides became so acidic, that I felt a particular need to speak on the floor about the potentially damaging effects on the judiciary. But, of course, this type of public intensity has surrounded other nominations since.

A number of mailing and telephone campaigns increased this political nature of the debate. I was even told that my own voice, or an imitation, was used in a telephone solicitation I certainly did not authorize. The spill-over from the Bork nomination lingers to this day, and has affected other nominations since.

CLARENCE THOMAS' NOMINATION

In October 1991, I voted against confirmation of Supreme Court Justice Clarence Thomas' nomination. Although I reserved my judgment, as always, until the nominee had been given a chance to be heard, I came out against Clarence Thomas well before I knew of Anita Hill's allegations. I just did not feel that Clarence Thomas was qualified, at that time, to assume a lifetime seat on the Supreme Court.

I do support a moderately conservative court. But I oppose a right-wing court which would embrace a regressive philosophy, which would attempt to rewrite or strike laws written to overcome years of racism in America. I strongly feared that Clarence Thomas would advocate such right-wing positions.

I also had reservations based on the contradictory nature of Thomas' statements on his fundamental view of the law. He had made a number of statements and written a number of articles before the hearings which the committee called on him to explain. His answers, however, did not satisfy me; they showed a man who had seemingly changed his essential perspective.

At the time, I did not know what the real Clarence Thomas was like or what role he would play on the Supreme Court, if confirmed. In fact, I was very much concerned that Thomas' inconsistencies suggested either intentional deception or a lack of scholarly, considered thought.

One example of my specific reservations was the nominee's apparent shift in his view of natural law. Thomas had criticized the "nihilism of [Oliver Wendell] Holmes," who rejected natural law. However, before the committee, he rejected these earlier statements. He said he made them "in the context of political theory," and described himself as a "part-time political theorist."

Thomas had also criticized the Brown versus Board of Education of Topeka, KS, decision. And when questioned, Thomas said that he had never even discussed Roe versus Wade. I would not have opposed the nominee based on his position on this single case, whatever it may have been, but I found it extremely unlikely that Thomas had never discussed Roe versus Wade, a defining point in the laws of this country. In fact, I was not certain that he was being completely forthcoming, especially considering the polarizing nature of this particular case in Supreme Court confirmations.

I was also deeply concerned about Thomas' advocacy for an activist Supreme Court which would strike down laws because they restrict property rights. Thomas advocated this position in a 1987 speech before the Pacific Research Institute, citing the libertarian Stephen Macedo. I believe, though, that modern constitutional jurisprudence has moved beyond the Lochner era which relied on natural law, and that individual rights are just as important as property rights, perhaps even more so. The Supreme Court has long recognized congressional authority to regulate commerce. As I stated, according to the libertarian view, we would have no laws to guarantee occupational safety and health, to preserve the environment, to protect consumers from unsafe food, to require airline safety, or to establish a minimum wage.

All of these concerns led me to doubts. I simply could not justify voting for a nominee whose positions remained so enigmatic, particularly when he had been nominated to the Supreme Court for life.

The peculiarities surrounding the nomination only increased after that time. In early October, the public became aware that Anita Hill, a former Thomas employee, had alleged that the nominee had made unwanted sexual advances and comments toward her over a number of years. I did not know if Thomas, or Hill, were telling the truth, or if neither was telling the complete truth.

I had not known about these allegations until after I made my initial statement opposing Thomas. The afternoon after my speech, Chairman BIDEN informed me of the an FBI file which included the charges. I did vote against the committee motion to report the nomination favorably to the floor, which failed in a tie, although I supported sending it to the full Senate without a recommendation. But I had no reason, whatsoever, to change my position; Thomas' record, testimony, and lack of qualifications were reason enough to oppose his confirmation.

JEFFERSON SESSIONS' NOMINATION

On June 5, 1986, the Senate Judiciary Committee rejected President Reagan's nomination of Jefferson Sessions to become a Federal district judge in Alabama. There were ten Republicans and eight Democrats on the committee. The vote for disapproval of his nomination was 10 to 8, with two Republicans voting against him.

Sessions was, at the time, a U.S. attorney in Alabama. Certain of my colleagues on the committee criticized comments Sessions allegedly made against various civil rights organizations as well as favorable comments made about the Ku Klux Klan. These comments, they argued, showed a "gross insensitivity" to racial matters.

My decision to oppose Sessions was very difficult. Of course, he was from my home State of Alabama. Frankly, I just did not know whether he would be a fair and impartial judge. My statement before the committee recited

that since this was a lifetime appointment, we should be very cautious about his fairness and impartiality.

WILLIAM C. LUCAS' NOMINATION

In 1989, I voted against William C. Lucas' nomination to become the Assistant Attorney General in charge of the Civil Rights Division. Mr. Lucas happened to be an African-American, and I do not believe I can state strongly enough my belief in the substantive and symbolic importance of nominating blacks to these positions. However, when I weighed the evidence, I found that Mr. Lucas simply was not qualified to head the Civil Rights Division.

Lucas had worked in the Civil Rights Division in 1963, had been in the FBI, and he had been the Wayne County, MI—which includes Detroit—sheriff and county executive before President Bush nominated him to this post. But he had only just begun to practice law, and he had never represented a client in court.

Lucas' lack of legal experience showed during the hearings. Lucas downplayed the importance of recent Supreme Court decisions on civil rights laws, commenting "I'm new to the law." And when the Chairman asked Lucas about his view on the recent trend in the Supreme Courts decisions on civil rights laws he said, "I have to answer as a politician because I have not thought about the answer." Further, during the hearings, a number of civil rights activists testified or submitted statements to the effect that Lucas was not qualified to fill the position.

While he emphasized that he did not object to Lucas' views, Ralph G. Neas, executive director of the Leadership Conference on Civil Rights opposed Lucas on his "lack of civil rights and legal experience." Elaine Jones, deputy director counsel of the NAACP Legal Defense and Education Fund, testified that, although her group initially wished to support Lucas, it found that he did "not have the training and the background to litigate and understand the litigation process." Citing the need for experience in Federal litigation, Drew Days, a professor at Yale Law School and a former holder of the position Lucas would fill, said Lucas' confirmation would "be a frustration of the mission that Congress envisioned when it created that office in 1957." William L. Taylor of the Citizens' Commission on Civil Rights testified for his group, noting his personal belief that Lucas did not meet the standards set by his organization. Arthur L. Johnson, president of the Detroit branch of the NAACP said, "We do not believe that he [Lucas] is suitable for this highly specialized and important assignment where the public interest is so sharply focused, and where the trust of black Americans, and civil rights advocates in particular, should be sought and even enhanced." John H. Buchanan, Jr., of the People for the American Way also argued that Lucas was "inadequately qualified."

On the other hand, some civil rights leaders supported Lucas. Dr. Joe Reed of the Alabama Democratic Conference was one; Reed urged confirmation because, at the time, there had been only one African-American in the post. Another supporter was Alvin Holmes, the senior black member of the Alabama House of Representatives. These men both noted their belief that Lucas' opponents had based their views solely on qualifications. A final example of Lucas' supporters was Father William Cunningham, director of Focus HOPE of Detroit.

Congressional Quarterly reported on certain questions surrounded Lucas' record, including brutality in the Wayne County sheriff's department, a customs dispute, and exaggerations on his resume.

After hearing all of this information, I finally decided to vote against Mr. Lucas. I based my decision in large part on the importance of the position. The head of the Civil Rights Division perhaps has more responsibility than any other single individual for ensuring the security of our civil rights. The individual who assumes this role should be well qualified to deal with the intricacies of the law.

Mr. Lucas, I believed, did not possess sufficient legal experience to undertake the task, and I cast the deciding vote against him. I argued that, although his supporters and Mr. Lucas himself cited his accomplishments in Wayne County, the controversy surrounding them, including brutality in the sheriff's department, indicated to me that his managerial abilities were also questionable. After the committee vote, Ralph Neas who had testified against Lucas, announced a success for civil rights.

KENNETH L. RYSKAMP'S NOMINATION

I cast the deciding vote against Kenneth L. Ryskamp of Florida, whom President Bush had nominated to the 11th Circuit Court of Appeals. This circuit covers Florida, Georgia, and my home State of Alabama. President Bush actually nominated Ryskamp twice. The first time was in 1990, and the Judiciary Committee tabled the nomination that year.

Ryskamp had been criticized by People for the American Way, a civil liberties group which found that he had ruled against more civil rights plaintiffs than any other judge nationwide. He had also belonged to a country club which had an implicit policy of discrimination against African-Americans and Jews.

Also haunting Ryskamp was a specific case in which a number of African-Americans in West Palm Beach, including those who had not been found guilty of any crime, filed a complaint because they had been attacked by city police dogs. Although the jury had found the city, individual police participants, and the former police chief guilty of civil rights violations, Ryskamp threw out the conviction against the city and the police chief. He said: "It might not be inappropriate to carry around a few scars to remind you of your wrongdoing in the past, assuming the person has done wrong."

Nine Latin American members of the Florida State Legislature wrote a letter to express their belief that Ryskamp had "* * * demonstrated insufficient sensitivity to ethnic minorities and other groups who have traditionally been the objects of discrimination." In my opposition to Ryskamp, I weighed this information, and I concluded that, if the representatives of such a large population felt they would not receive justice, Ryskamp could not dispense it. With regard to this last point, I believe it is important to note that these lawmakers were Republicans, and they had no partisan motivation.

CREATION OF THE 11TH CIRCUIT

As a past chairman and now ranking member of the Judiciary subcommittee which oversees court reform and judicial administration, one of my great interests as a Senator has been that of improving and streamlining judicial procedure and process. In June of 1980, I introduced a bill to divide the Fifth Circuit Court of Appeals into two courts. On October 1, the Congress passed, by voice vote in both chambers, the House version of the bill to divide the circuit. This bill became Public Law 96–452.

At the time, this circuit included Texas, Louisiana, Mississippi, Georgia, Florida, and Alabama; this legislation broke off Georgia, Florida and Alabama to create the new 11th Circuit, and the others remained as the new fifth circuit.

The split had been considered several times before, but that year, I introduced the legislation in response to a request made by the court's judges. This request came to me as a formal petition, signed by all twenty-four judges sitting on the court. Among these were Frank Johnson, Joseph Hatchett, the first African-American on the court, and Bob Vance. Judge Johnson became the court's spokesman for the split during hearings on the matter in the House of Representatives.

The main purpose of the bill would be to promote judicial efficiency. Individual judges in the circuit were burdened by an excessively large caseload. Further, the entire court had accrued the largest "en banc" caseload in U.S. judicial history.

In the past, civil rights groups had opposed the split because, given the location of the circuit, it heard the most important civil rights cases in the country. Therefore, these groups did

not want to see a more conservative court created.

In fact, during the House subcommittee hearings, Judge Johnson testified that he had been opposed to earlier incarnations of the proposal. He said, "* * * the basis for my opposition was a firm belief that the proposal would have a substantial adverse effect on the disposition of cases in the fifth circuit that involved civil and constitutional rights." After a careful evaluation of the judges who would go to the different circuits, Judge Johnson changed his position to become the spokesman for the split.

According to the circuit judges' proposal, this split was to be dissimilar to the earlier suggestions in two ways. It would not reduce the cases filed, nor would it create courts whose views differed from the present court's. With respect to these modifications, the petition read that the division could be accomplished "* * * without any significant philosophical consequences within either of the proposed circuits."

As a Congressman from Mississippi, Jon Hinson, pointed out during the hearings, the new courts would reflect a balance in their philosophy, at least as measured by the President who appointed the judges. Nine of the 14 judges on the fifth circuit were to be Carter's appointees, as were 7 of 12 on the 11th circuit.

Other former opponents, including Judge Hatchett and U.W. Clemon, submitted letters to the subcommittee explaining why they had changed their views. Judge Hatchett noted that the new Fifth Circuit Court would have no African-American judges, a matter which had caused many objections. However, he wrote that this matter could be addressed later. "While I understand the apprehension caused some persons by two 'new courts,' I do not believe their fears are well founded," he wrote. "The two courts that will emerge from this division will probably be no different from the existing fifth circuit." Judge U.W. Clemon wrote that, although he had opposed the 4 to 2 split, this new proposal "will not adversely impact on civil rights." Clemon added that it would, in fact, speed the 2-year lag time in the filing of civil rights cases.

THE FRANK JOHNSON COURTHOUSE

During my first year as a Senator, I strongly supported the nomination of Judge Frank M. Johnson, Jr., to become a U.S. circuit judge in what was then the Fifth U.S. Circuit Court of Appeals. Judge Johnson stands out as one of the most outstanding jurists of our times.

I believe that Judge Johnson has done more in the field of civil rights than almost any other single judge. He wrote or took part in numerous historical decisions including those in matters of desegregation, voter registration, and reapportionment. He was also variously involved in cases which established new standards in mental health programs and prisoners' rights. Notably, in 1978, Johnson became the first Federal district judge to find that an African-American educational institution discriminated against whites in its hiring practices.

At the time, I predicted that the Senate would not have the pleasure of confirming a better candidate for circuit judge in many years. To Judge Johnson's credit, I believe that my prediction has come true.

To further honor this man, whose fairness and judicial temperament I deeply respect, at the suggestion of Dr. Joe Reed, I introduced a bill in the summer of 1991 to name the Federal courthouse in Montgomery the Frank M. Johnson U.S. Courthouse. This bill became Public Law 102–261.

I felt that it was most appropriate to name this particular courthouse after Judge Johnson because it was there he began his career as a Federal judge. Judge Johnson's courtroom truly reflected the terms rule of law and equal protection of the law. And despite threats on his life, Judge Johnson at all times courageously upheld equal justice under the law.

I can only hope that this courthouse will continue to symbolize Judge Johnson's work, and to be a temple of justice.

THE HUGO BLACK COURTHOUSE

In 1983, I introduced a resolution to designate February 27, 1986, Hugo LaFayette Black Day. This day marked the 100th anniversary of the late Supreme Court Justice's birth. The resolution became public law 98–69.

Justice Black was born in Clay County, Alabama, and he was graduated with honors from the University of AL Law School. He was a practicing lawyer, a prosecuting attorney, and a police court judge in Birmingham, and he distinguished himself in all of these positions. He went on to become a Senator from Alabama, where, among other things, he sponsored the first minimum wage bill. In 1937, Hugo Black became Franklin D. Roosevelt's first nominee to the Supreme Court. Justice Black served there through six Presidents and five Chief Justices.

I know that Justice Black was a great champion of civil rights who saw the law as a tool to improve everyone's condition. He had a strong work ethic and a delightful sense of humor, and he had a great sympathy for victims of injustice. Chief Justice Burger once said, "He loved this Court as an institution, and contributed mightily to its work, to its strength, and to its future. He revered the Constitution: * * * But above all he believed in the people."

In 1987, I also worked to pass a bill to name the new Federal courthouse in Birmingham for Hugo Black. This bill became Public Law 100–160. Former Congressman Ben Erdreich from my State of Alabama sponsored the bill in the House.

THE BOB VANCE COURTHOUSE

In January 1990, I was deeply saddened by the murder of my very close friend, Bob Vance, who served on the 11th Circuit Court of Appeals. Judge Vance was murdered by a mail bomb which also seriously injured his wife, Helen Rainey Vance.

I spoke on the floor to honor his memory, and his great accomplishments in civil rights; sadly, it seemed clear that his efforts to further the rights of all citizens motivated his murderer. I wanted, as best I could, to state, unequivocally, that he did not die in vain, that his work to ensure racial equality did not die with him.

I wanted, very much, for everyone to know that Bob Vance was responsible, as much as any individual, for stopping racially motivated bombings like the one which killed him. We need more men like Judge Vance—men who have the courage to follow the moral imperatives of their conscience.

A few months later, I worked to pass a bill which renamed the courthouse at 1800 5th Avenue in Birmingham the "Robert S. Vance Federal Building and United States Courthouse"—Public Law 101–304. I hope that this stands as a testament to this great man's work to fight racism, and as a symbol of the work we have done as well as what we have yet to do.

THE DAUGHTERS OF THE AMERICAN CONFEDERACY INSIGNIA PATENT

Earlier, I alluded to the United Daughters of the Confederacy insignia debate. Although I firmly believe that it was the right thing to do, I made one of my most difficult and unpopular decisions as a Senator in 1993 when I voted against the special treatment extension of the design patent for this group. My personal family history is profoundly connected to the Confederacy. My maternal grandfather was a signer of the Ordinance of Secession by which Alabama seceded from the Union, and my paternal grandfather was a surgeon in the Confederate Army. I also had several close relatives who were killed while serving in the Confederate Army. All of these family members were convinced that their cause was right. Honor was their chief motivation at the time, and these men believed that their honorable course was to defend their cause and homeland. I felt a tremendous amount of conflict as I thought about the issue.

Senator CAROL MOSELEY-BRAUN, our only black Senator, eloquently argued against extending the patent. Her words made me consider, carefully, whether we in the Congress truly needed to extend a special recognition for this symbol of the past. After some considerable thought, I decided that honor is still a chief motivation. However, although I revered my ancestors, honor had taken a different meaning

after one hundred and twenty-eight years, and I believe I did the right thing just as they did.

In May 1993, Senator MOSELEY-BRAUN had convinced the Judiciary Committee to delete provisions of a bill which extended the design patent concerning the Daughters of the American Confederacy. She argued that she did not oppose the group's freedom to use whatever symbol it should chose, but instead she questioned the need for the Congress to endorse a Confederate symbol with the special protection when an extension could be obtained through the Office of Patents and Trademarks in the normal routine manner.

However, the matter came before the full Senate two months later as a Helms amendment to a bill we were considering at the time.

Senator MOSELEY-BRAUN again opposed the amendment, and she made some compelling arguments on the floor. She objected to a special Congressional honor since it would, she said, conversely dishonor her own ancestors. She explained:

* * * the United Daughters of the Confederacy have every right to honor their ancestors and to choose the Confederate flag as their symbol if they like. However, those of us whose ancestors fought on a different side in the Civil War, or who were held, frankly, as human chattel under the Confederate flag, are duty bound to honor our ancestors as well by asking whether such recognition by the U.S. Senate is appropriate.

I listened to this argument and considered it carefully. With a divided mind, I ultimately agreed with Senator MOSELEY-BRAUN. In its later report, Congressional Quarterly called my decision "Perhaps the turning point in the debate," which, until that time, had gone against Senator MOSELEY-BRAUN.

Our colleague from New Jersey, Senator BRADLEY referred to my decision in his engaging memoir "Time Present, Time Past". He wrote, "HEFLIN, who through his actions as a lawyer and judge had long championed racial justice, rose and said, 'I have many connections through my family to the Daughters of the Confederacy organization and the Children of the Confederacy, but the Senator from Illinois * * * is a descendant of those that suffered the ills of slavery.' I have a legislative director whose great-great grandfather was a slave. I said to my legislative director, 'Well if I vote with Senator MOSELEY-BRAUN, my mother, grandmother, and other ancestors will turn over in their graves.' He said, 'Well, likewise, my ancestors will turn over in their graves [if you vote against it].'"

I do not believe, nor did I believe then, that the Daughters of the American Confederacy is inherently racist nor that it takes part in racist activities. But I do believe that the U.S. Congress should not provide a special honor, as Senator MOSELEY-BRAUN argued, for a symbol that offends a large part of its constituency. In America, we have a long history of racial inequality to correct, and I believe much remains to be done. I also believe that, for substantive efforts to succeed, we must work symbolically as well.

On July 23, the Huntsville News, the Selma Times-Journal, the Dothan Eagle, the Mobile Register, the Birmingham Post-Herald, the Opelika-Auburn News, the Montgomery Advertiser, and the Gadsden Times wrote that I had "turned [my] back on [my] Confederate forefathers."

On July 24, the Gadsden Times, the Dothan Eagle, the Decatur Daily, the Talladega Daily Home, and the Columbus Ledger-Enquirer reported that "Southern preservationalists portrayed Sen. HOWELL HEFLIN as a Yankee-sympathizing turncoat Friday for his dramatic floor speech and vote against an insignia bearing a Confederate flag." The Tuscaloosa News also reported these objections, and it wrote that Frances Logan, president of the Tuscaloosa UDC, called RICHARD SHELBY a traitor because he also joined Senator MOSELEY-BRAUN. The Montgomery Advertiser also reported objections from members of the UDC and the Sons of Confederate Veterans.

The UDC in my own home town of Tuscumbia was notably upset with the Senate. The President of this chapter expressed her disappointment with me for not stating that the war, and the symbol, were not over slavery. A former president of the Alabama United Sons of the Confederacy, said: "What is going to be interesting is when (HEFLIN) tries to run for re-election". * * * "He's got about as much chance as the proverbial snowball when he's got these women mad at him."

On July 24, the Mobile Register editorialized that Senator SHELBY and I were "swept into political correctness along with * * * other colleagues * * * to reject a patent for an insignia of the United Daughters of the Confederacy." The editorial further asserted that rejection of the patent extension would do nothing to prevent racism.

But some articles and editorials were more favorable. On July 23, the Mobile Press printed an article in which it chose to quote a number of my colleagues who supported my decision, and the Anniston Star printed an editorial supporting my decision. This editorial denied that I did my ancestors a dishonor; in fact, the editorial was so complimentary as to call my decision courageous. On the 24th, the Andalusia Star-News gave me the same compliment.

The same day, the Birmingham News/Post Herald editorialized that the patent issue would be resolved only "To the satisfaction of neither side." The editorial noted that Senator SHELBY's and my votes "didn't help them with the average white voter." But it added a great compliment to us both by suggesting that integrity played a part.

THE CIVIL RIGHTS RESTORATION ACT

In 1990, the Congress passed a bill to restore interpretations of employment civil rights laws recently limited by the Supreme Court. But President Bush vetoed the bill in the fall, and we failed to override the veto in the Senate.

This bill was generally called a civil rights restoration bill because its sponsors sought to overturn a number of Supreme Court decisions issued in the late 1980's. Congress felt the Court had become too conservative, depending too heavily on the exact wording of the law and sacrificing some of its meaning. With respect to the civil rights cases, particularly, I think the bill's authors felt that the Court had restricted the laws too much, and I agreed with them.

A filibuster met this bill when it came to the floor in July. At this time, a number of Senators offered amendments to the bill. I co-sponsored one offered by Senator FORD to apply the provisions of the bill to the Senate. The Senate passed this rider, and it voted down another to allow for special procedures for itself. Among all of the amendments, however, I think the most important was Senator KENNEDY's amendment to eliminate the requirement of quotas as a remedy in the bill.

However, despite the Kennedy amendment, President Bush vetoed the bill based on an objection to quotas. "It is neither fair nor sensible to give the employers of our country a difficult choice between using quotas and seeking a clarification of the law through costly and very risky litigation," he argued in his veto message.

I was disappointed by the veto and puzzled by the President's reasoning. The bill, I said, included language explicitly stating that "nothing in the amendments made by this Act shall be construed to require or encourage an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex or national origin." I judged that the bill would only have restored employment practices to the standard before the Supreme Court restrictions.

The next year, the Congress and President Bush compromised on a new version of the bill, which the President declared free of quotas. This bill became Public Law 102–166.

Congressional Quarterly suggested that Bush moved, in large part, because his civil rights record had earned him enemies in the African-American community. This publication also wrote that the President had other political reasons to support the bill. Not least among these were the Thomas hearings and the GOP candidacy of former Klansman David Duke for Governor of Louisiana. But to suppose that he was motivated only by his own gain

strikes me as cynical; I believe that the President deserves credit for supporting and signing this Act.

Ultimately, we worked out a compromise which passed as the Senate bill. It modified title VII of the 1964 Civil Rights Act to establish specific compensatory and punitive damages capped according to the size of the business in cases of intentional bias, and it allowed for complainants to seek jury trials under this section. The compromise also rewrote statutes to overturn, effectively, nine Supreme Court rulings. In answer to Wards Cove, the new law returned the burden of proof in discrimination cases to the employer, although it left the definition of business necessity to the courts. It prohibited racial harassment after hiring, contrary to Patterson versus McLean Credit Union. It overturned Martin versus Wilks by setting specific statutory guidelines for third party challenges to consent decrees in affirmative action cases. Against Price Waterhouse versus Hopkins, it specifically disallowed consideration of race, color, religion, sex or national origin no matter what circumstances otherwise surrounded the hiring. The new law also allowed a period of time to pass after seniority systems are implemented in order to examine their effects before discrimination suits need to be filed. This statute was a response to Lorance v. AT&T. It further amended Title VII to allow for those winning suits against the U.S. Government to recover interest on delays, contrary to Library of Congress v. Shaw. In order to reverse Crawford Fitting Company versus J.T. Gibbons Inc. and West Virginia University Hospitals v. Casey, it also modified this section to allow for recovery of the costs in hiring experts. Last, it allowed American workers abroad to sue U.S. companies for discrimination, against the Supreme Court's EEOC versus Arabian American Oil Co. decision.

Congressional Quarterly wrote that the language to reverse the Wards Cove decision—with reference to indirect discrimination, called disparate impact—was vague, and left much undecided. This vagueness was a function of the compromise we reached with President Bush.

I was disappointed with the law's failure to apply the same statutes to Senate employment as in the private sector. The bill, however, did include measures to prevent employment discrimination which held Senators personally liable.

This measure represented a key step in the elimination of discrimination, an end I believe the people of America and Alabama were—and are—working very hard to attain.

THE LEGAL SERVICES CORPORATION

During the 1980's, Congress saved the Legal Services Corporation, which provided legal assistance to the poor in civil litigation. This action followed a series of attacks leveled by President Reagan; each year he tried to abolish the corporation, and during that time, he also tried to restrict its activities and reconstitute its board. Since the Senate would not support his nominations, he made many of them in recess. Ultimately, after the Congress pushed funding through each year, Reagan gave in and requested money for the LSC in his last budget request.

I fought very hard to continue the Legals Services Corporation because I believe it is essential to true equality of justice. Given increasing fees and costs, the American system of justice continues to become more difficult for the poor to access. And this unfortunate reality has had a disproportionate impact on minorities. Its continuation represented a great victory for the Congress and the people.

CHURCH ARSON

In June 1996, I strongly supported S. 1890, a bill to increase Federal protection against arson and other destruction of places of religious worship. For the past couple of years, black churches had been burned under suspicious circumstances and with alarming frequency, and a national response was strongly needed.

To those of us who remember the violence and fires of the early civil rights movement and who applaud the progress which has been made in terms of race relations, these latest images in the early hours before dawn were profoundly disturbing.

I supported this bill and other efforts to stop these kinds of hate crimes, bring their perpetrators to justice, and encourage compliance with the law. I also saw this as an opportunity to ask ourselves if we can do more to advance the causes of equal rights and racial harmony. I also called for the authorization of a transfer of funds to be used to implement the provisions of this act at the State and local levels of government.

DESIGNATION OF THE ROUTE OF THE FREEDOM MARCH FROM SELMA TO MONTGOMERY AS A NATIONAL TRAIL

In 1990, I worked with Senator KERRY to introduce a bill to require a study to include the Route of Freedom, from Selma to Montgomery, in the national trails system. I introduced another in 1995 to officially include the Route of Freedom in the system.

Although a conference report is still pending, the provisions to designate the Route of Freedom a national trail passed the Congress in the House's Presidio bill, a larger parks bill.

SANCTIONS AGAINST SOUTH AFRICA

Beginning in the summer of 1985, I voted for the imposition of sanctions on South Africa, and I supported them until the end of apartheid. Although these sanctions remained somewhat unpopular in my home State, I believed that they were the right thing to do. Events since then have shown that sanctions did help bring about an end to apartheid and create a more stable society.

AFRICAN-AMERICAN STAFF MEMBERS

Over the years, I have had many black staff members. In fact, I believe that I have had more African-Americans working for me than other Senators. My legislative director, office manager, mobile field coordinator, and others are black.

As I have said, I believe that inclusion of blacks in government helps overcome symbolic and substantive obstacles to equality. However, it just happened that these staffers applied, and they were best qualified to do the job. This is the way it should be in all cases.

BLACK FEDERAL MARSHALS IN BIRMINGHAM

In 1993, I worked with black political leaders in Alabama to recommend two African-American U.S. Marshals in my home State. These men, Robert Moore and Bill Edwards, were very well qualified for the positions—perhaps even overqualified when compared with the usual candidates for this position.

Robert Moore had recently retired from the Secret Service, where he had served as a special agent for 8 years—the last four in senior status.

On July 15, 1993, Senator SHELBY and I recommended Bill Edwards for the northern district of Alabama. Mr. Edwards had been with the U.S. Marshal's office in Birmingham since 1970, and at the time of our letter, he was a senior criminal investigator. He was also in his last year of law school at the Birmingham School of Law.

That year, Senator SHELBY and I also recommended Florence Mangum Cauthen to the middle district on August 6, and she became the first female U.S. Marshal in Alabama. Among her other accomplishments, Ms. Cauthen had taught law at Jones Law School.

TITLE III OF THE HIGHER EDUCATION ACT

I sought to have a number of Alabama colleges funded through title III of the Higher Education Act. I supported a proposal to separate the general college at Tuskegee University from its renowned School of Veterinary Medicine so that both institutions could receive the benefit of title III. Normally, schools such as Tuskegee, which are considered developing institutions, receive only one grant under this law.

Additionally, I saw that junior colleges were included in the title III developing institutions programs. Over the years, I have worked closely with the Department of Education to see that junior colleges and historically black institutions receive title III funds. These resources have been extremely beneficial.

In the early 1980's Alabama Christian College—now Faulkner University—was turned down for a title III Developing Institutions Grant by the Education Department. Fortunately, we

were able to prevail upon the Department and the White House. On a late Sunday afternoon, officials of the department reassembled outside readers and determined that Alabama Christian College's title III application should be granted. A few years later, this school received a challenge grant in the amount of $1,000,000 to assist in its development efforts.

CONCLUSION

As I reflect upon my Senate activities in connection with civil rights, a number of thoughts come to mind, including those surrounding my decision to run for the U.S. Senate.

Senator John Sparkman was in his late seventies, and many of his friends did not think he would be a candidate for reelection in 1978. Then-Governor George Wallace had announced his intention to run for the Senate and was already conducting a tough campaign against Senator Sparkman. I had always been a strong supporter of Senator Sparkman. I was told by friends of his to look at the possibility of running in the event that Senator Sparkman decided to retire.

I had polls conducted pitting my candidacy against that of George Wallace. The initial polls showed that if I were to run, Wallace would be far ahead of me. As I recall, the numbers first polled showed that Wallace would get about 45 percent and that I would get only about 17 percent. But my pollster, Peter Hart, indicated that there was a large amount of negative feeling in the State toward Wallace at that time and expressed his opinion that I could win such a race. One of the motivating reasons that caused me to give serious consideration to the race was that I felt that Alabama should be represented by a senator who believed in the improvement of race relations and progress in the area of civil rights.

I met with Senator Sparkman in Washington, and he told me about how he had entered his first race for Congress. Archie Carmichael was then the Congressman from Senator Sparkman's district, and Sparkman had been his campaign manager when he was elected. Congressman Carmichael did not enjoy being a Congressman, only serving two terms. He called John Sparkman to Washington and told him that he ought to get ready to run for his congressional seat; that he had not made up his mind yet, but that there was a strong possibility that he would not offer himself for reelection and that Mr. Sparkman should get ready to run in the event he did not seek his congressional seat again. He said to me, "I am telling you that story because I think you ought to get ready to run for the Senate against Wallace." I thanked him and told him I would follow his advice. I also relayed to him that Congressman Archie Carmichael was my wife's grandfather. Sparkman said he knew that and that was one of the reasons he wanted to tell me the story.

A few weeks later, Senator Sparkman announced that he would not be a candidate for reelection, and I announced the next day that I would be a candidate for John Sparkman's seat in the U.S. Senate.

My race against George Wallace was heated for several months. And then, while speaking to the Alabama League of Municipalities Convention in Mobile, he announced his withdrawal from the Senate race, giving no reason for his decision. In advance of his announcement, I was told of several polls that showed I had pulled ahead of Wallace, including a poll conducted by the Wallace campaign itself.

I attracted other opponents, but won in a run-off race against Congressman Walter Flowers by a 2-to-1 margin.

As I think back over the reasons I entered the race for the U.S. Senate, certainly the issue of racial progress in Alabama was a motivating factor, and I was fearful that if George Wallace was in the Senate, it could deter needed changes in the civil rights laws.

In 1982, he ran again successfully for Governor. His last administration was one in which race relations were far more harmonious than they had been in his previous terms in office, with Wallace appointing a number of blacks to key positions in his administration. He publicly stated that his segregation stand had been wrong. At a recent meeting of southern black Democratic leaders in Atlanta, Dr. Joe Reed, head of the Alabama Democratic Conference, said I was the first U.S. Senator from Alabama who believed in civil rights and who took positive steps to advance the individual rights of all persons.

Mr. President, despite all the progress in race relations and civil rights over the years, there is still much to be done. Our work remains unfinished, as the church burnings illustrate. When I reflect on these horrifying arsons and the death of Judge Bob Vance just a few years ago, I am again reminded of just how much remains to be done.

Perhaps it is unrealistic to believe that we can ever have a truly colorblind society. As long as fear, ignorance, and emotion guide some peoples' thinking, there will be prejudice and bigotry. But we can look at the great progress we have made—just in the 18 years since I came to the Senate—and say that we are doing better.

Members might differ on their approaches to civil rights issues. These approaches will take on different forms based on the region of the country we come from, our personal philosophical beliefs, and our political parties. My approach has been to do as much as possible in the public arena to advance opportunity and justice. At times, this has meant working behind the scenes to secure progressive judicial nominations, to craft compromise legislation that could pass and be signed into law, and working with both sides of an issue to cool passions and promote harmony. At other times, it has meant taking strong symbolic stands aimed at education and putting the past behind us, such as the case with the United Daughters of the Confederacy issue.

Regardless of what approach we take as leaders, it is our duty to work in every way we possibly can to see that each and every American citizen enjoys the same liberty, freedom, and equality of opportunity as all others. The fulfillment of the promise of the Constitution demands that we always remain diligent in fulfilling this responsibility.

THE PARTIAL BIRTH ABORTION BAN ACT, H.R. 1833

Mr. DORGAN. Mr. President, I supported passage of the bill to ban partial birth abortions when it was approved by the Senate on December 7 and I voted last week to override the President's veto of this measure.

My position on abortion issues is clear. I have consistently stated that I would not support overturning the Supreme Court's decision in Roe versus Wade. I support a woman's right to have an abortion. I do not think we should turn back the clock 25 years and make abortion illegal, but we should work in every way to reduce the number of abortions that are performed. I have also cast votes here in Congress to oppose using Federal funds to pay for abortions except in cases of life endangerment, rape, or incest.

The Senate's vote last week was on whether to override the President's veto of legislation which would prohibit a physician from performing a partial-birth abortion, a procedure in which a fetus is delivered into the birth canal before its skull is collapsed and delivery is completed. This legislation contains a provision which would make an exception for partial-birth abortions that are necessary to save the life of the mother in cases in which no other medical procedure would suffice.

I simply cannot justify the use of this procedure to terminate pregnancies in which the mother's life is not at stake. For this reason, I voted to override the President's veto and to support the ban on partial-birth abortions.

OMNIBUS APPROPRIATIONS BILL

Mr. FEINGOLD. Mr. President, yesterday I was one of a handful of Members of the Senate to vote against the FY97 omnibus appropriations bill.

This was a difficult vote and I have mixed feeling about passage of this bill.

While I am pleased a Government shutdown was avoided, I am disappointed in the way the process was handled.

Various measures that warranted separate consideration, ranging from the immigration bill, to amendments to the age discrimination law to banking legislation, were wrapped into this massive bill. The measure was hundreds of pages long, and few Members of either body were fully aware of the wide range of items shoved into this must-pass bill at the 11th hour. It has been pointed out by a Member of the other body that you could get a double hernia just trying to lift this omnibus spending bill.

I predict that over the course of the next several weeks, there will be many surprises discovered in the package. Some of the special interest pork provisions are buried deep within the various titles, as well as policy changes that should have been debated in public and voted on without the pressure to keep the Government running.

Moreover, although we succeeded in avoiding a massive new tax cut that would have set us backward on the road to deficit reduction, this omnibus spending bill represents a missed opportunity to cut Government waste and stop the unnecessary spending. The fact that this bill was loaded up with special spending provisions for individual Members indicates that it is business as usual in Congress when it comes to spending Federal dollars. While we have made significant progress in reducing the Federal deficit, much of that work was done in the last Congress and we missed the opportunity in the 104th Congress to finish the job and truly get the Federal budget into balance.

This bill adds a whopping $9 billion in deficit spending for defense systems above what Department of Defense requested. When all of the fiscal year 1997 appropriations bills are lined up together, excessive spending on things like sending Russian monkeys into space and massive out-dated water projects out West continues to drain the Treasury. I voted against this bill because I think we could have done a much better job at curbing unnecessary spending, government waste, and reducing the Federal deficit.

SENATOR BILL BRADLEY

Mr. MOYNIHAN. Mr. President, nothing is typical about BILL BRADLEY, but some things are characteristic. As, for example, his article on the front page of the Washington Post's Outlook section this past Sunday. Just before the scheduled adjournment of the 104th Congress, bringing to an end for now his brilliant 18-year career as a U.S. Senator. The article is characteristically bipartisan: "It's Government by Tax Break Again: Clinton and Dole Should Be Talking About Fairness and Loopholes, Not Cuts and Credits." It is our pleasant custom to ask that such articles be reprinted in the RECORD, and I make that request, with the text to be placed at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. MOYNIHAN. Mr. President, the Senate will take the meaning from the title. BILL BRADLEY harkens back to the great 1986 tax reform bill, of which he, above all his colleagues, conceived, inspired, and helped to enactment. The principles were simple. First of all, above all, simplify. Two low rates. In that sense, cutting taxes. But paying for the lower rates by closing loopholes in the existing code which had acreted like a coral reef as Congress after Congress responded to the tiny this and the tiny that special interest, until a vast barrier separated the privileged from the people. I happened to be one of the core group that put together this legislation. We would meet early each morning in the office of Senator Bob Packwood, who was then chairman of the Finance Committee. My informal task was to provide a brief inspirational reading as the meeting commenced. It was then a simple task. I would simply glance through the previous day's Wall Street Journal looking for the best advertisement.

Typically, it would have a headline: "Guaranteed Losses" In finer print one would learn that a sheep ranch in Idaho, an alligator ranch in Florida, an ostrich ranch in Kansas would assure investors immediate losses that could be offset against other income, which losses would be recouped at some future date. And that was where entrepreneurial energy was flowing. To guaranteed losses that the Internal Revenue Code would turn into profits. BILL BRADLEY changed that. But the work is never done, and so he leaves us still talking the responsibilities of citizenship and legislation.

I will miss him as perhaps few others. We have served 18 years together on the Finance Committee. He has taught me; I have learned from him and followed him. And will continue to do so. Just last week, the Finance Committee convened for its last meeting of this Congress. BILL was asked to say a few words; which was all he ever will do. He recalled that in 1978 I came down to Princeton, NJ to campaign with him in that first campaign for the Senate. In the course of our stumping about, I urged him to try to get onto the Finance Committee, where so very much of the critical issues of American life are decided. He did and he showed why. I then recalled a passage from Woodrow Wilson at the time he was president of Princeton University. A student of the Presidency, Wilson was watching the growing intensity of Presidential campaigns. Candidates did not, of course, did not then go to the conventions that nominated them, but after nomination were getting into the business of making speeches from the rear of railroad trains and all manner of stressful campaigning. Wilson wrote that if this should continue, we would be reduced to choosing our Chief Executives from "among wise and prudent athletes: a small class." I thought that then; I think it now, as we say farewell to BILL BRADLEY—for now.

EXHIBIT 1

[From the Washington Post, Sept. 29, 1996]

IT'S GOVERNMENT BY TAX BREAK AGAIN

(By Bill Bradley)

All the candidates for president are talking about taxes, but none of them are really talking about tax reform. Just a few months ago, when dueling flat-tax plans were the rage, it looked certain that the fall campaign would bring a long overdue, serious debate about how to make the tax code simpler and fairer. How long ago that seems.

Both President Clinton and former Senator Dole have put taxes at the center of their campaigns (and Ross Perot has put an emblem with the letters IRS with a red slash through them at the center of his) but we have yet to see a complete and credible proposal for tax reform. American voters weren't joking earlier this year when public opinion polls showed voters expressing a strong desire for a simpler, fairer tax system. But neither Dole's far-fetched 15 percent cut in federal income tax rates nor the president's well-intentioned tax breaks lives up to that desire.

A 15 percent cut would be a wonderful gift to any middle-class family, who could use it to ease the pressures of education, child-care or housing costs. Unfortunately, the Dole plan is an insult to the intelligence of voters. The $500 billion in budget cuts that would be required to pay for the tax cut is unspecified, and Dole answers the question only with discredited Reagan-era theories about increasing revenues from lower taxes. Is this tax reform? It's not simpler, and if it leads to an explosion in the deficit, further burdening our children, it's certainly not fairer.

Dole would also cut capital gains taxes and add several new tax breaks, such as for large estates. His proposal would amount to a small tax cut for some middle-class families, a large tax cut for many rich individuals and investors, and a huge loss of revenue for the government. The effect would be similar to the chaos and unfairness of supply-side economics in the early 1980's. In the 1986 Tax Reform Act, we demonstrated that the way to lower rates while not increasing deficits is by eliminating loopholes simultaneously. We should not have to learn this painful lesson twice.

The president has come closer to tax reform by targeting some tax relief where it is most needed, and doing so within the constraints of a balanced budget. His child tax credit and higher education tax credit will reach families where they most need help to get ahead, and will adjust the tax system where it is most burdensome and least fair. I am proud to have initiated some of these proposals, including the child tax credit in 1991, and I support all of them. But I have no illusions: This kind of tinkering around the edges, granting temporary relief for some families, does not address the real need for a thorough restructuring of the American tax system.

The tax unfairness and tax complexities candidates should be talking about are the following: A family in which both parents work, earning $80,000 in salaries, can pay

more in taxes than an individual getting $80,000 from various investments. Thousands of narrow exceptions, exclusions, deductions and credits—for businesses ranging from oil rigs to convenience stores—reward powerful interests and their skilled lobbyists. These loopholes and anomalies are clearly unfair. The things a tax code should encourage, like work and family, are penalized. Not only do the loopholes make the code and the tax process more complicated than they need to be, they also drag down the efficiency of our economy as investors waste their time looking for tax dodges instead of seeking the kind of profitable investments that will create jobs and security.

If the candidates were really talking about tax reform, they would be saying things like: Citizens with equal incomes should pay roughly the same tax. Taxes should impede the capital allocation role of the market as little as possible. The system should be simple enough that most people and small business owners can fill out the forms easily. Taxpayers should be free to make their own decisions about spending and saving without worrying constantly about the tax implications.

These concepts can be translated into three simple ideas that must underlie any restructuring of the tax system: fairness, simplicity and efficiency. A decade ago, these principles made possible the 1986 Tax Reform Act, which cut rates for everyone, closed countless loopholes, eliminated the phenomenon of profitable corporations paying no tax at all and maintained a fair, progressive structure while reducing the number of tax brackets to just two. Democrats and Republicans supported these ideas. Bob Dole voted for it, and President Reagan signed it into law.

A decade later, Bob Dole and most Republicans seem to have abandoned these principles altogether, and many Democrats shy away from the issue. Once again, special interests have chewed through the tax code, leaving it riddled with confusing and unfair loopholes.

A simpler structure can be achieved, if candidates and legislators are willing to talk about it. It's not a flat tax, which benefits primarily the wealthy and treats income from labor differently from income from investments—and it's not a 15 percent across-the-board tax cut. I have in mind a plan which would have fewer rates (not one, but perhaps three). Almost everyone would pay at a lower rate. All tax preferences would be eliminated except those that benefit a clear majority of Americans and make sense economically—deductions for home mortgage interest, retirement savings, state and local taxes, and charitable contributions, for example. Loopholes that benefit only a narrow segment of the public would be closed. The resulting broader tax base would raise the revenue to pay for the rate cut—thus ensuring that the plan would not increase the deficit.

What are the prospects of such a tax reform plan becoming law? Slim to none without serious attention from a president. The debate over true reform has been sidelined. The candidates and the nation are missing a tremendous opportunity.

TRIBUTE TO DIANE BALAMOTI AND TERESA BRELAND

Mr. JOHNSTON. Mr. President, on several occasions over the past few days, I have taken the floor to express my appreciation to my fine staff for their loyal service to me and the committee over the years. Today, I want to say thank you to two staff members of the Energy and Natural Resources Committee.

Diane Balamoti has been with the committee since 1987. During this period she has served as the staff assistant to the Park and Public Lands Subcommittee. As many of my colleagues know, this subcommittee has always been one of the most active and prolific subcommittees in the Senate. During her 10 years with the committee, Diane has staffed countless hearings and business meetings and assisted in the preparation of bills, statements, and the drafting of committee reports. She has kept the subcommittee's voluminous bills files and tracked the work of the subcommittee through the Senate and House. Diane possesses truly outstanding clerical skills which are often tested, especially at the end of a Congress when the pace of the committee's business always quickens. Ms. Balamoti has been a dependable, productive, and important member of our committee staff for many years and I want her to know how much I appreciate her service to me and the country.

In addition, Mr. President, I want to thank Teresa Breland, the newest full time staff member on the Energy Committee minority staff. Terri, who has been with us slightly over a year, has served as our receptionist in the minority office and has more recently been the assistant to our staff director for the minority, Ben Cooper. Mr. President, Terri is one of those dedicated public servants who puts in a full day's work on the Hill and then goes to school at night. She is just about to finish her master's degree in psychology and I commend her for a job well done.

BIF/SAIF

Mrs. FEINSTEIN. Mr. President, would the chairman yield for the purposes of a brief colloquy to clarify a provision of the banking title to H.R. 3610, the omnibus appropriations bill, addressing the Bank Insurance Fund and the Savings Association Insurance Fund?

Mr. D'AMATO. I would be happy to yield to the Senator from California.

Mrs. FEINSTEIN. Am I correct that the new prohibition on deposit shifting set forth in section 2703(d) of the bill, if not carefully applied by the Federal bank regulators, could raise serious issues of interference with first amendment rights of free speech?

Mr. D'AMATO. We share the Senator's concern. In response, let me say that it is not our intent that the regulators implement the deposit shifting provision in a way that would raise constitutional free speech issues. The Supreme Court has made it clear that the first amendment protections do indeed extend to lawful and accurate business communications and we expect the regulators to abide by these decisions.

PARKS OMNIBUS LEGISLATION UPDATE

Mr. MURKOWSKI. I want to assure my colleagues that we are continuing to have discussions with the administration relative to the disposition of the parks omnibus bill, and I hope that those bear some meaningful resolve before the day is out. Those discussions are going on now, and, I might say, Mr. President, I am somewhat encouraged, but I have been at that stage before, as well.

I know there is a lot of interest in it, and I want to at least advise my colleagues of the current status. It has been somewhat like how I would envision a Chinese torture chamber might be, had I ever been exposed to one—and perhaps I have been exposed to one and just do not know it.

In any event, the ultimate outcome of this still depends on the administration recognizing that we need some assurance on timber supply to supply our three existing operating sawmills in our State, and hopefully provide enough for the fourth one that has been shut down for 2 years. That is where we are on the issue of resolving our differences.

There are other differences. In fact, the State of Colorado, particularly, and the State of Virginia, we appear to be working some of those issues out, as well. Of course, it would require a process of amending the House bill which is pending but subject to an objection under a unanimous-consent request. But that would be the vehicle. Then we would send it back to the House, and the House would either accept or reject it. So that is where we are, Mr. President.

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

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

PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Senate bill 2183 introduced earlier today by Senator DOMENICI.

The PRESIDING OFFICER. The clerk will report.

The legislation clerk read as follows:

A bill (S. 2183) to make technical corrections to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

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

There being no objection, the Senate proceeded to consider the bill.

WELFARE AMENDMENT DESCRIPTION

Mr. DOMENICI. Mr. President, this bill would clarify congressional intent and allow all States, regardless of when the State opts to start the new block grant program, access to contingency funds if they qualify. The welfare bill limits funds available to a State in 1997 to the State's block grant amount, but requires a State of have an approved welfare reform plan before being eligible for a contingency fund payment.

Prior to opting into the new Temporary Assistance for Needy Families [TANF] Program, the State must operate under the current law Aid to Families with Dependent Children [AFDC] entitlement program. There are a handful of States that have rising caseloads and rising unemployment that normally would be eligible for the contingency fund. The authorizing committees, in a letter to HHS Secretary Shalala, indicated that congressional intent was that all States should be eligible for the contingency fund regardless of when they opt into the new TANF program. HHS has stated that legally they cannot give payments out of the contingency fund without a legislative change.

Many States will not be able to opt into the block grant until the legislation's effective date of July 1, 1997. For example, New Mexico's State Legislature will not convene until January 1997 and the legislative process will take time to develop a welfare reform plan.

Since CBO had assumed States would receive payments from the fund, the welfare bill was scored with costs (outlays from the fund.) Since this legislation clarifies intent, CBO scored no cost.

CBO identified a number of States that may have a problem because of rising unemployment or rising caseloads. These States include Nevada, New Mexico, Alaska, Hawaii, Idaho, and Minnesota. So far it is unclear which States will actually have a problem.

AMENDMENT NO. 5424

Mr. MURKOWSKI. Mr. President, there is an amendment at the desk by Senator DASCHLE. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI], for Mr. DASCHLE, proposes an amendment numbered 5424.

At the appropriate place, insert the following:

SEC. . EXTENSION OF NORTHERN GREAT PLAINS RURAL DEVELOPMENT COMMISSION.

Section 11 of the Northern Great Plains Rural Development Act (Public Law 103–318; 7 U.S.C. 2661 note) is amended by striking "the earlier" and all that follows through the period at the end and inserting "September 30, 1997.".

Mr. DOMENICI. Mr. President, this amendment is very simple. The amendment clarifies congressional intent and allows all States, regardless of when they opt into the block grant, access to the contingency fund.

The welfare bill restricts States funds in fiscal year 1997 to the block grant amount, even though the effective date for the new program is July 1, 1997. States may operate under current AFDC rules until then.

Congress never intended that States have financial difficulties prior to starting the new program.

In fact, most States make money under the block grant because caseloads have dropped, so the funding limitation never comes into question.

There are handful of States, including my home State, that have had caseload increases since the establishment of the block grant. These States could experience a funding shortfall during the transition period—a situation not foreseen in the original legislation.

Congress created the contingency fund for just this problem.

However, the contingency fund is available only to eligible States and HHS' interpretation is that an "eligible State" is a State that has opted into the block grant.

Most States do not have full-time legislatures that can convene and develop a new welfare plan. For example, New Mexico's Legislature does not convene until January 1997. Therefore, it will take time for New Mexico's welfare plan to be implemented.

Both the Finance Committee and Ways and Means wrote a letter to HHS advising the agency of congressional intent, but HHS responded by saying there must be a legislative change.

This amendment has no cost attached to it. CBO assumed that all States could have access to the funds and as such scored outlays in the welfare bill.

This amendment does not change the way States qualify for the fund—it is not limited to any particular State—any State that qualifies can access the funds as well.

This amendment has the support of the authorizing committees and the administration.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the amendment be agreed to, the bill be advanced to third reading and passed, and the motion to reconsider be laid upon the table, all without further action, or debate.

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

The amendment (No. 5424) was agreed to.

The bill (S. 2183), as amended, was passed, as follows:

S. 2183

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

SECTION 1. TECHNICAL CORRECTIONS TO THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.

(a) CLARIFICATION OF LIMITATION ON CERTAIN FEDERAL OBLIGATIONS FOR 1997.—Section 116(b)(1)(B)(ii)(II) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended—

(1) in item (aa), by striking "the State family assistance grant" and inserting "the sum of the State family assistance grant and the amount, if any, that the State would have been eligible to be paid under the Contigency Fund for State Welfare Programs established under section 403(b) of the Social Security Act (as amended by section 103(a)(1) of this Act), during the period beginning on October 1, 1996, and ending on the date the Secretary of Health and Human Services first receives from the State a plan described in section 402(a) of the Social Security Act (as so amended) if, with respect to such State, the effective date of this Act under subsection (a)(1) were August 22, 1996,"; and

(2) in item (bb)—

(A) by inserting "sum of the" before "State family assistance grant"; and

(B) by striking the period and inserting ", and the amount, if any, that the State would have been eligible to be paid under the Contingency Fund for State Welfare Programs established under section 403(b) of the Social Security Act (as amended by section 103(a)(1) of this Act), during the period beginning on October 1, 1996, and ending on the date the Secretary of Health and Human Services first receives from the State a plan described in section 402(a) of the Social Security Act (as so amended) if, with respect to such State, the effective date of this Act under subsection (a)(1) were August 22, 1996.".

(b) CORRECTIONS RELATED TO THE CONTINGENCY FUND FOR STATE WELFARE PROGRAMS.—Section 403(b)(4)(A) of the Social Security Act, as amended by section 103(a)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, is amended—

(1) in clause (i)(II), by striking "minus any Federal payment with respect to such child care expenditures"; and

(2) in clause (ii)(I)—

(A) by inserting "the sum of" before "the expenditures"; and

(B) by inserting ", and any additional qualified State expenditures, as defined in section 409(a)(7)(B)(i), for child care assistance made under the Child Care and Development Block Grant Act of 1990" before the semicolon.

(c) CLARIFICATION OF HEADING.—The heading of section 116(b)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended by inserting "; LIMITATION ON FISCAL YEARS 1996 AND 1997 PAYMENTS" after "DATE".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of and the amendments made by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

SEC. 2. EXTENSION OF NORTHERN GREAT PLAINS RURAL DEVELOPMENT COMMISSION.

Section 11 of the Northern Great Plains Rural Development Act (Public Law 103–318;

7 U.S.C. 2661 note) is amended by striking "the earlier" and all that follows through the period at the end and inserting "September 30, 1997.".

PROVIDING FOR THE CONVENING OF THE 105TH CONGRESS AND COUNTING ELECTORAL VOTES

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 198 regarding the convening of the 105th Congress and the counting of electoral votes which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 198) appointing the day for the convening of the first session of the One Hundred Fifth Congress and the day for the counting in Congress of the electoral votes for President and Vice President cast in December of 1996.

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

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

Mr. MURKOWSKI. Mr. President, it is my understanding from the clerk that the Senate will come back on the 7th and count the electoral votes on the 9th.

The PRESIDING OFFICER. That is the understanding of the Chair.

Mr. MURKOWSKI. I thank the Chair.

I ask unanimous consent that the resolution be deemed read a third time, passed, and the motion to reconsider be laid upon the table.

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

The joint resolution (H.J. Res. 198) was deemed read a third time, and passed.

THE NATIONAL SECURITIES MARKETS IMPROVEMENT ACT OF 1996—CONFERENCE REPORT

Mr. MURKOWSKI. Mr. President, I submit a report of the committee of conference on (H.R. 3005) and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3005) to amend the Federal securities laws in order to promote efficiency and capital formation in the financial markets, and to amend the Investment Company Act of 1940 to promote more efficient management of mutual funds, protect investors, and provide more effective and less burdensome regulation, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 28, 1996.)

Mr. D'AMATO. Mr. President, today I speak in support of H.R. 3005, the National Securities Markets Improvement Act of 1996. This bill is a critical piece of securities legislation that will vastly improve our securities markets and provide important investor and consumer protections.

As most of my colleagues already know, an earlier version of this bill, S. 1815, passed the Senate unanimously in late June. That bill enjoyed strong bipartisan support. As testament to that support, we were able to introduce the bill, mark it up in committee, and pass it through the Senate within 2 months.

Through hard work on both sides of the Capitol, the House and Senate conference on H.R. 3005 produced a sound bill that thoughtfully and carefully tightens the securities laws. I thank my distinguished colleagues and conferees whose tenacity and dedication have made it possible to produce this legislation. I thank the chairman and ranking member of the Securities Subcommittee, Senators GRAMM and DODD, along with the ranking member of the full committee, Senator SARBANES. I also thank my esteemed colleague, Senator BENNETT, who has been very helpful to the committee on securities legislation this Congress. I thank the staffs: Howard Mennell, Steve Harris, Laura Unger, Wayne Abernathy, Mitchell Feuer, Andrew Lowenthal, and Robert Cresanti, as well as the legislative counsel, Laura Ayud, who literally made this bill possible.

Mr. President, I urge the Senate to act expeditiously on this conference report so that we may then forward it to the White House for the President's signature.

The National Securities Markets Improvement Act of 1996 is a significant piece of legislation that will ensure that the U.S. securities market remains the pre-eminent securities market in the world. The U.S. securities market has the most capital and the most investors. Over 50 million Americans own stocks, not counting more than 10,000 institutional investors. Last year, the U.S. stock market had $7.98 trillion in capital—close to half the amount of capital in the entire world market.

This legislation will make it easier to raise capital in the securities market. The bill will create a new category of unregistered private investment companies that will help venture capitalists tap the capital markets to fund business endeavors. It will also bring more funding and investment to small business by making it easier for economic, business, and industrial development companies to raise money without having to register with the SEC and by providing liquidity and investment opportunities to business development companies.

The bill will promote capital formation by eliminating many overlapping State and Federal requirements for registering securities. It eases the restrictions on borrowing that currently restricts U.S. broker-dealers' sources of funding their business. The bill will make U.S. broker-dealers more competitive in the global markets. It will also allow U.S. firms to pass on substantial savings to their customers.

This bill will make the securities laws reflect the reality of today's marketplace. It will simplify procedures for paying fees and making disclosures. It will give the Securities and Exchange Commission flexibility to adapt to the changing financial market by letting the SEC say the securities laws don't apply where they don't make sense.

This legislation will tighten up regulation by giving the States and the SEC distinctly separate regulatory roles. It will divide between the SEC and the States regulation of the 22,000 registered investment advisers who are entrusted with $10.6 trillion in customer funds—much of which represents savings and retirement money. As a result, investment advisers will be better regulated and consumers and investors better protected.

The bill will make the mutual fund market a national market, that will be comprehensively regulated by the SEC. Mutual funds have become a household commodity in the last several years with almost one-third of U.S. households—that's 30 million households—owning a total of $2.7 trillion in mutual funds. This bill recognizes that the growth in the mutual fund industry means that it is no longer practicable for all 50 States to have a hand in what goes into a mutual fund prospectus.

This legislation also makes sure investors and consumers are not confused about what's in a mutual fund by giving the SEC authority to set standards on mutual fund names.

This is not a controversial bill, it enjoys support on both sides of the aisle. It thoughtfully and carefully tightens the laws governing the securities market. I commend my colleagues and their staff for their excellent work in drafting this legislation and urge my colleagues to support passage of the bill.

Mr. DODD. Mr. President, I rise today to join my colleagues in supporting the passage of the conference report on H.R. 3005, the National Securities Markets Improvement Act of 1996. Allow me to begin by offering my heartfelt congratulations to my fellow conferees: Senators D'AMATO, SARBANES, GRAMM, and BENNETT, with whom I worked very closely in first

creating and now passing this thoughtful and strongly bipartisan bill. I believe that the high quality of this legislation is demonstrable proof of what can be accomplished when we set aside our partisan differences to work for the good of the Nation.

As I've said many times, the U.S. capital markets are vitally important for the good economic health not only of virtually every American company but for millions and millions of individual investors who have placed some of their assets either directly in securities or, as has become more and more common, into mutual funds.

Sustained economic growth is heavily dependent upon the continuing ability of our capital markets and financial services industry to function efficiently and with integrity. If companies find impediments to obtaining capital, they will not grow. If individuals find impediments to their access to securities and other investments, they will not save.

Taking steps to enhance the access of both corporations and individuals to the securities markets is a prudent means by which Congress can help sustain or even increase the Nation's rate of economic growth.

Furthermore, the American capital markets are the envy of the world. No other Nation enjoys the international reputation of our capital markets and it is necessary for Congress periodically to review and modernize, where necessary, the laws that make our markets and our financial services industry the world's leader.

I will acknowledge that it took us a little longer to get to this point than I had anticipated when the Senate passed S. 1815 at the end of June. Despite the other body's initially leisurely attitude toward conference negotiations, we have collectively achieved an excellent product.

This conference report, which I hope that the Senate will adopt today, is the culmination of a lengthy bipartisan effort to reform those aspects of the securities laws that are an outdated impediment to the efficient functioning of the securities industry.

The legislation will also provide clearer statutory directives to both State and Federal regulators so that the integrity of—and confidence in—our capital markets and financial services industry is enhanced.

Without going into excruciating detail, let me just highlight the main areas that this legislation covers: it improves the regulation of investment advisors by clarifying the proper roles of the SEC and the State regulators; it modernizes and streamlines the regulation of mutual funds on the one hand, and provides badly needed modernization of the statutes covering hedge funds and venture capital funds on the other hand; it provides for clarification on a host of technical matters ranging from treatment of church pension plans to the access by U.S. journalists to foreign issuer press conferences. And, significantly, the bill creates the mechanism for increased regulatory flexibility so that the SEC will have the ability to keep pace with needed regulatory changes as the needs and demands both of investors and the financial industry develop over time.

As I mentioned earlier, the legislation will allow the creation of a new kind of private investment company that is exempt from the restrictions of the Investment Company Act of 1940. Because this is a new mechanism for fund managers to use, we provide safeguards for participants in existing private investment companies. Any fund manager seeking to convert their existing fund to a new fund—called 3(c)[7] funds in the bill—must offer all their participants the option to first "cash out." It is further the intent of the conferees that these dissenter's rights not be evaded by fund managers who might seek to either invest their existing fund solely in the new fund or to simply have the old fund exactly mirror the investment decisions of the new fund. The conferees expect the commission to be particularly vigilant in this matter. It is also the expectation of the conferees that the commission act swiftly to define the term "Beneficial owners." It is the intent of the conferees that when such notices are given to institutional investors, the notice be given only to the controlling entity of that institution, not directly to all of the investing institution's underlying investors or participants.

I am also pleased that the conference report will require the Commission to study the impact of recent judicial and regulatory rulings that have limited the ability of shareholders to offer proposals at shareholder meetings regarding a company's employment practices. The abilities of shareholders to offer such kinds of resolutions such as the "Sullivan principles" for South Africa and the "MacBride principles" for Northern Ireland have had a direct impact on ensuring that U.S. corporations do not participate in the loathsome discriminatory practices that occurred—or still occur—in those Nations. I look forward to the results of the Commission's study in a year's time.

I would also note a few important provisions from the House bill that were included in this conference report. First, the conference report contains a 10-year authorization for the Securities and Exchange Commission that will reduce registration fees that were a drag on capital formation and will provide a level playing field for transaction fees on the New York Stock Exchange, the American Stock Exchange, and the NASDAQ stock market. This provision is a huge improvement over the House's original plan, since the plan first adopted by the House would have caused a negative impact upon programs in the Commerce Department, Justice Department and the State Department.

The Senate played a critical role in forcing the other body to reach agreement with the administration and Senate appropriators so that the goal of fee reduction could be achieved without harming other important Federal programs.

The conference report also contains a requirement for the establishment of uniform State laws on books and records for broker-dealers. While this uniformity has long been sought by State regulators, the SEC and industry, I remain concerned that some States will have to adjust their laws regarding books and records kept at branch offices. It is the intent of the conferees that the SEC work closely with the States to determine what records should be maintained at branch offices and to establish a mechanism so that States could require such records be kept in the branch office, rather than at a back office halfway across the Nation.

At this time, it is also appropriate to thank the Senate staffers who have worked so hard on turning ideas and goals into concrete legislation. I extend my congratulations and appreciation to Andrew Lowenthal from my staff; Laura Unger, the majority counsel; Mitchell Feuer, the minority counsel; and, Wayne Abernathy, the majority staff director of the Securities Subcommittee. I would also like to extend my thanks to someone who frequently, though unjustly, goes unmentioned when accolades are given on the floor—Laura Syoud of the Senate legislative counsel's office whose expertise was invaluable in solving some of the most difficult problems we confronted in drafting not only this conference report, but in the original Senate legislation.

Mr. President, this is a carefully balanced bill that, upon enactment by President Clinton, will improve our Nation's securities laws to allow the markets to function more efficiently, while balancing those reforms by maintaining, and in some cases enhancing, The full strength of investor protections that have made our markets the best in the world.

I urge my colleagues to support adoption of this important legislation.

Mr. SARBANES. Mr. President, I am pleased that the Congress has today enacted H.R. 3005, the National Securities Markets Improvement Act of 1996. Both the Senate and the House of Representatives passed legislation intended to promote efficiency in the regulation of mutual funds, better allocation of responsibility between Federal and State securities regulators, and elimination of outdated provisions. While the two bills had much in common, they also

differed in certain respects. I commend Senator D'AMATO for his leadership of the Conference Committee, which has successfully bridged the differences between the two bills. Credit also goes to Senator GRAMM, Senator DODD, Senator BENNETT, and the House Conferees. The final product is a reasonable bill that deserves support.

This bill has two major themes: first, improvement of mutual fund regulation, and second, reallocation of responsibility between Federal and State securities regulators. It is appropriate to review the regulation of mutual funds, given the tremendous growth in this segment of the financial services industry. Mutual fund assets now equal insured bank deposits in size. The legislation contains a number of provisions supported by the SEC that are intended to allow mutual funds to operate more flexibly. These provisions include allowing the SEC to require mutual funds to provide shareholders with more current information and to maintain additional records that will be available to the SEC. Given the importance that mutual funds now have as an investment vehicle for millions of American households, it is crucial that information be available for mutual fund shareholders, and these provisions address that need. Both the Senate and House bills contained provisions creating a new exemption for funds open solely to sophisticated investors know as qualified purchasers. In the conference report, the House and Senate reached a compromise on the definition of qualified purchaser.

With respect to the role of the States in securities regulation, let me say that State securities regulators play a crucial role in policing our markets. Still, dual regulation need not mean duplicative regulation. The State regulators themselves have convened a task force to recommend how securities regulation can be made more efficient and effective by dividing authority between the Federal and State level. This conference report retains the provision of the Senate bill, that the SEC may preempt State laws only with respect to securities traded on the New York Stock Exchange, the American Stock Exchange, the NASDAQ, or other exchanges with substantially similar listing standards. The provision in the House bill would have preempted State law for securities not traded on an exchange. The conference report does contain preemption provisions from the House bill that were not present in the Senate bill, addressing secondary trading and regulation of brokerage firms.

The House and Senate compromised on the investment adviser provisions of the Senate bill. These would have removed investment advisory firms with $25 million or more under management from State regulation. The conference report provides that investment adviser representatives of such firms will continue to be licensed by the States in which they have places of business. The bill does not prohibit a State from requiring that investment adviser representatives doing business in that State designate a place of business in the State, such as an address for service of process, for purposes of maintaining State licensing authority over such individuals.

This is a moderate bill, and appropriately so, for the Federal and State laws governing our securities markets and the participants in those markets are not in need of wholesale changes. All the evidence suggests that the U.S. securities markets are functioning well. Companies continue to raise capital in the U.S. markets in record amounts. In addition to established businesses, new companies have been raising capital in record amounts. Individual investor confidence in the securities markets, measured by direct investment in securities and investment through mutual funds and pension plans, remains high. The U.S. securities markets retain their preeminent position in the world.

As passed by the conference, this bill strikes a reasonable balance. It should improve efficiency in the regulation of our securities markets without unduly limiting the authority of the State regulators, thereby exposing investors to sharp practices. The bill received support from Democratic and Republican House and Senate conferees, and was passed by the House unanimously 2 days ago. I am pleased that the House and Senate, Democrats and Republicans alike, were able to reach consensus on this legislation.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the conference report be considered as adopted, the motion to reconsider be laid upon the table, and statements relating to the report appear at the appropriate place in the RECORD.

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

The conference report was agreed to.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, and passed, the Senate will stand in recess until 2:15.

Thereupon, the Senate, at 12:35 p.m., recessed until 2:13 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. SMITH).

FEDERAL AVIATION REAUTHORIZATION—CONFERENCE REPORT

The Senate resumed consideration of the conference report.

The PRESIDING OFFICER. Under the previous order, there will be 3 hours of debate on the conference report equally divided.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I designate myself as being in charge of the time for this side of the aisle.

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

Mr. MCCAIN. Mr. President, I will be brief.

We have decided and the reality is that we will pass this bill. Under the unanimous-consent agreement we entered into yesterday, we will have a cloture vote on Thursday, it is obvious that there are well in excess of 60 votes for passage of this conference report. Unfortunately, for reasons that are not clear to me, the other side has chosen to delay until Thursday that cloture vote. Then, of course, there is the possibility of utilizing time after that.

Meanwhile, funding for much-needed projects is being held up. Funding for projects that are vital, in the view of many States throughout the country, which I will be describing at a later time, is being held up. I do not know why it is being held up. I do not know if it is at the behest of the Teamsters Union. I do not know if it is at the behest of some other labor unions. I do not know why. This provision was inserted by the Senator of South Carolina in conference and voted and carried nearly unanimously. It was the correction of a technical error. Now, the Senator from Massachusetts has tied up the Senate, going through the arcane obstruction and delay such as having the bill read for nearly 5 hours last evening. All but two pages of it were required to be read last night. I do not know why that happened, but the fact is we should be taking up this conference report and passing it right now. There are plenty of Senators who are still in town. We could do it now.

Why the Senator from Massachusetts insists on delaying these programs and projects—do you know what these programs and projects are? These are jobs. These are real jobs for working men and women around America who want to move forward to take their jobs and are now precluded from doing so until this conference report is signed.

The fiscal year ended last night at midnight. We are now a little more than 14 hours into the new fiscal year and thousands, literally thousands of men and women who are not working on these critically needed airport projects. We are now 14 hours into the new fiscal year where much needed improvements having to do with aviation safety and airport security are not being accomplished. We will go into Thursday at minimum, which is 2 more days away. Then the conference report is signed. Then it has to go to the President's desk for signature. We could be talking about several days, all because the Senator from Massachusetts objects to us moving ahead and

voting on the conference report which has the overwhelming support of the Members of the Senate. Let me be clear, the provision in question was proposed on his side of the aisle in the conference, which was a technical correction to a drafting error and we all know it was a technical correction—that is all.

I say to the men and women who want to go to work, who want to help build their communities, who want to improve aviation safety and airport security, who want to do the things that this Congress and the American people want them to do, I am sorry; I am sorry this bill is being held up for no good reason. People can draw their own conclusions as to why this legislation is being held up.

There is no excuse for it. There is no reason for it. I know that people who are members of airport authorities, people who are involved in small businesses around the airports that supply the equipment and all the materials that go into the various airport construction and modernization projects around this country are asking the same question.

Now, perhaps the Senator from Massachusetts does not care about these small business people. Most of them are not union people. They do not give $35 million to defeat incumbent Republican Congressmen and Senators. No, they do not. They are just small business men and women around America who are trying to do their job and have been told these construction projects would move forward at the beginning of the fiscal year.

Now they are not. Now they are not. They are being held up.

It is interesting that we should have the deep concern and abiding concern about raising the minimum wage to help men and women around America. I wonder how many months at the current minimum wage increase these people are going to have to work in order to make up for the days and possibly weeks that are involved in the delay that is being orchestrated by the Senator from Massachusetts and a handful of other Senators on the other side of the aisle. I am going to try to get those calculations done between now and Thursday.

I think it is unconscionable. I think it is outrageous. I strongly recommend that the Senator from Massachusetts, for the sake of his own State, for the sake of the programs in his own State, would want to move forward so these people can go to work, so these airports can be improved, so we can get these much needed airport projects done.

Mr. President, let me tell you what is in Massachusetts. General Edward Lawrence Logan Airport in Boston, MA, $3,691,173; Nantucket Memorial Airport, Nantucket, MA, $949,962; the Barnstable Municipal Airport in Hyannis, $797,690; Martha's Vineyard Airport, $500,000; Worcester Municipal Airport, $500,000; New Bedford Regional Airport, $500,000; Provincetown Municipal Airport, $500,000—a total of $7,438,826 in Federal dollar entitlements, matched by $3,539,692 in Federal dollar State apportionments—a total of $10,978,518 the people of Massachusetts right now are being deprived of.

I do not understand it. I do not understand it, especially since this fight is over. This fight is over because we all know what is going to happen on Thursday.

"General Edward Lawrence Logan Airport, Federal Aviation Grants, $2 million, Noise Grant Program, Funding Crisis Alert."

This is from the mayor, Mayor Thomas M. Menino, City of Boston.

General Edward Lawrence Logan Airport, Federal Aviation Grants, $2 million, Noise Grant Program, Funding Crisis Alert.

A crisis exists which threatens future grants for airports.

Excise taxes, including the airline ticket tax, which funds federal airport grant programs, have expired.

Congress must pass a short-term extension of these taxes in order to make the aviation trust fund solvent again.

Please urge Boston's representatives in Congress to save the airport program.

Save the airport program? Mr. President, I want to tell the mayor of Boston I will do everything I can, but I suggest that he contact Senator KENNEDY.

This is harsh language. These are harsh things I am saying in the Senate Chamber. I realize that. It is late in the season. We are in a political campaign. But I want to repeat, there is no rationale or excuse. I see the Senator from Massachusetts on the floor, so I directly ask the Senator from Massachusetts—I directly beg him to let us move forward and have a vote immediately, an immediate vote on the conference report. He has already lost. Let us have a vote on the conference report now and let us get this over with, get the bill to the President of the United States and have him sign it so we can move forward with these critical airport projects and let the working men and women all over America who want to begin work on $9 billion worth of projects, let them get to work. Let these airport related improvements be made. Let the aviation safety and airport security programs be implemented.

I will read in just a minute the safety and security provisions that are in this bill which are being held up because of the Senator from Massachusetts' reluctance to allow us to move forward. Mr. President, there are various airport security and aviation safety projects which are in this bill, which I will not read at this time, but I can tell you that there are at least 100 or more all over the United States.

Let me tell you about some of the aviation safety and airport security provisions. This bill requires the FAA to study and report to Congress on whether some security responsibilities should be transferred from airlines to airports and/or the Federal Government. The FAA is directed to certify companies providing airport security screening. This legislation, as soon as the President signs it, bolsters weapons and explosive detecting technology by encouraging research and development. It requires that background and criminal history records checks be conducted on airport security screeners and their supervisors. It requires the FAA to facilitate the interim deployment of currently available explosive detection equipment. It requires the FAA to audit effectiveness of criminal history records checks. It encourages the FAA to assist in the development of passenger profiling systems. It permits the Airport Improvement Program and Passenger Facility Charge funds to be used for safety and security projects at airports.

Mr. President, the Airport Improvement Program funds cannot be used for such safety and security projects at airports unless the Senator from Massachusetts lets us move forward with this bill.

The FAA and FBI must develop a security liaison agreement. We cannot begin on that. The FAA and FBI must carry out joint threat assessments of high-risk airports. We cannot begin on that.

It requires the periodic assessments of all passenger and air carrier security systems. It requires a report to Congress on recommendations to enhance and supplement screening of air cargo.

Mr. President, on aviation safety, it eliminates the dual mandate and reiterates safety be the highest priority for the FAA. It facilitates the flow of the FAA operational and safety information. The FAA may withhold voluntarily submitted information.

It authorizes the FAA to establish standards for the certification of small airports to improve safety of such airports. It directs the NTSB and FAA should work together to improve safety data classification so as to make it more accessible and consumer friendly and then publishes it.

It requires the sharing of pilot's employment records between former and prospective employers to ensure marginally qualified pilots are not hired. It discourages attempts by child pilots to set records or perform other aeronautical feats.

It also requires the FAA and NTSB to work together to develop a system so that the notification of the next of kin can be done in the most humane and compassionate fashion.

I do not know why the Senator from Massachusetts will not let us move forward. I ask at this time unanimous consent that we move immediately to the conference report and vote on it.

The PRESIDING OFFICER. Is there objection? The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I object.

The PRESIDING OFFICER. Objection it heard.

Mr. McCAIN. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I ask unanimous consent that we go immediately to the bill on the calendar on the FAA authorization that is without the labor provisions.

Mr. McCAIN. Reserving the right to object, the Senator from Massachusetts knows full well the House of Representatives, the other body, is out and is not coming back. The Senator from Massachusetts also knows——

Mr. KENNEDY. Regular order, Mr. President. Is there objection?

Mr. McCAIN. I was stating my reservation.

The PRESIDING OFFICER. There is objection?

Mr. McCAIN. I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, the House of Representatives is subject to the call of the Chair by the Speaker. As time-honored practice and procedures, they have followed that on countless occasions. I am glad we were able to clear the air of some of the comments that were made earlier by the Senator from Arizona.

Mr. President, I wish very much that we had been able to have passage of the FAA conference report. My friends and colleagues have talked about the urgency of these various programs. I do not know what delayed the members of the committee itself, or the conference, from bringing it to the Senate in these last hours. With all the points that were raised by the Senator from Arizona, I would have thought we would have had an opportunity to have this matter earlier in the consideration of the Senate Calendar. I do not know what happened during the course of those discussions or debate, but clearly the Republicans chaired those conferences and they bear a direct responsibility as to when those conferences are going to report back.

I heard the Senator from Arizona saying that, now that we have this in these final moments of the Congress, now we have to act. We ask: Where was this conference earlier in the course of this session? Why did we not act on it at an earlier period of time? Why is it one of the last pieces of legislation that we have before the Senate?

Clearly, it is because those who support this provision, which is the subject of our debate and discussion here this afternoon, felt they could jam the Senate in terms of this particular provision.

That is an old technique. The Senator from Arizona is familiar with it, as I am familiar with it. We ought to put it in some kind of a context.

The fact remains, Mr. President, when we had the continuing resolution before us yesterday, I was prepared to offer the FAA conference report without this special provision that benefits only one company and that will give it particular advantages, which it does not have at the present time, over the ability of their workers to organize into a union. But that was objected to by the Republicans.

Now they are saying, "Well, why didn't we pass this?" And they try to put the blame on the Senator from Massachusetts. We could have passed this overwhelmingly. I don't think there would have been a vote against it, if we had done it yesterday with a 10-minute time consideration. But, no, there was objection to that.

Now we say, "All right, let's get into why now our Republican friends and some Democrats want to have this longer, drawn-out process and procedure."

Mr. President, I want to address a few issues here this afternoon. We have other colleagues who will come to the floor who I hope will enter into this.

First of all, I want to point out that I wish that those who are saying that somehow we are delaying this and somehow there are safety considerations, I wish they had acted on those concerns yesterday. We could have done this. We could have passed it. Effectively, they said, "No, we're not going to do that, we're not going to pass the FAA conference report without that special interest provision. We refuse to do it, even though the conference report has all those safety mechanisms."

And now after they refuse to do it, they come over here on the floor and say, "We should pass it right away. I ask consent we pass it right away because of these safety provisions."

I think it is important to understand, and I know there are members of the committee who have a great deal more knowledge and experience about what is in this bill, but as I understand it, the operation account, which funds air traffic controllers, safety inspectors, security personnel, airport noise personnel, maintenance personnel, as well as everything and everyone that runs air traffic in the United States, not one of those operations is affected by the FAA reauthorization bill.

Also, security personnel who operate the metal detectors to screen baggage are employees of the airlines who use the terminal, and, therefore, are unaffected by this legislation.

Second, the facilities and equipment account pays for the display terminals, air traffic controllers, look-out radar equipment and other equipment used in the aviation industry. None of this is affected by the FAA reauthorization bill.

Third, the research account funds all sorts of aviation research. For example, FAA has funded research on the best x-ray machines for checking bags. All of this research is totally unaffected by the pending FAA authorization bill.

The Airport Improvement Program is the only FAA program that is affected by the pending FAA reauthorization bill, as I understand. AIP awards grants for airway improvements, and the contract authority for these programs depends upon the passing of the FAA reauthorization bill. While the AIP programs may be highly desirable, they do not affect the safety of the aviation industry, and those are the facts.

I think when we are taking a look at these scare comments, we ought to try and put this into some kind of perspective. We are going to have an opportunity to vote on this measure in 2 days, in any event, but safety is simply not affected by this bill. We know this is true because in 1994, the FAA reauthorization bill was not passed for almost 11 months. There was no question at that time with regard to safety. As I say, if there was such the urgency at the time, I suspect the Republicans who bore the responsibility of moving that process would have brought it forward at the time.

Mr. President, what is really at issue here, and why are we at this juncture? I refer, if I can, to some of the House debate. The House debated this issue. As a matter of fact, with all due respect for those who talk about a technical amendment, this was outside of the conference. We have a rule that is generally not enforced, historically, in this body, but the House does recognize that when matters are outside of the conference, that they have to get a special rule. That happened with regard to this particular measure. When all of those people say, "Well, this was just a technical matter," the fact is, they needed a separate vote in the House of Representatives.

I quote the chairman, the Republican chairman, of the Aviation Committee over in the House of Representatives, Mr. SHUSTER, when he was questioned about why this new provision was added to the FAA reauthorization. Mr. SHUSTER, in response to Mr. MOAKLEY says:

> I would be happy to respond. Absolutely.
>
> It is outrageous, it is outrageous that we even have to deal with this issue this way, because it is nothing more than a technical correction. We think it is fundamentally wrong . . . because this is nothing more than a technical fix.

That is Mr. SHUSTER. But even the Parliamentarian understood that was not the case, because they did require separate debate and a separate vote.

I found reading the House debate very instructive, especially remarks by

those who have the special responsibility, the members, of the Aviation Committee.

Mr. LIPINSKI—and I think this really points out quite well in a brief way what this issue is all about when Mr. LIPINSKI was recognized. He said:

Let us focus on what this debate is really about. This provision for FedEx is another assault on the American middle class. The American middle class has been attacked for over 15 years by our Nation's terrible trade policies, technology, profit driven downsizing, profit-driven deregulation and systematic sinister weakening of unions. How, you ask? Let me explain.

During the debate on the rule, I outlined the history of this dubious Federal Express provision. Let us take a closer look at what my colleagues are calling a technical correction.

During the debate, the House Members were talking about the different attempts, the five or six different attempts by Federal Express to have this provision included in other legislation.

House Republicans tried to attach it to the 1996 omnibus appropriations bill, and it failed. House Republicans tried to attach it to the NTSB reauthorization, and it failed. House Republicans tried to attach it to the Railroad Unemployment Act Amendments, and it failed. Senate Republicans supported to attaching it to the Labor-HHS appropriations bill in committee, and that failed.

So the rider was not on the FAA reauthorization bill when it passed the House, it was not on the reauthorization bill that passed the Senate, but it was added in the conference.

So this is not, Mr. President, just a little technical change. This is a long-committed, dedicated effort to, in a very significant and important way, at the outset, override the litigation which is currently taking place on this very issue.

That is interesting, isn't it? A legislative fix for something that is effectively in litigation at the present time in the NLRB. Federal Express wasn't taking a chance that the NLRB might rule in one particular way, and they wanted a legislative fix. They tried and tried and tried and tried again.

This is not a technical fix, Mr. President. This is a very purposeful, directed, well-organized effort to change the rules of the game right in the middle of the game. Change the rules. Why do I say "change the rules in the middle"? Because it is, at the present time, in litigation. And what one side, Federal Express, is trying to do, is change the rules in the middle of that litigation.

Let me just continue with what Mr. LIPINSKI said:

During the debate on the rule, I outlined the history of this dubious Federal Express provision. Let us take a closer look at what my colleagues are calling a technical correction.

The last express carrier, as defined by the ICC, went out of existence 20 years ago, so at the ICC's suggestion the classification was removed from the statute because it was obsolete.

But suddenly, after the ICC bill is signed into law, one company and its countless consultants decided that it might want to be an express carrier some day and started knocking on doors up here.

I have already outlined the five other times FedEx has tried to get this provision into law. Judging by the consistent effort and expense they have gone to, it must really be important for them to remove this dead classification.

But why? Federal Express would not go through all this trouble if they were not going to get something out of it. The fact is that it is much more difficult for a union to organize under the Railway Labor Act than under the National Labor Relations Act.

Mr. President, I explained that earlier. Under the Railway Labor Act, you have to have a national bargaining unit. Under the NLRB, you have local bargaining units. And each law applies to those relevant bargaining units.

What the purpose of this legislation is is to short-circuit the NLRB's making a judgment to put the trucking aspects of Federal Express under the Railway Labor Act, which will make it much more difficult for them to ever obtain union representation.

I continue:

Under the RLA a unit of the company would have to be organized company-wide, while under the NLRA it can be done facility by facility.

Why is this relevant for a company like Federal Express, which is currently classified as an air carrier and already subject to the RLA? Federal Express' operations have changed. No longer does every package get on a plane. Often it just goes on a truck to its destination.

I understand that Federal Express' long-term plan is to truck in packages less than 400 miles away from their hubs around the country. Why would an airline like Federal Express rely so much upon trucks? Because it is cheaper. To their credit, Federal Express is planning for the future to remain competitive. It sure seems to be working.

They know where they are going, Federal Express. They are going into the trucks to deal with these issues. And they are trying to be characterized as an air carrier so that they will have different rules for the road in order to be able to halt the ability of the organizers to be able to go forward.

Mr. President, that position was stated just as accurately—and I would refer my colleagues and friends to Mr. OBERSTAR's statement which effectively says the same; and Mr. NADLER from New York, who effectively says the same. These are members of the House Transportation and Infrastructure Committee. These are not just Members of the U.S. House of Representatives, these are members of the committee of knowledge.

What they refer to, Mr. President, about this change is the ICC Termination Act of 1995 and the conference report. And if you look in the conference report, the general jurisdiction issues—first of all, if you look at page 154, you will see the Railway Labor Act amendments. In the first paragraph, the amendment strikes the term "express company"—that is the term of art.

Then under the amendment to the Interstate Commerce Act's general jurisdiction provisions, it states, "outdated references to express and sleeping car carriers which no longer exist, would be removed."

And then you go on to the back and look and see who signed it. You find out that the signatories were all the members of the conference committee, Republican and Democratic alike. They all signed it. This idea that this suddenly slipped in the drafting of the measure, that somehow people did not quite understand, that it really is technical, it runs completely to the contrary.

It runs contrary to what the Congressional Research Service has found. It runs contrary to the explicit words in the legislation. It runs contrary to the conference report, which bears the signatories of the Democratic and Republican members of this conference committee here in the U.S. Senate.

That happens to be the bottom line, Mr. President. We understand that what FedEx has tried to do over a long period of time was rejected. And it was rejected because it was such an outrageous grab for preferential consideration by one company, and the history of it that demonstrates quite clearly that the effect of this particular change would dramatically alter and change the current litigation in which Federal Express is very much involved.

Mr. President, I come back now to what really this issue is all about, as far as I am concerned. It is not just so much all of these kinds of references, which I am sure during the course of the debate in the afternoon we will come back to, but I want to just get back to how Federal Express treats its employees. That is what we are basically talking about, how these changes are going to affect the welfare and the well-being of these various employees.

In 1991, Federal Express employees had gone 7 years without a pay increase. Today, we celebrated the increase in the minimum wage. We went 5 years without an increase in the minimum wage. In 1980, the minimum wage provided a livable wage for a family of three. Now, this year, prior to this day, a family of three would be $3,000 below the poverty wage.

We had a commitment in this country, Republicans and Democrats, to say that we are for men and women who are going to work for a living, that they be provided a living wage so they honor work. That is a fair and just position. We had difficulty in getting that measure even voted on here in the U.S. Senate. Republican leaders in the House and Senate refused to even be willing to give us a vote on it. Then,

when we got an agreement to vote on it, they wanted to reduce it; and then after we passed it, they wanted to delay its implementation.

But today it went into effect for 4.6 million Americans—4.6 million, and $1,000 a year, $20 a week. And that went into effect.

But here, Mr. President, we have the Federal Express employees for 7 years without a pay increase. And the company planned to reduce the drivers' work hours and substitute temporary employees. That is what ignited the initial organizing drive in 1991. Federal Express responded by giving the workers a pay increase in 1992 and 1993.

But during the last 3 years, despite the booming business, Federal Express employees have not received any raise, and the company recently announced there would be no further across-the-board increases.

So the Federal Express employees are in the process of organizing a union. They want a better deal. And what are the kind of grievances they have?

Well, there is Al Ferrier. He has been a tractor-trailer driver for Federal Express for 17 years. He wants a better deal. He has had three knee surgeries, a shoulder surgery, following on-the-job injury. Mr. Ferrier was recently diagnosed with cancer. Federal Express responded to Mr. Ferrier's misfortune by giving him 90 days to find a new job.

Joe Coleman wants a better deal, too. He was Federal Express' longest service employee when the company fired him. With no union, there was no grievance procedure to protect him or to even give him a chance to prove that his dismissal was unjust.

I could take literally hours to go through this. I do not know whether Al Ferrier or Joe Coleman are going to have the support of their colleagues to be able to say that "we want to be organized to pursue those," or not. I do not know that. We do not know in this particular forum whether they do or they do not. But they ought to at least be given a chance. We should not have the rug pulled out from under them. We should not change the rules of the road at a time when that issue is before the NLRB, and that is what this language does.

It is saying to the Al Ferriers and the Joe Colemans, and the countless other workers who feel they have not been treated fairly, we are going to take your opportunities away because we are going to change the rules of the game and put you under the Railway Labor Act, which means you are not going to try and just convince all of these in your local community or in your town; you are going to have to effectively convince everyone in this country because of the outreach of Federal Express.

These are real grievances. These are real families. These are real working men and women that are trying to do this. And all we are just saying is that we are not going to just stand by, by the sleight of the hand, and take away the legitimate interests of these working families. That is the issue.

We will hear later on about what we were really intending to do, and that this is really not going to change things. That is what the issue is: Whether these men and women have a right under the existing laws, existing laws here in the United States, to be able to make a judgment and a determination by convincing some, "Come with us and let us form a union;" or maybe they will be defeated.

We are not making a judgment on that. All we are saying to those who support our position is let them play by the rules that exist today—not in this legislation, not in this legislation that is being enacted here that was changed, which was never in the bill that passed the House or in the bill that passed the Senate and was basically discarded on a half a dozen different occasions and needed a special rule in the House of Representatives, even with people saying this is just a technical change, a technical change.

Well, the House Republican Parliamentarian understood this is certainly more than a technical change when he studied it and ruled on it. He understood it was more than a technical change. That is the only provision, the only provision of the conference report they had an independent vote on, because it was outside the scope and added at the final hour.

Mr. President, that is what we are looking at. Now we can say, well, is this really an isolated kind of circumstance in regard to Federal Express? I was absolutely startled reading through their pamphlets on the questions of what they were going to do about workers and how they would consider those that might want to get into a union. It is clear in reading through that book—and I see other colleagues that want to speak, so I will just touch on this point briefly. There is no question that the Federal Express is antiworker and the Federal Express Co. is not shy about its antiunion attitude. They distribute to managers a labor law book with specific instructions on how to prevent unionization efforts. On page 2 of the handbook Federal Express tells the managers, "Our corporate goal is to remain union-free. We all have the responsibility of making unions unnecessary at Federal Express." Federal Express devotes a whole chapter to what are indications of union activity, and in one chapter they advise supervisors to be on the lookout for these signs and report problems by calling your local personnel representative, the Employee Relations Department in Memphis. What are these sinister signs? Employees begin leaving the premises for lunch in unusual numbers; employees show unusual interest in compensation, personnel, and other company policies.

Mr. President, maybe they are in the union, maybe they are not. I am not saying one way or the other, but we ought not to say we are going to change the rules of the road. If Federal Express has that attitude, so be it. But we ought to understand it and it makes it much clearer in understanding what this proposal is about, what this proposal is about and what their intention is about.

It is just a measure we wanted to make sure conformed with the previous legislation. You put this evidence together about what the activities of Federal Express have been, the efforts they have gone to change this, what their own corporate attitude is, what their conditions are in terms of their employees, and you find out and see very clearly what has been happening with regard to Federal Express employees.

Mr. President, there are others here that want to address the Senate but I will conclude with these brief remarks. There is no question that this provision was put in here purposely to affect Federal Express' clear interests. That has been demonstrated during the course of the debate not just in the U.S. Senate, but the House of Representatives and the actions by Federal Express. They are entitled, as a company, to pursue whatever interests they might have—I recognize that—but not to change the rules in the middle of the game. That is what they are doing—changing the ground rules.

Americans understood fair play. They see it every day. They saw it last night in the Dallas-Philadelphia game. They understand fair play. They understand you have a set of rules, you play by them. Not Federal Express. They want the rules changed, and not changed just for the future—in order to be able to carry forward their company policy to maintain themselves really free from pursuit of grievances by workers, and by undermining litigation that is currently in place.

We do not do that around here very often. We do not take legislative action to pull the ground out from families and workers in our country that are playing by the rules and thought they would play by this set of rules, and then to be in litigation and find out the Congress in the last hour is playing by a different set of rules. We do not act around here just to benefit one company. We take action clearly in a general way. There will be particular companies that are going to, for one reason or another, be adversely affected and impacted in an unfair and unjust way. We address those. We try to. We never do it as effectively as I think the public thinks we should. That is always complicated and difficult.

That is not what this is about. That is not what this is about. That is not

this circumstance. This is a clear power grab by Federal Express to carry forward its antiworker philosophy, and it is changing the rules in the middle of the game. It is basically unworthy for the Senate to favor that particular position. All we are trying to do is to get that provision removed. We could have tried yesterday but we were prevented from doing that by the Republican leadership—to say OK, we will pass the FAA without this provision, send it over to the House, and as all of us know, everyone in this body knows, the House of Representatives is subject to the call of the Chair. This would fly through the House of Representatives. We heard the same arguments when we had the minimum wage that we could not pass, just before the August recess, because the House was going to be out. We had it on Lodine. If Members will remember, there was a special tax provision for one particular company that was added to an agricultural appropriation in the last hours and here on the floor of the Senate there was such a row by Members—Republican and Democrat alike—that this was a special provision for a special company. We heard at that time, "We cannot do that now because the House of Representatives is not there." We know the House of Representatives at the call of the Chair passes those measures.

Given the vote in the House of Representatives, given the vote in the House of Representatives which was so incredibly close, a 20-vote difference, with 30 Republicans in the House of Representatives voting with the Democrats. Mr. President, 30 Republicans voted with the Democrats because they felt this kind of procedure was unworthy, 30 Republicans, and 15 Democrats went the other way. It was decided in the House by 20 votes.

Mr. President, they had the full debate. They understand this is a great deal more than just a technical amendment. It is a substance amendment. We ought to free this legislation from it and pass this legislation and get on with the rest of the country's business.

Could I ask how much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 58 minutes remaining.

Mr. MCCAIN. Mr. President, I yield myself such time as I may consume. I will be very brief because the Senator from South Carolina is waiting to speak.

Mr. President, the Senator from Massachusetts keeps alleging that somehow we could pass this bill by removing this legislative provision and then getting it passed. And clearly, the Senator from Massachusetts is entitled to that opinion.

Unfortunately, it is not shared by the Democratic leader, Mr. DASCHLE, who had a press briefing this morning which I will quote from:

Question. Isn't the bottom line on this FedEx business, that if you don't pass the bill, and you do pass some sort of a continuing funding resolution or mechanism, that FedEx does not get its way and that the Teamsters do?

DASCHLE. Well, it's more complicated than that. At this point, we can't send a bill back to the House because I don't anticipate that they'll come back.

And because they won't come back, and there's no desire to. Any change we'd have to make would require unanimous consent. We're told any change to this bill would not acquire the necessary unanimous consent agreement there.

And as a result, we are really left with the conference agreement that has now been written. So our options are very, very limited. So it's not even a question of who wins or who loses with regard to that specific provision, the question is, are we going to pass a conference report that really needed to be passed yesterday?

Question. You've passed it, you've got a funding problem.

DASCHLE. Exactly.

Question. And you can't resolve that either.

DASCHLE. We can't resolve that. I mean, we have—short of bringing the House of Representatives back into session, we can't find another way, another vehicle, another funding mechanism.

And as I indicated, that the leadership in the House have already made it known that they don't plan to come back.

Question: So you've got to pass this bill?

DASCHLE. We've got to pass this bill.

I am sorry that the Senator from Massachusetts does not agree with his elected leader here in his party, who clearly says we have to pass this bill, which he also says we should have passed yesterday.

Why should we have passed it yesterday, Mr. President? Because there are thousands of men and women who are workers who are not working, who would be working if the Senator from Massachusetts had allowed this bill to pass, rather than have the bill read last night for 5 hours, as he did, and keeping this body tied up.

Mr. President, let me also point out that everybody is entitled to their opinion, but not everybody is entitled to their facts. The facts are that the Senator from Massachusetts stated that only Airport Improvement Program moneys, aviation improvement fund moneys, would be affected by the lack of passage of this bill. Mr. President, that is not correct. The aviation trust fund is unique. The Finance Committee and the Joint Committee on Taxation have studied this issue, and their staff state that the language in the code regarding "meeting obligations of the United States," which, I repeat, is unique to this one section of the code, effectively means that all spending out of the trust funds bill will be stopped.

This means countless aviation safety programs, jobs, and airport construction programs will be affected, and are affected as we speak, but will be more affected as we wait until Thursday and will be more affected between the time the bill is passed and goes to the President's desk. Furthermore, if this bill is not passed, we cannot have criminal history background checks and the FAA will not be able to deploy $175 million for explosive detection technologies—many which are made in Massachusetts. I repeat, this information comes from the Finance Committee and the Joint Committee on Taxation both.

So the Senator from Massachusetts does not have his facts correct on what is stopping being funded. Let me give a brief comment on some of the projects that we have already heard from—some of the programs that are stopped: Providence, RI, debt service for a new terminal, letter of intent; Philadelphia, PA, site preparation for new commuter runway; Ithaca, NY, entitlement for runway project, phase 2; Albany County, NY, new terminal project; Parkersburg, WV, mud slide; Parkersburg, WV, finish a new airport; Buckhannon, WV, site preparation for runway extension; Buffalo, NY, terminal project, letter of intent; Portland, OR, runway reconstruction; Denver, CO, debt service for new airport, letter of intent; Seattle, WA, ongoing noise program; Memphis, TN, cash-flow problem.

The list goes on and on, Mr. President. We are already hearing from the airport managers who are not able to move forward on these critical airport projects. They are not able to move forward.

Mr. President, look, I am not familiar with FedEx. I certainly have known many of their employees. There are 125,000 of them. Allegation: Joe Coleman was fired and received no grievance. Joe Coleman was fired and received no grievance procedure. Truth: FedEx has an internal grievance procedure, and Mr. Coleman appealed his discharge and was reinstated in 1991. He subsequently quit. Allegation: Al Ferrier received injuries and was told to find a new job in 90 days. Truth: Mr. Ferrier was offered a full-time job, which he turned down, a month ago.

Mr. President, I don't know the facts of these cases. These are other responses to them. What the Senator from Massachusetts says may be true, but I have different information.

But what cannot be disputed here, Mr. President, is that thousands of workers are not working today or tomorrow or Thursday because the Senator from Massachusetts refuses to allow this bill to move forward and the conference report to be voted on, and that includes aviation safety and airport security.

Mr. President, let me finally say that this legislation does not prevent Federal Express from being subject to union organization. Federal Express will be treated as every other major corporation in America, which I hope the Senator from South Carolina will elaborate on, and will be subject to all of the laws that apply to all companies

and corporations in the United States. If the workers of Federal Express want to become unionized, they will be allowed to do so under existing law.

I yield to the Senator from South Carolina such time as he may consume.

Mr. HOLLINGS. I thank the Senator from Arizona. Mr. President, the distinguished Senator from Massachusetts has just spewed out such a bunch of nonsense that it is hard to know where to begin. One is with respect to Federal Express. Like the Senator from Arizona, I am learning about Federal Express. I refer, Mr. President, to "The 100 Best Companies to Work for in America," by Robert Levrig and Milton Moskowitz, of last year. On page 121:

The Federal Express invented overnight parcel delivery. U.S. employees: 77,700.

It is now over 105,000 domestic, and a total of 125,000, growing at 15 percent per year. But this particular edition has the top-top rating of five stars, and really about the highest rating is four stars. Thumbing through this when I was given it, I could not find any other company with the five stars. Let me show you immediately under that particular provision. On pay and benefits, Federal Express is rated four stars; under opportunities, four stars; under job security, five stars; in pride in work and company, four stars; openness and fairness, five stars; camaraderie and friendliness, four stars. The biggest plus, "you probably won't get zapped." Biggest minus, "you may not be an overnight success."

Now, since the distinguished Senator has raised the point that the Senator from South Carolina is zapping the employees, I thought I would have to read that. At least Federal Express hasn't raised that point, or zapped anyone, according to that best-of-the-best edition. So I more or less have to clear the record to defend my record, because we are not about zapping employees. We are not about end-running. We are not about changing the rules in the middle of the game.

The truth is, Mr. President, that if we had known last December 22 that the little phrase "express company" was being dropped from the ICC Termination Act, and they would have said, "Senator, we are going to have to drop this provision," I would have said, "Wait a minute," if I would have known it, and I would have made that exact charge: You can't change the rules in the middle of the game.

Why do I say that? Because those same employees he talks about over in Philadelphia have had 5 years with their lawyer, and unlike what the Senator from Massachusetts has said about the board—I will read his statement from the CONGRESSIONAL RECORD. I refer to yesterday's RECORD at page S11854:

Federal Express challenged the petition, arguing that the entire company, including its truck drivers, is covered by the Railway Labor Act, not the National Labor Relations Act, and that therefore the bargaining unit for its truck drivers must be nationwide. The board has not yet decided the issue.

Absolutely false.

I ask unanimous consent to have printed in the RECORD excerpts of the decision of the board.

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

NATIONAL MEDIATION BOARD,
Washington, DC, November 22, 1995.

JEFFREY D. WEDEKIND,
Acting Solicitor, National Labor Relations Board, Washington, DC.

Re NMB File No. CJ-6463 (NLRB Case 41-RC-17698).

DEAR MR. WEDEKIND: This responds to your request dated July 17, 1995, for the National Mediation Board's (Board's) opinion as to whether Federal Express Corporation (Federal Express or FedEx) and certain of its employees is subject to the Railway Labor Act, as amended, 45 U.S.C. §151, et seq. The Board's opinion, based upon the materials provided by your office and the Board's investigation is that Federal Express and all of its employees are subject to the Railway Labor Act.

I.

This case arose as the result of a representation petition filed with the National Labor Relations Board (NLRB) by the International Union, United Automobile Aerospace and Agricultural Implement Workers of America (UAW). The UAW initially sought to represent a unit of Federal Express's employees including "all regular full and part-time hourly ground service employees in the Liberty District." On December 9, 1991, the UAW amended its petition to exclude "ramp agents, ramp agent/feeders, handlers, senior handlers, heavyweight handlers, senior heavy weight handlers, checker sorters, senior checker/sorters, shuttle drivers, shuttle driver/handlers, office clerical employees, engineers, guards and supervisors as defined in the Act [NLRB]." The titles remaining in the UAW's petition include: service agents, senior service agents, international document agents, couriers, courier/handlers, tractor-trailer drivers, dispatchers, courier/non-drivers and operations agents.

The UAW argues that the employees it seeks to represent in Federal Express' Liberty District are employees subject to the National Labor Relations Act (NLRA). The UAW acknowledges that pilots and aircraft mechanics employed by Federal Express are subject to the Railway Labor Act. However, the UAW contends that the two-part test traditionally employed by the Board to determine whether an entity is a carrier should be applied to the unit of employees it seeks to represent in Federal Express' Liberty District. According to the UAW, the employees it seeks to represent in the Liberty District do not perform airline work and are not "integral to Federal Express' air transportation functions."

Federal Express asserts that it is a carrier subject to the Railway Labor Act and, as a carrier, all of its employees are subject to the Railway Labor Act. Federal Express notes that the Board and the courts have repeatedly found it to be a carrier subject to the Railway Labor Act. According to Federal Express, the job classifications remaining in the petition are integrally related to Federal Express' air transportation activities. Federal Express contends that it is a "unified operation with fully integrated air and ground services." According to Federal Express, allowing some employees to be covered by the National Labor Relations Act and others to be subject to the Railway Labor Act would result in employees being covered by different labor relations statutes as they are promoted up the career ladder.

Federal Express contends that the two-part test suggested by the UAW is not appropriate in this case. According to Federal Express, the Board uses the two-part test to determine whether a company is a carrier, not to determine whether specific employees of a carrier perform duties that are covered by the Railway Labor Act. Federal Express cautions that adoption of the test suggested by the UAW "would drastically alter labor relations at every airline in the country." According to Federal Express, under the UAW's test, most categories of employees except pilots, flight attendants and aircraft mechanics would be subject to the NLRA.

The Board repeatedly has exercised jurisdiction over Federal Express. Federal Express Corp., 22 NMB 279 (1995); Federal Express Corp., 22 NMB 257 (1995); Federal Express Corp., 22 NMB 215 (1995); Federal Express Corp., 20 NMB 404 (1993); Federal Express Corp., 20 NMB 394 (1993); Federal Express Corp., 20 NMB 360 (1993); Federal Express Corp., 20 NMB 126 (1993); Federal Express Corp., 20 NMB 91 (1992); Federal Express Corp., 20 NMB 7 (1992); Federal Express Corp., 19 NMB 297 (1992); Federal Express Corp., 17 NMB 24 (1989); Federal Express/Flying Tiger, 16 NMB 433 (1989); Federal Express, 6 NMB 442 (1978). There is no dispute that Federal Express is a carrier subject to the Railway Labor Act with respect to certain Federal Express employees (i.e. Pilots; Flight Attendants, Global Operations Control Specialists; and Mechanics and Related Employees; Stock Clerks; and Fleet Service Employees). However, the Board has not addressed the issue raised by the UAW: whether or not certain Federal Express employees are subject to the Railway Labor Act.

The NLRB initially requested the NMB's opinion as to whether FedEx is subject to the RLA on July 1, 1992. However, on that date, the NLRB granted the UAW's request to reopen the record and the file was returned to the NLRB. The NLRB renewed its request on July 17, 1995 and the NMB received the record on July 31, 1995. The NMB received additional evidence and argument from FedEx and the UAW on August 17, 1995 and September 5, 1995.

II.

Federal Express, a Delaware corporation, is an air express delivery service which provides worldwide express package delivery. According to Chairman of the Board and Chief Executive Officer Frederick Smith, Federal Express flies the sixth largest jet aircraft fleet in the world.

Federal Express' jet aircraft fleet currently includes Boeing 727-100's, Boeing 727-200's, Boeing 737's, Boeing 747-100's, Boeing 747-200's, DC 10-10's, DC-10-30's and McDonnell-Douglass MD-11's. Federal Express also operates approximately 250 feeder aircraft, including Cessna 208's and Fokker 27's. It has over 50 jet aircraft on order.

Federal Express currently serves the United States and several countries in the Middle East, Europe, South America and Asia, including Japan, Saudi Arabia and Russia. According to Managing Director of Operations Research Joseph Hinson, Federal Express does not transport freight that moves exclusively by ground to or from the United States.

* * * * *

III. DISCUSSION

The National Mediation Board has exercised jurisdiction over Federal Express as a common carrier by air in numerous published determinations. Federal Express Corp., 22 NMB 279 (1995); Federal Express Corp., 22 NMB 257 (1995); Federal Express Corp., 22 NMB 215 (1995); Federal Express Corp., 20 NMB 666 (1993); Federal Express Corp., 20 NMB 404 (1993); Federal Express Corp., 20 NMB 394 (1993); Federal Express Corp., 20 NMB 360 (1993); Federal Express Corp., 20 NMB 126 (1993); Federal Express Corp., 20 NMB 91 (1992); Federal Express Corp., 20 NMB 7 (1992); Federal Express Corp., 19 NMB 297 (1992); Federal Express Corp., 17 NMB 24 (1989); Federal Express/Flying Tiger, 16 NMB 433 (1989); Federal Express, 6 NMB 442 (1978). In eight of those determinations, the Board exercised jurisdiction over ground service employees of Federal Express, 6 NMB 442 (1978). In eight of those determinations, the Board exercised jurisdiction over ground service employees of Federal Express. The substantial record developed in this proceeding provides no clear and convincing evidence to support a different result.

A.

Section 181, which extended the Railway Labor Act's coverage to air carriers, provides:

"All of the provisions of subchapter 1 of this chapter except section 153 of this title are extended to and shall cover every common carrier by air engaged in interstate or foreign commerce, and every carrier by air transporting mail for or under contract with the United States Government, and *every air pilot or other person who performs any work as an employee or subordinate official of such carrier or carriers, subject to its or their continuing authority to supervise and direct the manner of rendition of his service.* 45 U.S.C. §181. (Emphasis added).

Federal Express is an air express delivery service which holds itself out for hire to transport packages, both domestically and internationally. Federal Express and the UAW agree that Federal Express and its air operations employees, such as pilots and aircraft mechanics, are subject to the Railway Labor Act. The disagreement arises over whether Federal Express' remaining employees are subject to the Railway Labor Act. The UAW argues that the employees it seeks to represent do not perform airline work and are not "integral to Federal Express' air transportation functions." Federal Express asserts that all of the employees sought by the UAW are integrally relate to its air express delivery service and are subject to the Railway Labor Act.

Since there is no dispute over whether Federal Express is a common carrier by air, the Board focuses on whether the employees sought by the UAW's petition before the NLRB are subject to the Railway Labor Act. The Act's definition of an employee of an air carrier includes, "every air pilot or other person who performs any work as an employee or subordinate official of such carrier or carriers, subject to its or their continuing authority to supervise and direct the manner of rendition of his service". The Railway Labor Act does not limit its coverage to air carrier employees who fly or maintain aircraft. Rather, its coverage extends to virtually all employees engaged in performing a service for the carrier so that the carrier may transport passengers or freight.

In REA Express, Inc., 4 NMB 253, 269 (1965), the Board found "over-the-road" drivers employed by REA subject to the Act stating:

"It has been the Board's consistent position that the fact of employment by a "carrier" under the Act is determinative of the status of *all* that carrier's employees as subject to the Act. The effort to carve out or to separate the so-called over-the-road drivers would be contrary to and do violence to a long line of decisions by this Board which would embrace the policy of refraining from setting up a multiplicity of crafts or classes. As stated above, there is no question that this particular group are *employees* of the carrier." (Emphasis in original).

The limit on Section 181's coverage is that the carrier must have "continuing authority to supervise and direct the manner of rendition of . . . [an employee's] service. The couriers, tractor-trailer drivers, operations agents and other employees sought by the UAW are employed by Federal Express directly. As the record amply demonstrates, these employees, as part of Federal Express' air express delivery system, are supervised by Federal Express employees. The Board need not look further to find that all of Federal Express' employees are subject to the Railway Labor Act.

B.

In the Board's judgment, the analysis of the jurisdictional question could end here. However, Federal Express and the UAW have directed substantial portions of their arguments the "integrally related" test. Specifically, the participants discuss whether the employees the UAW seeks to represent are "integrally related" to Federal Express' air carrier functions. The Board does not find consideration of the "integrally related" test necessary to resolve the jurisdictional issue, however, review of the relevance of this test is appropriate.

The UAW argues that the employees it seeks to represent are not integrally related to Federal Express' air carrier functions and therefore are not subject to the Railway Labor Act. Federal Express asserts that the NLRB and federal courts have found its trucking operations integrally related to its air operations.

However, the Board does not apply the "integrally related" test to the Federal Express employees sought by the UAW. Where, as here, the company at issued is a common carrier by air, the Act's jurisdiction does not depend upon whether there is an integral relationship between its air carrier activities and the functions performed by the carrier's employees in question. The Board need not consider the relationship between the work performed by employees of a common carrier and the air carrier's mission, because section 181 encompasses "every pilot or other person who performs any work as the employee or subordinate official of such carrier or carriers. . . . "

Even if the Board were to assume arguendo that the "integrally related" test applies to the facts in this case, the Board would hold in concurrence with the recent decision in Federal Express Corp. v. California PUC, supra, at note 10, that the "trucking operations of Federal Express are integral to its operations as an air carrier." 936 F.2d at 1078. Employees working in the other positions sought by the UAW perform functions equally crucial to Federal Express' mission as an integrated air express delivery service. As the record demonstrates, without the functions performed by the employees at issue, Federal Express could not provide the on-time express delivery required of an air express delivery service.

The Board has employed the "integrally related" test when it has examined whether to apply the trucking exemption under §151 of the Act. O/O Truck Sales, 21 NMB at 269; Florida Express Carrier, Inc., 16 NMB 407 (1989). Specifically, the board has applied the "integrally related" test when it has considered trucking operations conducted by a subsidiary of a carrier or a company in the same corporate family with a carrier. In Florida Express, supra, the Board found Florida Express, a trucking company which is a wholly-owned subsidiary of Florida East Coast Railroad, to be a carrier subject to the Railway Labor Act. In O/O Truck Sales, supra, the Board found O/O Truck Sales, a trucking and fueling company which is a wholly-owned subsidiary of CSXI (which is commonly owned with CSXT), to be a carrier subject to the Railway Labor Act. In contrast, Federal Express directly employs truck drivers, couriers and all other employees sought by the UAW's petition.

C.

The UAW argues that the Board should apply the two-part test used by the Board in other factual settings for determining whether an employer and its employees are subject to the Railway Labor Act. See, for example, Miami Aircraft Support, 21 NMB 78 (1993); AMR Services, Corp., 18 NMB 348 (1991). The Board does not apply the two-part test where the company at issue is engaged in common carriage by air or rail. The Board applies the two-part test where the company in question is a separate corporate entity such as subsidiary or a derivative carrier which provides a service for another carrier. In those situations where the Board applies the two-part test, it determines: (1) whether the company at issue is directly or indirectly owned or controlled by a common carrier or carriers; and (2) whether the functions it performs are traditionally performed by employees of air or rail carriers. Under this test, both elements must be satisfied for a company to be subject to the Railway Labor Act. Federal Express is an admitted carrier and the employees at issue are employed directly by Federal Express. Accordingly, the two-part test does not apply to this proceeding.

Even if the two-part test were applicable, the employees at issue here would be covered by the Railway Labor Act. Federal Express, as a common carrier, has direct control over the positions sought by the UAW. In addition, the Board has found that virtually all of the work performed by employees sought by the UAW's petition is work traditionally performed by employees in the airline industry. For example: couriers, Air Cargo Transport, Inc., 15 NMB 202 (1988); Crew Transit, Inc., 10 NMB 64 (1982); truck drivers; Florida Express, Inc., 16 NMB 407 (1989); customer service agents; Trans World International Airlines, Inc., 6 NMB 703 (1979).

CONCLUSION

Based upon the entire record in this case and for all of the reasons stated above, the Board is of the opinion that Federal Express Corporation and all of its employees sought by the UAW's petition are subject to the Railway Labor Act. This finding may be cited as Federal Express Corporation, 23 NMB 32 (1995). The documents forwarded with your letter will be returned separately.

By direction of the National Mediation Board.

STEPHEN E. CRABLE,
Chief of Staff.

Mr. HOLLINGS. This decision is dated November 22, 1995. You don't have to read the entire decision. It is a very interesting thing, because back in 1991:

. . . UAW amended its petition to exclude "ramp agents, ramp agent/feeders, handlers,

senior handlers, heavyweight handlers, senior heavyweight handlers, checker sorters, senior checker/sorters, shuttle drivers, shuttle driver/handlers, office clerical employees, engineers, guards and supervisors as defined under the act.

So it was not any question about who all was to be covered because they had a chance to amend it. This is 5 years ago when this started. But let me read a couple of other points.

This is the National Mediation Board talking. It was a unanimous decision, never appealed and at the NLRB since last November. And in 50 years with 100 cases under the Railway Labor Act, the NLRB has yet to reverse it. And if he can show me—I was asking for the Senator or a House Member—that actually said, let's knock this express company reference out, I would jump off the Capitol dome. He can't find it.

It was an innocent mistake. It was after this finding of November 22, 1995, done in December 1995. So it was after the rules of the road that are now trying to be changed, and that is why we are trying to correct. That has been the most difficult thing. The Members really have not kept up with this at all.

But the NLRB requested the National Mediation Board's opinion. This is the customary process. I am learning a little bit of labor law. The NLRB initially requested the National Mediation Board's opinion as to whether FedEx is subject to the RLA on July 1, 1992. They held it up. However, on that date, the NLRB granted the UAW's request to reopen the record and to file with the NLRB.

While we hear that the poor workers have been trying to get their day in court, their lawyer is up there saying, "Wait a minute. Hold it up. Return it to the NLRB." The NLRB renewed its request on July 17, 1995—3 years. I said, "How in the world do you hold things up over there in 3 years?" They said, "I will tell you what happened, Senator. They have a wild one over there in this fellow Gould who is the chairman." And he was trying his dead level best to change the process of taking those under the Railway Labor Act to be determined by the National Mediation Board and have it determined by the National Labor Relations Board itself. He finally got outvoted. He tried for 3 years. He tried for whatever time he was there.

But that was the issue. I couldn't understand why they would hold it up, and why we have the Senator from Massachusetts crying about the poor workers are not having any of their rights, and they are trying to play by the rules. Come on.

Here you go. Let me read it to you. The NLRB renewed its request on July 17, 1995. The National Mediation Board received the record on July 31, 1995. The National Mediation Board received additional evidence and argument from FedEx and the UAW on August 17, 1995, and September 5, 1995.

This is the full unanimous decision of the National Mediation Board—November 22, 1995, for those who are over there struggling to get their day in court. Come on. They had 5 years to go after it. They can start again. I think it ought to be made clear because I want to read some of this to make sure that they all understand that we are not coming in here pulling the rug out from under employees. The Senator from Massachusetts says we are "pulling the rug out"—after 5 years with their lawyer and everything else of that kind.

Everyone should understand that labor is very, very virile and strong under the Railway Labor Act. In fact, 65 percent to 70 percent of employees under the Railway Labor Act are organized, whereas in the private sector under the NLRB, the National Labor Relations Board, and the National Labor Relations Act, only 11 percent.

So this isn't trying to get a protective situation. We are not "pulling the legislative rug out".

Let me just read a couple of parts in the conclusion part because it says:

The limit on section 181's coverage is that the carriers must have continuing authority to supervise and direct the manner of rendition and employees' service, the carriers' tractor-trailer drivers, operations agents, and other employees sought by the UAW employed by Federal Express directly. As the record amply demonstrates, these employees, as part of the Federal Express delivery system, are supervised by Federal Express employees. The Board need not look further to find that all of Federal Express employees are subject to the Railway Labor Act.

The contention of the Senator from Massachusetts is that we have to get the language out of this bill because we in conference tried to change the rules of the road; that we tried to pull the rug out so that they wouldn't be covered by the Railway Labor Act. The truth of the matter is, the very case he refers to in Philadelphia after 5 years and a unanimous opinion found just what I have read. We are trying to clear up the inconsistency of the dropping of the designation, which is appropriate and should be done. They know it. Let me read further.

In the Board's judgment, the analysis of the jurisdictional question should end here.

However, I want to read a further paragraph.

The UAW argues that the employees it seeks to represent are not integrally related to Federal Express's air carrier functions and, therefore, are not subject to the Railway Labor Act.

Going further, answering that argument on the next page:

Even if the Board were to assume arguendo that the integrally related test applies to the facts in this case, the Board would hold in concurrence with the recent decision in Federal Express Corporation v. California PUC . . . the trucking operations of Federal Express are integral to its operations as an air carrier. Employees working in the other positions sought by the UAW perform functions equally crucial to Federal Express's mission as an integrated air express delivery service.

Finally.

. . . the Board is of the opinion that Federal Express Corporation and all of its employees sought by UAW's petition are subject to the Railway Labor Act. This finding may be cited as Federal Express Corporation, 23 NMB 32 (1995). The documents forwarded with your letter will be returned separately.

By direction of the National Mediation Board, Stephen E. Crable, Chief of Staff; Rush O'Keefe, Esq.; Paul Jones, Esq.; William Josem, Esq.; Arthur Luby, Esq.

I have been asking for a Senator or a House Member who said that we shouldn't make this change, the mistake that was made. They can't find one. I will ask. Give me that UAW lawyer that has made the motion in the last 11 months before the National Labor Relations Board. The gentleman says here, "This is a matter that is currently in litigation." False—threw it back over there to the NLRB, and they are sitting on it like they sat on it for 3 years after UAW brought it. There is nothing you can do about it. You have the fellow Gould over there. He will squat. I can't get him up off his "whatever." But I can tell you now. It is not in any litigation at all. It is unanimously determined on the merits, after 5 years and 11 months later, with no motion, no appearance, no nothing—just sitting on it over there.

This is a matter that is currently in litigation even while we are here today. It is like Edward R. Morrow down in the South Pacific or something in World War II. The Senator from Massachusetts says: We ought to let the litigation move forward, but the action that is taken on the FAA bill has preempted effectively the litigation which is under consideration even as we meet here today. Come on. Come on. Wait a minute.

There ought to be some test of the truth in the facts here. When the people who wrote the provision, trying to do the honest thing, get accused of pulling rugs out and jamming, I will take that test. I will ask the colleagues to study these facts and to see whether the Senator from Massachusetts is jamming it or the Senator from South Carolina is jamming it and then let them make their vote.

It is crystal clear what is going on here. It is crystal clear. Everybody wanted to correct it. But labor told us, they said, "You are not going to do it. We are going to filibuster. We are going to veto it at the White House." I did remember that the Vice President was from Tennessee. I said, "I don't think that that is going to happen. No." And I said, "I don't think that they are going to filibuster." I think we can get 60 votes for the truth and facts.

Now we hear about the NLRB, referring to all of these cases like you cannot get a case up there. Hundreds and hundreds of cases here have been covered by the Railway Labor Act, and the

technical correction does not change that status. It changes future proceedings, not the one the Senator is talking about that they can make another argument. They can make these arguments.

I ask unanimous consent to print in the RECORD this reference to all these cases.

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

FEDERAL EXPRESS IS COVERED BY THE RAILWAY LABOR ACT. THE TECHNICAL CORRECTION DOES NOT CHANGE THAT STATUS.

Since commencing operations 23 years ago, Federal Express and its employees consistently have been determined by the federal courts, the National Mediation Board and the National Labor Relations Board to be subject to the RLA. *See e.g., Chicago Truck Driver, Helpers and Warehouse Workers Union v. National Mediation Board*, 670 F.2d 665 (7th Cir. 1982), *Chicago Truck Drivers, Helpers and Warehouse Workers Union v. National Labor Relations Board*, 599 F.2d 816 (7th Cir. 1979); *Adams v. Federal Express Corp.*, 547 F.2d 319 (6th Cir. 1976), *cert. denied*, 431 U.S. 915 (1977); *Federal Express Corp.*, 22 N.M.B. 57 (1995); *Federal Express Corp.*, 22 N.M.B. 157 (1995); *Federal Express*, 22 N.M.B. 215 (1995); *Federal Express Corp., 22 N.M.B. 279 (1995); Federal Express*, 20 N.M.B. 666 (1993); *Federal Express*, 20 N.M.B. 486 (1993); *Federal Express*, 20 N.M.B. 404 (1993); *Federal Express*, 20 N.M.B. 394 (1993); *Federal Express*, 20 N.M.B. 360 (1993); *Federal Express*, 20 N.M.B. 7 (1992); *Federal Express*, 20 N.M.B. 91 (1992); Federal Express Corp., 17 N.M.B. 24 (1989); *Federal Express*, 17 N.M.B. 5 (1989); *Federal Express Corp, and Flying Tiger Line, Inc.*, 16 N.M.B. 433 (1989); *Federal Express Corp., 6 N.M.B. 442 (1978); Federal Express*, N.L.R.B. Case No. 22-RC-6032 (1974); *Federal Express*, N.L.R.B. Case No. 1-CA-22,685 (1985); *Federal Express*, N.L.R.B. Case No. 1-CA-25084 (1987); *Federal Express, N.L.R.B. Case No. 10-CCA-17702 (1982); Federal Express Corp., N.L.R.B. Case No. 13-RC-14490 (1977); Federal Express, N.L.R.B. Case No. 13-CA-30194 (1991). The charges filed with Region 13 in Chicago, Case No. 13-CA-3019 and Region 1 in Boston, Case No. 1-CA-22,585 were withdrawn after we presented the above evidence of our jurisdictional status.*

The National Mediation Board (NMET) recently ruled on Federal Express RLA status by stating unequivocally that "Federal Express and all of its employees are subject to the Railway Labor Act." *Federal Express Corporation*, 23 N.M.B. 32 (1995).

The term "employer" under the National Labor Relations Act excludes "...any person subject to the Railway Labor Act:" 29 U.S.C. §152 (2). Excluded from the definition of "employee" under the National Labor Relations Act is"...any individual employed by an employer subject to the Railway Labor Act..." 29 U.S.C.§152 (3). The Railway Labor Act defines "carrier" as "... (including) every common carrier by air engaged in interstate or foreign commerce..."45 U.S.C. §151, First and §181. Federal Express is a common carrier by air engaged in interstate and foreign commerce, and is certificated pursuant to Section 401 of the Federal Aviation Act.

That interpretation of the statute consistently has been applied by the NMB. Section 201 of the RLA, 45 U.S.C. Section 181, provides that the Act "shall cover every common carrier by air engaged in interstate and foreign commerce . . . and every air pilot of *other person who performs any work as an employee or subordinated official of such carrier or carriers*, subject to its or their continuing authority to supervise and direct the manner of rendition of his service." (Emphasis added). In accordance with that legislative directive, anyone employed by an air carrier engaged in interstate or foreign commerce is covered by the RLA. As was explained in *REA Express, Inc.*, 4 N.M.B. 253, 269 (1965):

"It has been the Board's consistent position that the fact of employment by a "carrier" is determinative of the status of *all* that carrier's employees as subject to the Act. The effort to carve out or separate the so-called over-the-road drivers would be contrary to and do violence to a long line of decisions by this Board which embrace the policy of refraining from setting up a multiplicity of crafts or classes. As stated above, there is no question that this particular group are *employees* of the carrier."

The United States Court of Appeals for the District of Columbia Circuit noted in regard to the NMB's *Federal Express* case that "the NLRB had 'never' asserted jurisdiction over" (Federal Express'." *United Parcel Service, Inc.*, v. *National Labor Relations Board*. 92 F.3d 1221 (D.C. Cir. 1996). Federal Express has participated in five union representation elections conducted under the auspices of the National Mediation Board, the most recent in 1995, and presently is participating in a sixth RLA election.

The Ninth Circuit Court of Appeals in *Federal Express Corp.* v. *California Public Utilities Commission*, 936 F.2d 1075, 1978 (9th Cir. 1991), *cert. denied*, _____ U.S. _____, 119 LEd.2d 578 (1992) found:

"The trucking operations of Federal Express are integral to its operation as an air carrier. The trucking operations are not sonic separate business venture; they are part and parcel of the air delivery system. Every truck carries packages that are in interstate commerce by air. The use of the trucks depends on the conditions of air delivery. The timing of the trucks is meshed with the schedules of the planes. Federal Express owes some of its success to its effective use of trucking as part of its air carrier service."

That court also stated:

"Federal Express is exactly the kind of an expedited all-cargo service that Congress specified and the kind of integrated transportation system that was federally desired. Because it is an integrated system, it is a hybrid, an air carrier employing trucks. Those trucks do not destroy its status as an air carrier. They are an essential part of the all-cargo air service that Federal Express innovatively developed to meet the demands of an increasingly interlinked nation."

It clearly has been established that Federal Express is a carrier subject to the Railway Labor Act. Its employees are likewise subject to the Railway Labor Act. No court or agency has ever determined that Federal Express or any of its employees are subject to the National Labor Relations Act.

Mr. HOLLINGS. I thank the distinguished Chair.

Now, Mr. President, there was reference made to the CRS. I am just amazed. I thought they always had a pretty good record. They ought to give the fellow who works over there for the Congressional Research Service weekend leave. And the reason I say that, they have a guy named Vince Treacy, legislative attorney, and he was asked on September 27, just a few days ago, to give an opinion with respect to the coverage, the Railway Labor Act coverage of Federal Express as an express company. And he comes up totally in contradiction to all the laws and all the decisions, but more particularly he knows the request is made because we were trying to determine the intent of Congress: Was it as described by the Senator from Massachusetts, or an innocent mistake by my description?

Everybody agreed that there was a mistake made. We did not even know it was in there. And please, my gracious, instead of coming with the language itself in the act, he runs all around his elbow and refuses to put this in his three-page decision.

I read from the conference report of the ICC Termination Act of 1995 by Mr. SHUSTER on December 15, 1995. "The enactment of the ICC Termination Act of 1995 shall neither expand nor contract coverage of the employees and employers by the Railway Labor Act."

The distinguished chairman on the House side, Mr. SHUSTER, stated in the Chamber when this was debated a couple of days ago, that that was put in at the request of labor. We will show it to you in the RECORD. "The enactment of the ICC Termination Act of 1995 shall neither expand nor contract coverage of employees and employers by the Railway Labor Act."

Now we see who comes in in the middle of the game trying to change the rules of the road. We see now who is trying to pull rugs out from under people. And they are using every gimmick in the book. This fellow will be looking for a job if I have anything to do with it, I can tell you that, because I have an analysis here going down each one of the points in the document.

I did not want to take the time of the distinguished Senator from Arizona, but, for example, Mr. Treacy says: "If, at some future date, the NMB ruled that some Federal Express employees were employed in activities that were not integrally related to its operation as an air carrier, then those employees would count under the coverage of the NLRA as a matter of law."

False. False. They raised precisely that point in the case we are talking about, and we have the National Mediation Board and its decision. Heavens above. We could not be more on target. They never called us or asked us about the history of this particular thing.

From Treacy's legal opinion they are running around now to give some kind of color, or credibility to their position: 'Moreover, it appears unlikely that Federal Express would constitute an express company subject to title 49, as that term is used in the proposed amendment."

Where did you get that? He says later on here it could go either way. No one, including the author of this memo, disputes the fact that the REA was an express company. No one disputes that Federal Express was acquired and operated under certificates from REA. As

the Interstate Commerce Commission stated in its decision transferring the certificates, and I quote, "The evidence establishes a public demand or need for the proposed continuation of express service as previously authorized under the acquired REA certificates." That is the ICC decision No. 66562.

Then he states in here: "The deletion of the term 'express company' from section 1 of the RLA does not appear to have been inadvertent or mistaken."

That is an astonishing conclusion, Mr. President, because it ignores the ICC Termination Act itself, the very sentence I read. The change to the RLA was through a conforming amendment to the ICC Termination Act which included the provision, and I quote, "The enactment of the ICC Termination Act shall neither expand nor contract coverage of employees and employers under the Railway Labor Act."

I could read on and on. I ask unanimous consent, Mr. President, that this review of the CRS paper that was gotten up quickly and certainly very, very, at best, carelessly, if not intentionally, just 4 or 5 days ago for this case, be printed in the RECORD.

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

RESPONSE TO THE MEMO BY THE CONGRESSIONAL RESEARCH SERVICE

The September 27, 1996 memo by the Congressional Research Service [CRS] contains several inaccuracies which call into question the conclusions reached in the memo. For example:

Inaccurate statement: "If, at some future date, the NNB ruled(sic) that some Federal Express employees were employed in activities that were not integrally related to its operations as an air carrier, then those employees would come under the coverage of the NLRA as a matter of law."

Facts: The UAW raised precisely the same argument in the jurisdictional case involving Federal Express that recently was litigated. In response to that argument, the NMB held: ". . . the Board does not apply the 'integrally related' test to that Federal Express employees sought by the UAW. Where, as here, the company at issue is a common carrier by air, the Act's [RLA's] jurisdiction does not depend upon whether there is an integral relationship between its air carrier activities and the functions performed by the carrier's employees in question". *Federal Express Corporation*, 23 N.M.B. 32, 73–74 (Nov. 22, 1995).

Inaccurate statement: "Moreover, it appears unlikely that Federal Express would constitute an express company subject to Title 49, as that term is used in the proposed amendment."

Facts: No one, including the author of the CRS memo, disputes the fact that Railway Express Agency (REA) was an express company. Likewise, no one disputes that Federal Express acquired and has operated under the certificates acquired from REA. As the Interstate Commerce Commission stated in the decision transferring the certificates, "The evidence establishes a public demand or need for the proposed continuation of express service as previously authorized under the acquired REA certificates." *Interstate Commerce Commission Decision*. No. MC–66562 (Sub-No. 2347), June 13, 1983.

Incorrect statement: "* * * it appears logical and necessary to eliminate [coverage for express companies] from the RLA to preclude the ostensible coverage of nonexistent express companies".

Facts: To state that express companies are nonexistent under the RLA, or that it is unlikely that Federal Express constitutes an express company, simply ignores the facts. In a case addressing the jurisdictional status of REA employees, the National Mediation Board defined an express company as: "The express business has always been one of pick-up and consolidation of traffic, turning it over to common carriers by rail or air for transport, and delivery by the express company to consignee at destination. In more recent times, this has been supplemented by over-the-road handling of their own business without an intermediate form of transportation". *Railway Express Agency*, 4 N.M.B. 253, 269 (1965). The NMB defined an express company by describing precisely the service Federal Express provides.

Inaccurate statement: "The deletion of the term 'express company' from [S]ection 1 of the RLA does not appear to have been inadvertent or mistaken".

Facts: This rather astonishing conclusion ignores the ICC Termination Act itself. The change to the RLA was through a conforming amendment to the ICC Termination Act, which included the following provision: "The enactment of the ICC Termination Act of 1995 shall neither expand nor contract the coverage of employees and employers by the Railway Labor Act . . .". Public Law 104–88 (H.R. 2539), Sec. 10501(B).

Inaccurate statement: The memo suggests, consistent with organized labor's lobbying position, that it is more difficult for employees covered by the Railway Labor Act to organize. The memo states: "This [amendment] would require those [express company] employees to organize under the limited craft bargaining units permitted by the RLA, rather that under the wide range of appropriate units afforded by the NLRA.

Facts: About 11% of the private sector workforce covered by the NLRA is represented by labor unions for purposes of collective bargaining. Some 65–70% of employees covered by the RLA are represented by labor unions. Which law is more conducive to union organizing? As with most of the unsupported conclusions in the memo, the memo again ignores the facts.

Mr. HOLLINGS. Now, Mr. President, let me take the full responsibility because there is no trickery in this whatever. It was openly discussed. My colleagues on the House side as well on this side, all agree that it was an innocent mistake. I do not think you could have Members supporting our position against the powerful Senator from Massachusetts and the powerful labor movement which has made this issue if it were not the case.

That is why we included it at my behest, because I wanted to make sure just exactly, in the expression of the Senator from Massachusetts, we were not going to change the rules of the road in the middle of the game. I think that game in Philadelphia is over. But if he thinks it is continuing, then it is in the middle of the game, because this was done in the ICC Termination Act of December 15 after the rule of the road on November 22, 1995.

I am glad the distinguished Senator from Arizona referred to these employees. That saves me time. It saves the Members some time. We could go through the history of this particular company and labor relations and various talking points, and you could be more than persuaded now as I have been because I did not think we were going to have this great rhubarb come up.

But ever since they were organized, back in 1983, I guess it was—no, 1973, because here is a 1979 decision—Federal Express has been an express carrier, first under the decision back in 1979. In 1936 the Railway Labor Act was amended to include air carriers, which very few people realize had included air carriers, including the one who suggested that we drop the language about "express."

Without reading that decision, we move to the 1993 decision of the National Mediation Board and on down the list of the various decisions from time to time. We find out there has been a total consistency for a company that is extremely well operated, is extremely patriotic, it takes care of its employees.

I have been through its facilities. When I went up to Alaska many years ago, we got there early and somebody said you ought to go over here and watch that operation they have over at Anchorage while we wait for our ride, which I did. I never realized the technological advance that had been made by this old Marine—or young Marine, as I look upon him, Fred Smith.

Before they take off in Japan, they have already computerized information and forwarded it to Anchorage. At Anchorage they have various ways for the State Department, Interior Department, Wildlife Service, textiles—Customs, and they have all those things. They know the packages. They know where new shipments are coming through, where there may be some textile fraud, where there may be some drugs; issues involving the Justice Department, the DEA.

As everything is unloaded in a matter of a couple of hours there, this mammoth plane, it goes into all those sockets, runs down these wheels, all those people are at their stations and this is down into the inner part of America.

All I could say to myself, understanding this particular point being raised, that, if you had me running around the countryside trying to argue a different union here and another union over here, with certain little organizers here—I want to emphasize this—that experience, because the distinguished Senator from Massachusetts says they are primarily the little towns. This crowd, UAW, is well represented. They know how to organize folks.

They spent 5 years on this Philadelphia case that has long since been decided unanimously against them. Now

comes, the Senator from Massachusetts depicting: It is an ongoing litigation matter, they have not had their chance, they are playing by the rules and HOLLINGS is pulling the rug out from under them.

Nothing could be further from the truth. I would not engage in such conduct. I take offense even having me referred to in that way. I do not have to get into some company over there in Tennessee. But I certainly do not have to stand by and, just because they have a powerful Senator and a powerful labor movement, see a good crowd get rolled.

I am not going to be rolled.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. KYL). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will just take a moment or two and then yield to my friend and colleague. The fact is, Mr. President, the Senator from South Carolina is still—still cannot show where the Federal Express is an express company under the Railway Labor Act. He cannot show it. It is not there. No court award has ever held Federal Express is an express company. The Federal Express has argued that time and time and time again.

The fact of the matter is, on the case he talks about, the National Labor Relations Board is still out there, it is still current. It is case 4RC17698—still current. He can say it is not current. It is current.

He can find fault with Mr. Gould. We have had the hearings on Mr. Gould that would show the way the National Labor Relations Board has acted since he has been up as being more expeditious, faster in terms of the considerations of various cases, and speeded up consideration in various regions more than any National Labor Relations Board of recent times. It has also seen a significant reduction in those terms.

I will just conclude at this point and say we can obfuscate this situation in any way that we might try. But the fact of the matter is, the part of Federal Express that flies is an airline. The part that is a truck, is a truck. What they want to do is take the trucking and put it in the airlines to make it more difficult for workers to be able to come together.

The fact of the matter is, UPS has airline designation under the Railroad Act, and has trucking designation under the National Labor Relations Act. The issue that is before the NLRA is exactly the same.

Sure, mediation has found Federal Express is an airline. The question is, whether the trucking should be considered under the National Labor Relations Act. They have found this division on UPS. They are their principal competitors. It does not take a lot of time to have people understand that is what the issue is. What is being attempted here is to say: Oh, no, we are not even going to let the National Labor Relations Board—we are going to effectively close that door down, cut off that case—which is active—and put them under the Railroad Act, which will make it much more difficult for them to be able to express their grievances.

That is common sense. People ought to understand. You have the post office, now, that is competing with air and trucking; you have UPS, air and trucking; and you have Federal Express, air and trucking. And you have the efforts, now, in terms of Federal Express, to vastly expand the trucking division. What their attempt is, now, is to get in with this special provision to effectively exclude themselves from what their other competitors are involved in. Then they will be much more successful in terms of the bottom line. That is what we are talking about and that is what is at issue.

I think it is a commonsense fact because that is what the real world is all about. That is the issue which this legislation is attempting to undermine, that decision by the National Labor Relations Act on that particular issue in question and why it continues to be so insidious.

I yield time as the Senator from Illinois would want.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I have great respect for my colleagues from Arizona and my colleague from South Carolina. Senator HOLLINGS in many ways has contributed significantly. He has talked more candidly about the revenue situation that the Federal Government faces than any other Member of this body and I am grateful to him for that.

He also is the one who educated me on the whole question of gross interest versus net interest. One of the little games that administrations of both parties play is they list net interest rather than gross interest so interest does not look so bad. FRITZ HOLLINGS is the person who educated me on that.

But I think on this issue he is wrong. I think there are three questions that we have to ask ourselves. When you ask those questions, then you have to come to the conclusion that we are making a mistake.

First of all, who benefits? The answer is—no one has questioned this—one corporation, Federal Express, benefits. No one else benefits by this.

Second, there is the question of litigation that is pending. My colleague, the Presiding Officer, sits on the Judiciary Committee. He has not been there too long yet, but he will become, over time, one of the most valued members of the Judiciary Committee and of this body. I have said that, not just in his presence, but to others. I can tell you that, almost always, it is wrong to pass legislation that interferes in litigation. It is just bad policy.

And third, the process is wrong. We are going through this and there is no question it is a major change, without any hearings. When the Congressional Research Service says, "The deletion of 'express company' from section 1 of the RLA does not appear to have been inadvertent or mistaken," my friend from South Carolina says they are wrong. I do not know who is right. But I would think the committee of jurisdiction ought to hold a hearing on this.

I also have great questions of whether we should interfere in a competitive situation.

Senator KENNEDY is correct when he says UPS is designated in two different ways, and Federal Express wants to be designated in only one way. Federal Express, as I understand it, has about 1,000 planes and 35,000 trucks. What they want to do is to be designated as an airline, including the 35,000 trucks.

Maybe that is what we should do. I doubt it, but maybe that is what we should do. I think we ought to at least hold a hearing on it.

I am also concerned, and I say this to my friend, the senior Senator from Arizona, Senator MCCAIN, who has been a leader, I think we have to honestly ask ourselves, why is Federal Express being given preferential treatment in this body now?

I think the honest answer is Federal Express has been very generous in their campaign contributions. I have to say, they have been good to PAUL SIMON. My guess is, if you check this out, you will see they have been good to every Member of this body. I am grateful to people who contribute, but I don't think they ought to set public policy because of those contributions. I think that is what is happening here.

We need to change the way we finance campaigns, and I commend my colleague, the senior Senator from Arizona, for being a leader in this area. The system distorts what happens here, and I think this is an example of that distortion.

They have good people, like George Tagg, who I think most of us know, just a very, very fine person. I think most of us frequently use Federal Express. I am not knocking the company. I say to the company leaders who, I am sure, are monitoring what is going on here right now, I think they are well on the way to winning a pyrrhic victory. I think they may well, as the Senator from South Carolina has suggested, get the 60 votes, but I think you will see that journalists, academicians and others are going to use this as an example of a special interest prevailing and the public interest not prevailing. Not to have a hearing on this fundamental question is simply wrong.

I hope that somehow a compromise might be worked out where a hearing would be agreed to and it would be

agreed that the committee would act, not necessarily favorably, but the committee would act on it shortly after the first of the year.

This process is wrong. There is no question the underlying bill should pass, but I think we are doing a disservice to the Senate and to the Nation as we move ahead in this way.

Mr. President, I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I yield myself such time as I may consume. Let me, again, repeat my respect and affection for the Senator from Illinois, but in all due respect to the Senator from Illinois, if we are talking about campaign contributions here, I say to the Senator from Illinois, organized labor, the ones that are behind trying to kill the FAA reauthorization bill, has given a thousand times more—a thousand times more—in campaign contributions.

I would be glad to examine the campaign contribution reports to the Federal Election Commission as to who has been getting what money and how much has been given and compare this corporation, with what organized labor is doing.

I say to the Senator from Illinois, right now today, there is an unprecedented—without precedent—infusion of funds by organized labor unions into the congressional campaigns and the Senate campaigns, the likes of which I haven't seen in the 14 years I have been a Member of the Senate. I strongly suggest, before the Senator from Illinois suspects—suspects, as he said —that campaign contributions play a role here, that he look very carefully at the contributions by organized labor unions and the significant contributions that have been made by the individuals who are trying to knock out this legislative provision in the bill.

The Senator from Illinois makes a very serious charge about suspecting—about suspecting—campaign contributions. I will tell the Senator from Illinois, it is clear as to who has been making the campaign contributions. It's been organized labor, it's been an intensive effort.

The other Senator from Arizona and I know of over a million dollars—over a million dollars—that has been poured in by organized labor against one Congressman in the State of Arizona, a rural district, something like we have never seen before. We have never seen it in the history of our State.

So, look, I appreciate the efforts by the Senator from Illinois for campaign finance reform. I look forward to joining him and Senator Boren and others who have left the Senate who we need very badly in that effort, but to somehow think that Federal Express' campaign contributions have something to do with this legislation, when it pales in comparison with that of the campaign contributions and the phone banks and the organized labor leaders who show up and demonstrate in front of our colleague's every campaign appearance, I say to the Senator from Illinois, he has his priority skewed very badly.

Mr. SIMON. Will my colleague yield just for 30 seconds?

Mr. McCAIN. I will be glad to yield to the Senator from Illinois.

Mr. SIMON. What you say underscores the point, that the way we finance campaigns today taints the whole process, there is just no question about it. We can exchange charges, but we need to improve the system.

Mr. McCAIN. Mr. President, again, I repeat my great appreciation, my respect, and my affection for the Senator from Illinois. Nothing that I said should be construed as anything but a difference of view as to what role campaign finances and contributions may have played in this legislation, because there is no reason whatsoever for there to be any friction between myself and the Senator from Illinois, as he enters the last few days of a distinguished career of service to the people of Illinois and this body. I hope the Senator took my response in that vein as he leaves the floor.

Mr. President, let me just correct one thing. A drafting error in the Interstate Commerce Commission Termination Act of 1995 created an ambiguity regarding the express companies status under the Railway Labor Act. That is acknowledged by the people who drafted the legislation and the Senator from South Carolina who was involved at the time in the drafting of that legislation. That is what we are doing here, we are correcting a technical error.

One provision states the intent of Congress:

> The enactment of the ICC Termination Act of 1995 shall neither expand nor contract the coverage of employees and employers by the Railway Labor Act.

However, a second provision drops express carriers under the Railway Labor Act. This was clearly inadvertent and a contradiction to the stated intent of Congress.

Those are just facts. Mr. President, I yield 10 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Thank you, Mr. President, and I thank the Senator from Arizona.

Mr. President, I am not a member of the Commerce Committee. If we could choose our committees without the restrictions of reality, I would like to be a member of the Commerce Committee. I join in this debate, nonetheless, because of the history with the Commerce Committee.

I don't know how far back some of the current Members go, but I was a very, from my present standpoint, young lobbyist for the U.S. Department of Transportation in the first 2 years of the Nixon administration. We didn't call ourselves lobbyists. They don't call them lobbyists today. They call themselves "congressional liaison people" or, in my case, I was in charge of congressional relations.

But we were lobbyists, and in the spirit of full and fair disclosure, I will use that term. My assignment from then Secretary John Volpe, who had been Governor of the State of Massachusetts, was to convince the Congress to pass the Airport Airways Act and create the Airport Airways Trust Fund.

My predecessors at the Department, who had been Democrats under the Presidency of Lyndon Johnson, had tried to do the same thing and had been unsuccessful, for a variety of reasons. There were some in the administration who said we would be unsuccessful as well. Representing a Republican President to a Democratic Congress, it was not supposed to be the most harmonious kind of circumstance.

So I came up here in the Senate, obviously not on the floor, but up in the gallery, and in Senators' offices and, with my staff, worked with the then-chairman of the Commerce Committee, Senator Magnuson, and ultimately succeeded in getting strong bipartisan support for the Airport-Airways Act and the creation of the aviation trust fund.

We thought, naively it turns out, that by creating the trust fund we would produce stability in funding for the FAA and airport-airways so that there would never be any doubt of the flow of funds for people involved in keeping our national airways safe.

So it comes as a moment of nostalgia to me to come to the Senate now, some 25 years later, and find that the flow of funds out of the aviation trust fund that I had a small hand in creating have been interrupted, cut off, jeopardized by an attempt to filibuster in this body the bill that would provide those funds, and that the intent of Congress, in which I participated to see to it that there would never be any challenge to that funding, has been frustrated here.

I understand the Senator from Massachusetts has every right to do what he is doing. I have participated in filibusters myself when I felt the cause was just and the point was well worth making. But I find this more an attempt to play to the gallery, if I may, than to address the issue, because it has been virtually conceded on both sides that it is simply a matter of time before the process plays itself out. The bill will pass. The money will be available to keep the airport and airways trust fund funding going to the FAA. The arguments have all been repeated again and again and again.

I find that a little sad from that past history. I was hoping to be able to look

back on my career and say that the one thing I did while I was at the Department of Transportation was help remove the airport-airways thing from this kind of disruption. Now I see that that is not possible.

I sit here, not as a member of the committee, and hear the debate going back and forth. "It was an innocent mistake." And, "It is a technical correction." "Oh, no. This is a major policy issue." Back and forth, back and forth, with voices being raised on both sides.

If I may, Mr. President, I am reminded of an experience in my even younger days, before I served in the Nixon administration, all the way back to my teenage years, the first experience I ever had listening to a debate in the Supreme Court.

This was a debate over the sentences that were given to the Rosenbergs back in the days when President Eisenhower was President. You say, what does that have to do with this? Absolutely nothing, except this one phrase sticks in my head.

In the course of that debate, one of the Supreme Court Justices asked one of the lawyers, "Who are you?" The lawyer was taken aback by this question, and gave his name. The Justice said, "No. I know what your name is. What is your standing? Who are you with respect to this case?" The man then said, "Well, I represent somebody who is next friend of the Rosenbergs, a man named Edelman. I am the lawyer for Mr. Edelman."

The Justice called for a law book. The debate went on for a bit, and the Justice interrupted the lawyer again and said, "Is that the same Edelman as in the case of California v. Edelman?" The lawyer was stunned that the Supreme Court Justice would have this in his mind, and he stumbled around and he said, "Yes, it is." At which point the Justice closed the law book with a look of some disgust and said, "A vagrancy case." "Oh, no," said the lawyer. "That was not a vagrancy case. That was a free speech case."

It was the wrong thing to say to a Supreme Court Justice, who reopened the book and said, reading, "California v. Edelman, a vagrancy case," at which point the lawyer compounded his mistake by saying, "Well, it may say that on the heading, but if you'll read the case, you'll see that it was a free speech case." Whereupon, the Justice leaned forward and said, "Let's ask Mr. Justice Clark. He wrote the opinion." And Mr. Justice Clark said, "It was a vagrancy case."

I remember that very clearly as a young teenager in my first experience with the Supreme Court. The reason I bring it up now is, I sit here as a Member of the Senate, not a member of the Commerce Committee, and hear this argument. "It is a technical fix." "No. It's not. It's a major policy question." And like the Justice, I would say, let us ask the man who wrote the opinion what it is.

The man who wrote the opinion, as I understand, in this case is the ranking member of the Commerce Committee, who says it is a technical fix. I heard him say so on the floor here. He says it is a technical correction. He is the ranking member of the committee from the minority party. The chairman agrees with him, the chairman from the majority party. I find that convincing, having heard the people who wrote the legislative words we are arguing about saying this is what it is.

I do not want to be in the position of that lawyer before the Supreme Court trying to say, "The man who wrote the opinion doesn't know what the opinion really says." "The man who wrote the provision doesn't really know what the provision really is."

So, Mr. President, I hope we can move forward quickly. I hope, having made the statements, having discharged our political responsibilities to the various people on both sides who have urged us to do this, we can move quickly. I hope we can move this afternoon to say, all right, we have made our position clear. We have said what it is we have to say. We have satisfied the constituents that come to us and plead for support here.

Now we have at stake the safety, the continuance, the future of the Nation's air system. Let us get on with it. Let us see to it that there is no challenge to the airport and airways safety and progress in this tremendously important area.

In my home State, we are trying to get ready for the Olympics in 2002. When the world comes to Utah in 2002, they are not going to come by ox cart the way they came the first time in the 1840's. They are going to come by air. When they come, the facilities have to be in place. The opportunity to get those facilities in place is being held up by our failure to provide this funding. I think that is a shame. I think we ought to move ahead.

Finally, I keep hearing all these things about how terrible Federal Express is. The most—I ask unanimous consent that I might be allowed the proceed for 3 additional minutes.

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

Mr. BENNETT. I hear how terrible Federal Express is. The only concrete statement really that I have heard is that Federal Express employees have gone for years without a pay increase. I realize that is a terrible thing. I have gone for years without a pay increase. Indeed, the whole time I have been in the Senate I have been denied a pay increase. I wish I had the salary I had before I came to the Senate when I took at least a 50 percent pay cut in basic pay, and more than that in bonus pay, in order to become a Senator.

I do not think that is a demonstration of prima facie that this company is antiworker, because if we accept that, then the Senate is clearly antiworker and we probably ought to do something about that, too.

So, Mr. President, I hope we could proceed with this and we could recognize that the positions have been staked out. The votes are where they are. I hope we will get on with it. I yield the floor.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will take just a few moments. Mr. President, I am really somewhat startled by the fact that those of us in this body making about $130,000 a year are comparing ourselves with men and women making $30,000 a year and who have not gotten a pay raise for the last 7 years. We can make light of that fact, but it is not made light of for hard-working families that are trying to make ends meet and provide for their children and to meet responsibilities and pay a mortgage. I do not see how that kind of comparison really advances the argument. I do not believe it does.

Mr. President, I think it is a fair question and the Senator from Utah has raised it about this language. Is it, as I have suggested, Senator SIMON, Senator FEINGOLD, Senator HARKIN, Senator WELLSTONE, and others stated, that this was a carefully-crafted project in order to effectively diminish in a significant way the legitimate rights of men and women that are in this particular company, as Senator SIMON has pointed out; or was the Federal Express Co. deletion a matter that was decided by the conference committee—and the conference committee report actually bears the name of my friend and colleague from South Carolina.

I listened with interest to the Senator from Utah talking about going to the individuals that are the most familiar with this particular legislation. I have JIM OBERSTAR, the ranking Democrat on the House Transportation Infrastructure Committee and BILL LIPINSKI, the ranking Democrat on the House of Representatives Aviation Committee. This is what Mr. OBERSTAR says:

> The ICR staff itself recommended the elimination of the express carrier status. It was not an oversight. It is not something that someone forgot to do. It is not something that was neglected and drafted. It was not a drafting error, but it was done for good reason. The last express carrier went out of business in the mid-1970's. Federal Express purchased that carrier's operating certificates. The Surface Transportation Board, successor to the ICC, advises in writing Federal Express apparently never engaged in the operations authorized by these certificates. Subsequently, Federal Express obtained and operated new certificates.

Mr. President, here is Mr. OBERSTAR, who knows something about it. Then

he continues along page 11463, September 27, 1996:

We should not on the thin thread of a nonexistent operation of a dormant authority purchased and never used, lock this carrier into a statutorily established position within the meaning of the Railway Labor Act forever and ever. This is simply wrong.

Mr. President, Mr. OBERSTAR knows, as the ranking member, what he is talking about. This was not an oversight. This is the ranking member. Our friends say, "Look at what people who understood, the men of the committee who spent the time." That is fine, that is a fair enough test. That is Mr. OBERSTAR.

We have other Members in the House. Mr. DEFAZIO points out:

Unfortunately, what we have here, done at the very last moment, is to put an extraneous matter voted on by neither committees of jurisdiction, voted on neither by the House nor the Senate, to benefit one very large multinational corporation who has generously filled many campaign coffers of Members in this House and the other body. This is not a technical correction.

He says it is not a technical correction.

Do trucks run on rails? No. Well, we are going to classify Federal Express, for the purpose of this bill, as a rail carrier.

Mr. President, we could go through the members of the relevant committees. Both Mr. NADLER and Mr. DEFAZIO in the House are members of the Transportation Infrastructure Committee, these are members of the committee saying this, not just myself and Senator SIMON.

Now, the fact of the matter is, Mr. President, it is not just us who are saying this. We are also looking at the Congressional Research Service. I know their report is demeaned out here on the floor of the U.S. Senate but the Congressional Research Service is to guide the Members of the Congress, the American Law Division of the Congressional Research Service.

We asked them, is this just an oversight or was it purposely intended to be done—so that the Members would understand whether they should accept the fact that this is just an oversight, we never would have permitted it, and therefore we are remedying a situation that happened; or whether it was recognition that that language should have been dropped for the reasons that we mentioned earlier and that now suddenly putting this language back in has an entirely different meaning. I think hopefully we understand that now, as the Senator from Illinois and others have pointed out.

This is the CRS report, "The deletion of 'express' company"—those are the words—"does not appear to have been inadvertent or mistaken. To the contrary, the deletion appeared to be consistent with the statutory structure and the intent of Congress. Since the Railway Labor Act coverage has been triggered by Federal regulation of express companies, it appears logical and necessary to eliminate the cross-reference to title 49. Elimination of 'express' from the RLA appears to be a necessary step in harmonizing the Railway Labor Act with the title 49 of the code."

This is an independent judgment. You can say I do not like that particular lawyer, I do not like that individual. You can threaten those individuals, I suppose, and say we will hope that that person does not continue to work at CRS. But the fact of the matter is, that is the independent judgment and decision, one in which I agree.

Now, taking what the conclusion would be from the CRS. If the amendment were enacted "court decisions since that time have upheld NMB discretion in resolving representative disputes. On balance, the proposed amendment would appear to confuse, rather than clarify the question of Railway Labor Act coverage."

On the one hand it can be argued the amendment would have no effect, and it is very interesting for those that are supporting this legislation to say, "Look, it is not really going to have an effect," because they say it will not expand or contract the rights of the workers. Well, it is interesting that they are arguing that at this time. It also points on the other hand, it could be argued since neither Federal Express nor anyone was certified an express company subject to the title, it would follow that no employer would come under the coverage. Nonetheless, courts usually strive to give meaning to all enactments.

That is right. They are understanding and everyone is understanding what this is about. This is Federal Express, their understanding, to be able to read the legislative history and understand. There is one company that will benefit, and proponents have argued the amendment would simply put the term back in the Railway Labor Act and would in no way affect, and proponents argue that the amendment merely corrects an error in order to preserve the proponents saying it will expand the coverage to ground-based employees of a carrier whose jobs are not integral to air freight operations.

There it is, Mr. President, exactly. UPS, the flight aspects are considered to be under the carrier provisions. Those that drive the trucks are considered under UPS under the National Labor Relations Act. Federal Express flies, they ought to be under the Railway Labor Act. The truckers ought to be—a judgment ought to be made. All we are saying by the National Labor Relations Board, all we are saying, let them make the judgment, not preclude them, not preclude them from making a judgment. That decision is before the National Labor Relations Board. And it will certainly be argued, if this becomes law, that this is exactly what is intended, to expand for ground transportation. That is the way the Federal Express is moving and expanding dramatically. It will give them extraordinary advantage. Put this back in and we don't know what the results will be. We do know, I think, what will happen. Federal Express will have another weapon to turn its back on the legitimate rights of workers and workers' rights.

Finally, that is what this is all about—whether these workers and workers' rights are sufficiently legitimate that they are going to appeal to those that are working in a particular community, to be able to make a decision and say, look, we feel that we can protect our rights better by becoming a union, or whether they say we don't want to choose a union. All we are saying is let them make the local choice, let them make the decision. UPS drivers have made that decision. That issue is before the National Labor Relations Board. Why take it away from the National Labor Relations Board and undermine those rights and put it under the Railway Act, which virtually says to all of those workers, we know you had the rights under the National Labor Relations Act, like they did in UPS, to go ahead and see if you can try and form a union. Maybe you will, maybe you won't. But we are letting you make that local choice and decision. But under this legislation, we are effectively saying, no way, not for you in this Federal Express Co. You are not going to be able to do it. That is, in effect, what this is all about.

Finally, Mr. President, I mentioned before that we are all for the extension of the Aviation Act. I don't know whether our colleagues were here earlier. I would have offered the FAA conference report without this provision on the CR and had a 10-minute discussion. We would have voted on that and the House would have accepted it. We would be off on our way to be able to do that. But the decision was made not to do that. So we are at least in the position now where we have to follow this procedure. But we are strongly committed to support that particular provision. We think that it is important.

Mr. President, I yield the floor and withhold the balance of my time.

Mr. MCCAIN. I yield 5 minutes to the Senator from Utah.

Mr. BENNETT. I thank my friend from Arizona. I will not consume much time. The Senator from Massachusetts appropriately corrected me on any suggestion that there is a similarity between the salary of a Senator and the salary of some of these workers, and I accept that correction on his part. I meant not to make that comparison. I didn't think I had made that comparison. But if he felt that was made, it was appropriate for him to raise the issue.

I would like to revisit the issue of the pay increase, because I have now been given some additional information that I did not have when I spoke before. The charge has been made that Federal Express has not given a pay raise to its employees in 7 years. I am now told that the truth is somewhat different, and that all kinds of programs relating to pay have been initiated within the last 3 years. There is now an opportunity for an employee to get professional pay. There is an incentive pay plan. There are programs for merit increases. And there is a program for best-practice pay. So the company has put in place this series of 4 opportunities, making all employees eligible for a pay increase that could be as high as 10 percent annually.

I think it is important, in the spirit of full disclosure, as we go about this debate, that we not leave on the record unanswered the charge that Federal Express has not made any pay increases available to any of its employees for 7 years, and the implication, therefore, it is the duty of the U.S. Senate to somehow punish them for this kind of activity on their part, when in fact they have put in place programs that make pay increases available to their employees up to the level of 10 percent annually.

If I may, again, without suggesting in any way any comparability between the salary of a Senator and the salary of some of the employees we are talking about here, I do wish that Members of the Senate could look forward to any kind of cost-of-living increase and not have had their pay frozen for the entire time I have been here. Maybe my coming caused that. If that is the case, I suppose there are plenty that hope I leave. I would like to think that was coincidental.

Mr. President, I repeat again what I said before. I think everybody has said whatever they want to say on this issue. It is clear that one side wants to take the opportunity to attack Federal Express and, thereby, perhaps tilt things in one direction or another in a time of a union election, to pay off whatever political debts to the unions that are urging them to attack Federal Express. The other side has made it clear that we want to get on with the legislative process of providing funds for the FAA.

I see no reason to repeat all of these arguments. I see no reason to wait until next Thursday to get this resolved. Everybody knows how it comes out, as the Senator from Illinois indicated when he spoke. I hope that people who are in leadership positions, who can deal with these things and deal with the Senator from Massachusetts, can sit down and get this thing resolved so that we can have a vote on it, let the Senate work its will, having heard all of the arguments, and get the money that is so desperately needed into the hands of the people who are so importantly in charge of something as significant as our Nation's airlines and safety.

Mr. MCCAIN. Mr. President, I yield myself such time as I may consume, and I will be brief.

Mr. President, let me remind my colleagues again, in the words of the distinguished Democratic leader, as he stated this just this morning:

> Question. So you've got to pass this bill?
> DASCHLE. We've got to pass this bill.

That is as simple as it is. I don't know exactly why the Senator from Massachusetts wants to drag out this procedure. But I do know this, Mr. President: We are now hearing from airport managers and workers, and even union members all over this country, who are asking why can't we move forward with our airport projects, why can't we begin the much needed repairs. We are even hearing from bureaucrats, who are saying, "We want to work, we want to move forward on aviation safety and security measures that are necessary to safeguard the flying public."

Why is it that we have to wait until Thursday for the bill to be completed and then sent over to the White House for signature? Why do we have to do that? I think that is a legitimate question, Mr. President.

On the subject of Federal Express, I don't know much about Federal Express, except that I see them everywhere. Members of my family, especially my wife, use that service quite a lot, along with a number of other organizations that deliver packages.

But I am not here to argue whether Federal Express is a good or bad corporation. In fact, I think that is a straw man, Mr. President. In fact, I think it is an evasion of what this debate is really all about. What this debate is about is whether there was a mistake or drafting error for which there needed to be made a technical correction in legislation that was passed in 1995, or whether there was not.

Now, the Senator from Massachusetts believes that had no relevance, that was not correct. He is entitled to that opinion, and I respect that opinion. I am not sure I see the point here in attacking a company and accusing them, and having a big poster board up there that says "anti-worker." What does that have to do with anything that we are really debating here?

What it really has to do with is a union agenda to attack a corporation. Again, they are free to do that, and the rules of the Senate, I am sure, certainly allow the Senator from Massachusetts to do that. But that is not really what the debate is about. The debate is about whether an error that was made in drafting and enacting legislation should be corrected or not. It is that simple. Whether Federal Express is the best corporation or company in the world, or the worst, has no bearing on it.

So, again, I am sure that the Senator from Massachusetts seems to be enjoying relating anecdotes about the anti-employee behavior of Federal Express; although, in my experience, most corporations that mistreat their employees are not successful. But maybe this is an exception to my general experience in that area.

I don't claim to be an expert. But I am not sure how we really gain anything by continuing to try to discover whether Federal Express is a good or bad corporation. The question here is: Are we going to allow the airport projects and aviation safety programs—the aviation safety and airport security programs—to move forward, which will happen on Thursday anyway now, or are we going to continue to delay? We have already passed our deadline for completing this matter by some 17 hours.

The Senator from Massachusetts professes and I accept his sincere commitment to the working men and women of America. I do not question that at all. But I do question why he wants to delay the inevitable until Thursday, or Friday, or next week costing these working men and women I don't know how much other income because I don't know what their salary is, but at least a week's worth, if not 10 days worth. In some families, that means a lot. That really does mean a lot. There are only 52 weeks in the year when you can work and we are now costing these families income by not passing this critical legislation.

Now the Senator from Massachusetts is going to deprive those working men and women. I have no idea how many tens of thousands of them would be working on $9 billion worth of airport projects. I don't know how many there are. But I know they are going to be out there suffering as will their families.

The Senator from Massachusetts continues to sort of blame this side that we didn't pass the bill. We passed the bill and finished conference on September 23, in plenty of time, Mr. President. The conference report could have been passed and sent to the White House days ago before October 1, and this critical funding would have continued.

Now we are getting emergency phone calls from all over America. They are calling saying, "What is the matter with you guys? What is the matter with you? You are hung up on some technical point here," and we are being deprived the ability to provide the critical aviation services to our citizens that they deserve. Frankly, I do not understand it.

I again urge the Senator from Massachusetts to allow us to move forward. We could have a vote on the conference this afternoon and pass it with 60

votes, or 51 if he would just let us have an up-or-down vote on the conference report. And we could be done with this. Instead the Senator from Massachusetts is choosing to drag this out for 3 more hours of debate tomorrow. And, very frankly, it is not clear to me what there is to debate more except to keep going over again and plowing over ground that has already been plowed, which by the way would not be a unique activity for this body. But at the same time there is a lot more at stake here than in the normal course of debate.

So again I want to urge the Senator from Massachusetts, take down your antiworker poster and let us talk about whether indeed this was a technical correction to a drafting error that needed to be made or not or whether the argument of the Senator from Massachusetts is correct that this is really a subject for the National Labor Relations Board. It may be. Let us try to convince our colleagues on the basis of whether that is, indeed, the case, or not.

I am willing and eager to engage the Senator from Massachusetts in open and honest debate on that issue. I am not eager to try to find out whether Federal Express is a good or a bad corporation because I do not think that is relevant to the issue and the question here. But I am afraid that is not going to be the case.

Finally, Mr. President, before I yield the floor, again this is an issue that must be resolved. It is going to be resolved. And we are not doing anything except penalizing working men and women all over America. We are jeopardizing the aviation safety of the American flying public. And we are not proceeding with the much needed modernization for our air traffic control system, and we are not moving forward in a myriad of ways that we critically must move forward with immediately.

Mr. President, I say with some self-serving comments that this has a huge bearing, and is an encompassing extremely important piece of legislation; the result of 2 years of work with the Secretary of Transportation, with the Administrator of the FAA, and with the Deputy Administrator of the FAA, Linda Daschle, who did such an outstanding job on this—an incredible job. Hundreds of hours were spent with Senator PRESSLER, the chairman of the full committee, Senator HOLLINGS the ranking member, Senator FORD, and me. I mean we have worked for literally 2 years on this very important legislation. And we had a couple of false starts I might remind my colleague from South Carolina. But we finally came up with legislation which really is important to the future of America.

Instead now we are hung up on what is fundamentally a difference of opinion as to whether a mistake was made in the drafting of legislation—and by the way, in view of those who were drafting the legislation, or whether Senator KENNEDY is correct, that this is a subject for the National Labor Relations Board.

It seems to me that we could pretty well ventilate that difference of opinion today and we could move forward with a vote on the bill today.

I again urge my colleague from Massachusetts to do that for the benefit of, if not the Members of the Senate who want to go home and campaign, the working men and women in America, tens of thousands of whom—if this debate drags out, I will have more specific statistics as to the incredible impact that this is having economically on America, not to mention the critical aviation safety and airport security reasons.

Mr. President, I reserve the remainder of my time.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will just speak briefly at this time.

I listened to my friend from Arizona talking about workers that are affected. I am asking what about those workers that are working for Federal Express that are playing by the rules who tried to get together and have their own set of grievances? What about those workers who have their case before in adjudication at the present time? What about those workers? What about their families? They have been waiting for months and months for a decision to see if their rights are going to be protected, and with the passage of this legislation effectively we are undermining those. I don't hear from the Senator from Arizona any concern about those workers. I would have thought that he would have been concerned with them.

Mr. President, we have debated about whether this was a mistake or not. I will not get back into the fact that we have had now the number of Members—Mr. LIPINSKI, ranking member of House Aviation, Mr. OBERSTAR, ranking member of the House Transportation, Mr. DEFAZIO on the Transportation Committee, and others in the House, and the members of the committee, plus CRS, all indicated that it was not just a passing factor, but that it was to give very clearly one company an advantage over others and being a serious disadvantage to workers.

Mr. President, the Senator from Arizona reminds me of that young person who shot his parents and then came before the judge, and said, "I plead, give me mercy. I am an orphan." We said the other day on the continuing resolution that we would pass the conference report without the antiworker provisions, and he said, no, no. Where was all of his concern about the workers then? Where was all of his concern about what is going to happen out in these various airports then? Where was all of his concern about the importance of passing out legislation then?

Well, after that legislation was safely passed, it only took a little bit of time. And then he comes out here and says "Oh, we have to pass this legislation now."

Mr. President, we are quite prepared, if it is agreeable to Senator MCCAIN, to ask that we go to consideration of S. 2161, which is the FAA bill that is on the calendar now without the antiworker special interest Federal Express rider, and we are prepared to move ahead on that.

I get back time and time again from the Senator from Arizona: "We can't do that because we are going to go out. We are going to go out." The fact of the matter is the House adjourned in 1994, and it came back and passed GATT. There are other examples that I will put in the RECORD of where the House came back in, the most recent with the GATT. They came back in and passed virtually immediately on the action that was taken by the Senate. It is done, and it has been done and historically done.

We could do that this afternoon. But no, no, no, no, no. He refused to do that because they want to stick it to these workers; stick it to the workers, pass this provision in there to stick it to the workers. They are the interest. This is my interest in terms of—

Mr. MCCAIN. I ask for a ruling from the Chair——

Mr. KENNEDY. I have the floor, Mr. President. I ask for regular order.

Their interest is my interest. That is basically what this issue is about.

The PRESIDING OFFICER. The Senator will suspend.

The Senator from Arizona.

Mr. MCCAIN. Under the rules of the Senate, I do not believe the words of the Senator from Massachusetts, saying I want to stick it to the workers, is appropriate language for the Senate.

The PRESIDING OFFICER. The Senator will withhold.

The ruling of the Chair is that the language of the Senator from Massachusetts is not in violation of rule 19.

Mr. KENNEDY. I thank the Chair.

Mr. President, the issue of those workers—this is about Federal Express. They have rights. They have their interests. If they are against the workers and workers' rights, so be it. This is a free country. They can go within the context of the law. What we are basically talking about is the grievances that those workers have, who are trying to carry them forward, and we have legislation that would effectively undermine them.

I know the Senator from Utah is not on the floor. I hoped to just be able to clarify this position. As I understand, from 1984 to 1991, which is a period of 7 years, there was no pay increase; that

in 1991, workers began to organize, and Federal Express gave workers a pay increase, and then another in 1993. In 1996, the company announced that there would be no further wage increases. That is my information. If that helps clarify the Senator's understanding of what I was trying to portray, that is fine.

Mr. President, this is an important issue. It is so easy to always find an excuse not to look out after working people. We heard from the Republicans month after month after month where they would not even permit the Senate of the United States to vote on an increase in the minimum wage. Month after month after month they said no. "Over my dead body," was what they said in the House of Representatives. "I will fight it with every sinew in my body"—an increase in the minimum wage to permit those Americans on the lowest rung of the economic ladder the ability to work and be out of poverty. No, they said. No, we have got other measures to consider in this Chamber. We are not going to permit that.

Then, finally, because of the American people's sense of fairness and decency, they had to relent in the Senate of the United States and the House of Representatives. Then they tried to cut it back. Then they tried to delay it in the conference. That is the record of the anti-worker leadership over the period of this last Congress.

The first thing they did was attack the Davis-Bacon Act. The average construction worker makes $27,500 a year, and that is too much for some on the other side; we are going to emasculate that. Second, we have got to cut back on the earned-income tax credit. Who benefits from that? Workers who make up to $28,000, $29,000 and their children. That is too much. We are going to cut back on those individuals.

The next thing we are going to do is make all of you pay more for your parents because we are going to cut back on the Medicare and give $245 billion of tax relief to the wealthiest individuals. We know what the record is of the Republican leadership over there.

I am not surprised at what the Senator from Arizona is saying now. All you have do is look at the record of this last Congress, and it has been anti-worker, anti-worker on a minimum wage, anti-worker on the earned-income tax credit, anti-worker on workers who are trying to get the Davis-Bacon provision so that those who have the skills ought to be able to get decent work, and cutbacks in education where the workers' children are going to school. Cut back on those programs. Cut back on the scholarship programs for those children who are going to college. To do what? Cut back on the Medicare, cut back on the Medicaid to give the tax breaks to the wealthy.

That has been the record. You do not have to listen to this Senator in October to make that out. The record is complete with the battles. So it is not a surprise to me when the Senator says we are concerned about workers, we are concerned about workers over here, and does not even mention those individuals who have very legitimate grievances and are being shortchanged by legislative action—shortchanged—and others who are going to be given some advantage, significant advantage, by statutory language.

This is not a question of oversight. All you have to do is read the record, read the unbiased analysis of those who observed the history of this particular provision. We know that. This is special legislation for a special company that has done what it could to frustrate workers from being able to proceed to pursue their legitimate grievances. That is what this is about.

That is what this is about. It is an issue we are fighting for, and it is an issue we are staying here another day for. For some, workers' rights are important. For some, the grievances of workers are important in this country, maybe not to others. Maybe not to others. But to some Senators, they are. They are worth fighting for. We will have that opportunity for the Senate to make a judgment on this on Thursday next at 10 a.m. We will then follow the rules of the Senate and abide by that decision. But until then, we are going to continue with everything that we can to make our case for justice and fairness for working families.

Mr. McCAIN addressed the Chair.

Mr. KENNEDY. I reserve the remainder of my time.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I yield myself 2 minutes.

I enjoy spirited debate in this Chamber. I enjoy an exchange of philosophy and ideas, and I learn from debate, especially with some of the more learned colleagues on the other side of the aisle. But I have to say, with all due respect to the President, I just grow weary, I grow weary when someone on the other side of the aisle says I want to stick it to workers, that I want to abandon old people.

That really has nothing to do with debate. That just has to do—even though the ruling of the Chair just was not in my favor, it is unnecessary, it is unwanted and, very frankly, I say to the Senator from Massachusetts, I am sorry that he has to lower the level of debate to impugning my character and motives for a position that I happen to take on this bill. I do not impugn the integrity, the motives of the Senator from Massachusetts. I believe that he has strongly held views. I believe that what is happening now is bad for workers of America, but I certainly do not blame the Senator from Massachusetts and, very frankly, I do not look forward to further debate with the Senator from Massachusetts because it is obvious that it cannot be debated on a level that I think is in keeping with the tradition of this distinguished body.

Mr. President, I would like to reserve 8 minutes for Senator HUTCHISON when she arrives in the Chamber. In the meantime, I would like to yield time, what time there is between then and 8 minutes left for Senator HUTCHISON, to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President. I do not know where to come in. I know we finally have beaten them when they start debating the minimum wage bill, no pay increase, anti-worker, Davis-Bacon, scholarships for students. It reminds me during the war boarding ships in the Navy, they said, "When in danger, when in doubt, run in circles, scream and shout." And so we now have to come to the floor of the Senate and talk about everything else but what is really at hand.

My distinguished colleague from Massachusetts thinks when he repeats something or says something, somehow that makes it true. He continually comes again and again and he says, well, the Senator from South Carolina cannot show that Federal Express is an express company under the Railway Labor Act. We filled the record. We will have go back to it again and again and again.

Since commencing operations 23 years ago, Federal Express and its employees consistently have been determined by the Federal courts, the National Mediation Board, and the National Labor Relations Board to be subject to the RLA. See Chicago Truck Driver, Helpers, Warehouse Workers Union v. National Mediation Board, 1982; Chicago Truck Drivers, Helpers and Warehouse workers v. NLRB in 1979; Adams v. Federal Express Corporation back in 1977; Federal Express Corporation, 22 N.M.B. 57 (1995); Federal Express Corporation, 22 N.M.B. 157, 1995; Federal Express Corporation, 20 N.M.B. 666 in 1993; Federal Express Corporation, 20 N.M.B. 486; Federal Express, 20 N.M.B. 404; Federal Express, 20 N.M.B. 394 in 1993; Federal Express, 20 N.M.B. 360 in 1993; Federal Express, 20 N.M.B. 7, 1992; Federal Express, 20 N.M.B. 91, 1992; Federal Express Corporation, 17 N.M.B. 24, 1989; Federal Express, 17 N.M.B. 5, 1989; Federal Express Corporation and Flying Tiger Line, 16 N.M.B. 433 in 1989; Federal Express Corporation, 6 N.M.B. 442, in 1978; Federal Express, Case No. 22–RC in 1974; Federal Express, NLRB case in 1985; Federal Express, NLRB case No. 1–CA 25084 in 1987; Federal Express, NLRB case in 1982; Federal Express NLRB case in 1982; another one, again, in 1977; 1991.

The National Mediation Board recently ruled—and this is a 1995 case—

on Federal Express' Railway Labor Act status by stating unequivocally that "Federal Express and all of its employees are subject to the Railway Labor Act." Federal Express Corporation, 23 N.M.B. 32 (1995).

I do not know how you make it more clear than that. You have that decision that said, in 1993, and I read, "Federal Express Corporation has been found to be a common carrier as defined by 45 U.S.C. 151."

Then I look at 45 U.S.C. 151, 1st, "The term 'carrier' includes any express company."

You read it to them; they don't want to listen. They just act like there is nobody else, they are here looking out for the workers, trying to make it an emotional thing, who is for the workers. I was around here for the workers when some of these were voting for NAFTA. We lost 400,000 jobs; the Mexicans lost 1 million jobs. We went from a $5 billion balance in trade, a surplus, to over an $18 billion deficit. I lost 10,000. I don't know how many this year. I know more than 10,000 by the middle of the summer. I lost 10,000 jobs down there.

GATT—I voted against GATT. I had to hold up the Senate and everything else of that kind, trying to make sense so we would not repeal 301. They kept on saying it was not repealed. Now they understand. The Japanese laugh at them. They say, "Let's go to the World Trade Organization, WTO." Find out what you get out of that group.

So, do not run around saying, "I am looking out for workers and helping workers, and you are antiworker."

The PRESIDING OFFICER. The time of the Senator from South Carolina has expired.

Mr. WYDEN. Mr. President, I rise in support of the conference report on S. 1994, to reauthorize the programs of the FAA. For the safety and security of every Oregonian who flies and for our smaller airports this legislation is critical.

I want to commend the chairman of the committee, the chairman of the Aviation Subcommittee, and especially the distinguished ranking member of the Aviation Subcommittee, Senator FORD, for their hard work. The conference report includes several provisions I have worked on. In particular, I take pride in those that make safety paramount at the FAA, that require making airline safety information available to the public and that strengthen security at our airports.

I also want to thank the managers for their cooperation in incorporating my amendment on train whistles. This provision will stop the Government from imposing a one-size-fits-all approach on communities with railroad grade crossings. Without this provision, towns across this country, like Pendleton, OR, would have had train whistles blowing night and day. My amendment will assure that the Federal Railroad Administration works with the people in Pendleton and elsewhere to develop appropriate safety measures for their grade crossings.

When we began the process, this was a relatively modest reauthorization bill. No safety or security measures to speak of. Now, these concerns are at the forefront, where they belong.

With this bill, we go beyond all the talk about safety. With this bill, we take the first step ever toward making information on airline safety available to the public. Finally, the traveling public will be able to get basic safety information in plain English.

Everyone who flies should be able to make informed choices about the airlines they fly and the airports they use. This legislation will help consumers do that.

Today, travelers can get plenty of information from the airlines about whether their bags will get crushed or their flights will arrive on time. With this bill, travelers will no longer have to go through the legalistic torture of the Freedom of Information Act to get basic safety information. They'll be able to get it online, from the National Transportation Safety Board.

No one thought this would be easy. I have talked to people in all parts of the aviation community—the FAA, NTSB, airlines, labor, manufacturers, pilots, and consumer groups—about the best way to do this. While there are certainly differences over how to do it, everyone agrees that it should be done. And I agree with those in the industry who say that anything involving safety should not be part of competition. But by having uniform definitions, standards, and public access to this information, I believe we will move safety out of the shadows and into the sunshine.

Also of special interest are the provisions seeking to improve aviation security.

This conference report will require more comprehensive employment investigations, including criminal history records checks, for individuals who will screen airline passengers, baggage, and property. We remove the legislative straitjacket that has hamstrung the FAA's efforts to deploy security equipment in airports.

When we talk about a security system that will cost as much as one B-2 bomber, we can't expect the airlines to shoulder that burden alone.

The conference report puts the administration on top of airport safety and security functions. Right now, this task is undertaken almost exclusively by the air carriers. From now on, the FAA will be firmly in charge.

Another problem is the lax attitude we have toward some of the most critical players: Those who monitor the x-ray machines. What is the point of having $1 million machines if these workers are being paid minimum wage and lack any basic training? Americans should not expect a second-class attitude will produce first-class security.

The amendment will toughen up the attention paid to these critical workers.

There remains, however, one glaringly weak link in the security chain. It is that we don't even have an evaluation of the current status of security at our Nation's airports. We need a basic security baseline in order to establish goals and priorities. We need regular reports on whether the goals are being met. This is not rocket science. It is security 101. Although this is not included in the bill, I intend to work with the FAA on this in the coming months.

Finally, I want to note another very important provision for Oregon: Funding protection for smaller airports. These airports, such as Bandon and John Day and Klamath Falls, serve citizens in the more rural parts of my State. Without the funding formula in this bill, these smaller airports would suffer disproportionate cuts in grant funds when appropriations are tight. Unless I've missed something, there doesn't appear to be any extra airport improvement grant funding lying around.

Mr. President, there are many other important elements in this legislation. I want to conclude by again thanking the leaders of the Commerce Committee for their excellent work on a good aviation safety and security bill.

Mr. HOLLINGS. When does the time terminate? Right just before 5?

The PRESIDING OFFICER. There is 8 minutes remaining to the Senator from Arizona. He yielded those 8 minutes to the junior Senator from Texas, and 24 minutes remain to the Senator from Massachusetts.

Mr. HOLLINGS. I thank the Chair.

The PRESIDING OFFICER. The Chair, acting in his capacity as the Senator from Washington, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Texas has 8 minutes yielded by the Senator from Arizona.

Mrs. HUTCHISON. Mr. President, it is hard to imagine that we are really still here, talking about whether we are going to vote on an aviation security bill. We know that we must have this. We are trying to respond in a responsible way to the potential for terrorism in our airports. We are trying to make sure that the FAA has the tools that it needs for safety. Yet, we are being held up on a really technical point, not to mention taking people away from what they need to be doing right now with regard to the rest of this session. I do not understand it.

What we are talking about today is the most bipartisan solution to a real problem that we have in this Government, and that is the reauthorization of the FAA, which thousands of the traveling public depend on for the safety of our airline passengers, as well as the safety of our visitors to this country. We have the reauthorization before us, and it is October 1 and we are not able to move forward.

I would like to talk about a few of the things that are in this bill which we cannot do today because we are in the middle of some kind of filibuster, which really is meaningless because we are going to vote on this bill sometime before the end of this week. But here is what we are not able to do today because this bill has not been passed.

We are trying to get explosive detection devices certified by the FAA. There is $400 million in the continuing resolution that we passed last night, and it is for the technologies which are now available that we are not using in this country but that they are using in foreign countries for the detection of explosive devices that might be taken on an airplane.

These devices that could be certified, right now, today, if we could pass this bill, cannot be deployed without this provision. So we are losing valuable time in getting the best of the technology.

You may ask, "Gosh, we put our bags through screens right now at airports." That is true, we do. But those screens were made to stop hijackers. Those screens were made to detect guns and knives, but not explosive devices, and particularly not the high-level, sophisticated explosive devices that we know are now on the market. But detection devices are available for those devices. We can detect those explosives if we can deploy the equipment and get it certified by the FAA, which we cannot do right now because this bill is being debated on a technicality that was decided by Congresses in the past and which has been decided by this Congress, and it is just a matter of time before we get to what will be an overwhelmingly positive vote that will show that this Congress has decided this issue.

We would require background checks for baggage and passenger screeners. We believe it is prudent to have background checks on the contracted-out employees who are doing this screening. That is in this bill. The FAA would be able to audit the criminal records checks for tarmac-access employees. That is provided in this bill, if we can pass it.

We are going to have a study that will determine if we can have baggage-match reports on domestic flights. One of the things that is done on overseas flights is matching baggage that is checked with the passengers. I believe this is going to be feasible on our domestic flights, because I think the technology is there that will keep us from having the delays that the airlines have been concerned about. So we want to be able to assess that, and that is provided for in this bill. But it is being held up now with this debate over a nonissue so that we are not going to be able to immediately go forward to implement tests on baggage match, which may be one of the most important ways to make our airlines and our airports more safe.

We are also going to ask the FAA in this bill, when it is passed, to look at how we can improve security for mail, for cargo. It is important that the sense of the Senate in this bill which says we believe that cargo security can be enhanced be passed, because if we can enhance cargo security, that is one area that really is pervasive in our aviation system, and it is really the underbelly, to use a pun, of aviation security.

We would require, in this bill, an aviation security/FBI liaison in cities with high-risk airports to coordinate with the FAA. This bill says that we think there needs to be a person in every FBI office where there is a high-risk airport—any airport that has international service—that in every FBI office, there should be a liaison with the FAA and with the airport to make sure that there is coordination, where information is exchanged, where the FBI can look at what the FAA is doing or what the airlines are doing for security, to give their opinion about whether it is sufficient or whether it could be improved.

In fact, we would have a joint threat assessment by the FAA and the FBI, and they want that authorization. Both entities want to work together, and they want the authorization to do that. It makes sense.

So why aren't they doing that? Because we are discussing a labor issue that was decided years ago. The people of America probably don't understand that, and many of us on this floor don't understand that either.

We are talking about taking away the dual mandate of the FAA, which is promotion of the airlines and safety. That has always been a kind of a conflict that has had to be resolved from time to time, and we are taking promotion out, because the airlines do a good job of that.

When the FAA was created back in the old days, airlines were just beginning, and people had to be convinced that airlines were going to be safe. But now we see the safety record of airlines, and it is terrific. You are safer on an airplane than driving to the airport, and that is a fact. So now we are going to make safety the mandate of the FAA, and that is proper, because passengers want to make sure that they are safe.

I think of the families of the passengers on TWA Flight 800 who went to France this week. They are trying to put their lives back together. I think of what those families are thinking about, what their loved ones felt when they were thousands of feet above the ground and, through no fault of their own, their lives were taken from them, and they were helpless.

We want to make it as safe as possible for every traveling American, and this bill will do it. Mr. President, there is no reason to be holding this bill up on matters that have been decided by this Congress. There is no reason to hold this bill up over a technical labor issue that has been decided by this Congress. We have so many important safety issues in this bill that are being addressed. We should be responsible and get this bill out today so that we do not delay for 1 more day the deployment of the explosive detection devices that are ready to go on line and into our airports to provide the level of safety that our passengers require, expect, and are entitled to.

So, Mr. President, I hope that those who are holding up this bill, knowing that they will not succeed, but, nevertheless, imposing on their fellow colleagues to make some sort of point that is not being very well made and putting in jeopardy the safety of the flying public and people who go into airports by the hundreds of thousands in this country every day—we could be doing more, and we could be doing it right now. The FAA is waiting for this authorization. It is at hand. Why would we be delaying for the next 2 days when we could start the deployment today, this minute, of the explosive detection devices which are provided for in the continuing resolution that has already been signed by the President and all we need is the authorization to do it?

It is not responsible, and I call on my colleagues who are holding this bill up and ask them to be responsible and help us address these issues for the safety of Americans and our families and our loved ones.

Mr. PRESSLER. Mr. President, as chairman of the conference on H.R. 3539, the Federal Aviation Authorization Act of 1996, I rise in support of this critically important aviation safety and security legislation. Despite some unwarranted, partisan exchanges in the past few days—unwarranted because this is in no way a partisan issue—this is bipartisan legislation which enjoys strong support on both sides of the aisle. When we vote on final passage later this week, I believe this legislation quite deservedly will enjoy overwhelming support.

There are many Senators from both parties who had a hand in crafting this legislation. Today, I wish to express my personal thanks to some of my colleagues.

My good friend from Arizona, Senator MCCAIN, has been a driving force behind this legislation. As chairman of

the Aviation Subcommittee, Senator MCCAIN set the lofty goal of meaningful reform of the FAA. Through Senator MCCAIN's tireless efforts, this legislation puts in place a mechanism to ensure the FAA is on firm footing to meet our aviation needs well into the new century. Senator MCCAIN's great vision in aviation policy can be seen throughout this conference report.

I also want to commend my good friend from Alaska, Senator STEVENS, who is really the unsung hero of this legislation. When we reached an impasse as to how best to address the question of long-term FAA financing reform, it was Senator STEVENS' thoughtful suggestion of an independent task force study that broke the deadlock. Those who have watched the debate on this conference report over the past week have seen firsthand Senator STEVENS' passion for aviation safety and improving the treatment of families of aviation disaster victims.

Let me also commend and thank my good friend from South Carolina, the ranking member of the Commerce Committee, Senator HOLLINGS, who provided important leadership on this conference report. Also, let me acknowledge the leadership of Senator FORD, the ranking member of the Aviation Subcommittee.

H.R. 3539 is a bipartisan, omnibus aviation safety and security bill. It reauthorizes the airport improvement program [AIP] and thereby ensures airports across the Nation will continue to receive Federal funding for safety-related repairs and other improvements. It reforms the FAA in a way which hopefully will reduce bureaucracy, increase responsiveness, and enhance the efficiency of that agency. The conference report also contains numerous provisions which will improve aviation safety, enhance aviation security and provide long overdue assistance to the families of victims of aviation disasters.

Mr. President, as I have said repeatedly in this body over the past few days, we have a responsibility to the American traveling public to pass this legislation before we adjourn. For instance, this legislation provides statutory authority to deploy explosive detection devices at our Nation's airports as recommended by the White House Commission on Aviation Safety and Security on which I serve. Even though yesterday the Congress approved funding to purchase these explosive detection devices, without passage of this conference report the Federal Government will not have statutory authority to deploy them. Such a scenario is completely unacceptable. The American public expects the level of security at our airports to be improved immediately. We must respond before the Senate adjourns.

Mr. President, I wish to speak for a few minutes about what this legislation means to my home State of South Dakota. In South Dakota, air service is critical to economic development. For example, the decision whether to open a new factory in a small city or where to locate a new business often turns on the availability of good air service. That was never more evident to me than when a company recently visited Rapid City, SD to consider relocating there. This move would create more than 100 new jobs. One of the very first questions they asked my staff concerned air service between Rapid City and a major hub airport. In South Dakota, air service and economic development go hand in hand.

Mr. President, this legislation is a great air service victory for South Dakota.

First, the legislation doubles the size of the Essential Air Service [EAS] program to $50 million. What does that mean? It means the cities of Brookings, Mitchell, and Yankton in my State will be ensured of a continued air service link to our national air service network. In addition to helping to protect existing EAS service in Brookings, Mitchell, and Yankton, I am hopeful that a $50 million EAS program will result in increased air service for these cities. A $50 million EAS Program is great news for the economy of South Dakota.

Second, the legislation ensures small airports such as those in South Dakota finally receive their full and fair share of AIP entitlement funds. Adequately maintained airports are critical to air service. They also are critical to air safety. Under the new AIP formula I helped develop in this conference report, South Dakota airports are big winners. For instance, AIP entitlement funds will increase at least $225,000 annually for the Sioux Falls Regional Airport, $170,000 for the Rapid City Airport, and $100,000 each for the Aberdeen, Regional Airport and the Pierre Regional Airport. Hopefully, improved airport facilities resulting from this formula adjustment will help stimulate increased air service in Sioux Falls, Rapid City, Aberdeen, and Pierre. Again, such a result would be great news for economic development in those cities and our State. The new formula ensures they receive their fair share of Federal dollars.

Mr. President, this conference report should have passed the Senate last week. Regrettably, a few Senators have been using procedural maneuvers to hold up this vitally important aviation safety and security legislation over one provision they find objectionable. During debate, I have listened to those Senators mischaracterize this provision as some type of conspiracy by the Republican leadership. That baseless assertion could not be further from the truth. As the distinguished ranking member of the Commerce Committee, Senator HOLLINGS forcefully pointed out during yesterday's debate, the provision in dispute is a provision that Senator HOLLINGS, a senior Democratic Member of this body, offered. Moreover, there is nothing partisan about the Hollings amendment. In fact, it was supported by all five Senate conferees including Senator HOLLINGS and Senator FORD, two of the most respected Democratic Members of this body.

Yesterday during debate on the Hollings amendment, I heard several Members of the group blocking this legislation make blanket statements that the Hollings amendment is not truly a technical correction. With all due respect to those Members, I authored the ICC Termination Act. I know what we intended to do in that legislation. Therefore, I can unequivocally say they are dead wrong. In the ICC legislation, the Senate never intended to strip Federal Express or any person of rights without the benefit of a hearing, debate or even discussion. That point is made crystal clear by section 10501 which reads "the enactment of the ICC Termination Act of 1995 shall neither expand nor contract coverage of the employees and employers by the Railway Labor Act."

Mr. President, fairness dictates we correct that inadvertent error. That is precisely what the Hollings amendment does. It is exactly why I supported it in conference. It is why I continue to support it strongly.

This historic piece of aviation legislation reflects the outstanding work Congress does when it proceeds on a bipartisan basis. We should meet our responsibility to the American traveling public by passing it as soon as possible. Lets get the job done for the American public. I urge that the Senate immediately pass the conference report to accompany H.R. 3539.

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

The PRESIDING OFFICER. Time yielded to the Senator from Arizona has expired. The clerk will call the roll and charge the time against the time remaining.

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 to speak for 5 minutes or less as in morning business.

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

HONORING THE LIFE OF HOWARD S. WRIGHT

Mr. GORTON. Mr. President, I speak here this evening to express my sadness and deep regret at the death last Saturday of a friend and civic activist

in the city of Seattle, Howard S. Wright. Mr. Wright can appropriately be called one of the great builders of modern Seattle. He was the head of a major construction firm for many years. His company was responsible for the building of the tallest of our structures, among many others, a set of buildings with the vision behind which led to much more beautiful development in downtown Seattle.

After leaving the construction business, he went into the allied profession, development, and there also was not only successful, but successful in a way that will leave a long-term and positive impact on the city he so loved.

While Howard Wright was magnificently successful as a businessman, he also gave at least as much as he received back to his community in the form of his activities in charitable foundations, such as the Seattle Foundation; to the arts, through the Seattle Opera Association and the Arts Commission; through sports, as one of the original owners of the Seattle Seahawks; and in the field of horse racing; to his schools, Lakeside and the University of Washington; and to other enterprises too numerous to mention.

Another great Seattle citizen, a friend of both Howard Wright's and of mine, Herman Sarkowsky, was quoted recently as saying that Howard Wright had "an insatiable appetite to learn everything about his city," to learn, Mr. President, and to do.

But, in addition to these objective statements about Howard Wright, I must add his own personal friendship to me and to all of my undertakings, his constant counsel and advice, and a sunny disposition, which never admitted that there was a task too great to be accomplished, that never admitted that there was not another friend to be made, another goal to be achieved.

Mr. Wright will be missed by his family, by his community, by all of the organizations to which he so unstintingly gave his time and his money, and by this U.S. Senator as a friend.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Parliamentary inquiry, Mr. President. What is the business before the Senate?

The PRESIDING OFFICER. The conference report on FAA.

Mr. DOMENICI. Is it appropriate for the Senator from New Mexico to ask unanimous consent for 5 minutes as in morning business?

The PRESIDING OFFICER. The Senator may seek unanimous consent.

Mr. DOMENICI. I also request unanimous consent that a legislative fellow in my office, a Mr. Larry Richardson be permitted on the floor?

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

ALLOCATION OF THE HIGHWAY TRUST FUND

Mr. DOMENICI. Mr. President, I seek the floor today just to make the record complete before the year ends with reference to what happened to the allocation of the highway trust fund or what is about to happen to it.

First, I want to put in the RECORD all of the States of the Union and the 1996 actual allocation, the percent and the dollar loss or gain from the 1996 allocation to the 1997 allocation. The minimum amount that States lost because of this new allocation is found in the last column of this chart. I ask unanimous consent that this chart be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. DOMENICI. Mr. President, what I understand and what I think happened is that the administration, principally through the Secretary of the Treasury's office, made a major error in calculating the flow of money into the Highway Transportation Trust Fund, and that means that the Federal money for projects in States like mine of New Mexico will drop $20 million—I should say at least $20 million—from last year's $169 million that we received.

Actually, the reason I say "at least" is because we did increase the obligational authority. So actually a State like mine and a State like the one of the Senator presiding here in the Senate should probably have received more in the 1997 allocation than they did in 1996. So this chart is just saying, if we would have received the same overall obligational authority —that is the big pot of money to be distributed—our respective States should have gotten at least what they got in 1996. Instead, they are getting less.

Now, the first point, Congress in that year did not change the formula. The formula was a multiyear operational formula that told the administration, between the Secretary of the Treasury which reports the receipts of the gasoline tax, and the Secretary of Transportation, to allocate pursuant to that multiyear formula.

Now, something happened because, as a matter of fact, more money was taken in, the formula was not changed, and we get less money—substantially less money. Now, it is very interesting.

On the other hand, it is almost incomprehensible to the Senator from New Mexico because some States got huge amounts of new money. For instance, New York gets $111 million less than this minimum I have been describing that they probably should have received. I have told the Senate about New Mexico. Then, if we look down and say, well, what happened to California? Well, California gets $122 million more than they would have received if we would have had a 1996 allocation of the same amount of money in 1996, even though we got more going into this formula now. And, interestingly enough, the State of Texas—I do not know how this all happened, it is almost some kind of phenomenal event—apparently for no real reason, the State of Texas got a $182 million increase. The State of Massachusetts, a $73 million decrease.

Now, frankly, I believe this error should have been corrected by this administration. In fact, ten Senators sent a letter to the Secretary of Transportation well before any drop-dead date with reference to sending the money out, urging that the Secretary of Transportation correct the error. We sent that letter on September 20th.

I ask unanimous consent that the letter be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, September 20, 1996.

Hon. FEDERICO PEÑA,
Secretary of Transportation, Department of Transportation, Washington, DC.

DEAR MR. SECRETARY: We are writing regarding the Department of Transportation's decision to use data from the Treasury Department that includes a $1.6 billion accounting error in the calculation of highway apportionments for fiscal years 1996 and 1997.

The Department of Transportation's decision to use the data without first correcting the error unfairly disadvantages our states. Therefore, we are requesting an explanation as to why the Department of Transportation has used this error in its apportionment formulas. At this point in time, it is still not clear why your Department has not been able to address this issue administratively.

Attached to this letter is a short list of questions which we hope will improve our understanding. The answers to these questions will be necessary to respond to inquires from our respective states. We also expect that the answers to these questions will help us to determine how a similar situation could be avoided in the future.

The states affected by this error will receive their apportionments on October 1, 1996. We, therefore, request a response to this letter by Wednesday, September 25. Thank you for your prompt attention to this matter.

Sincerely,

John H. Chafee, Pete V. Domenici, Max Baucus, Jeff Bingaman, Larry Pressler, Joe Biden, Tom Daschle, Alfonse D'Amato, Daniel P. Moynihan.

Mr. DOMENICI. We attached to it the fundamental questions to the Secretary of Transportation regarding this incorrect allocation, this lowering of some States and increasing of some States, without any change in the national formula, which is the law, and with an increase in the total amount we had to spend.

The error in the distribution of the 1997 funds to all States came about through an error of the Treasury Department in calculating the highway trust fund. Then we proceeded to ask several questions.

I also ask unanimous consent the questions be printed in the RECORD.

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

QUESTIONS REGARDING DOT DECISION TO IMPLEMENT HIGHWAY FORMULAS WITH $1.6 BILLION ACCOUNTING ERROR

(1) Given the significant implications of the accounting error, did the Department request an "official" correction that could be used in the apportionment formulas?

(2) To help gain an understanding of why the error could not be addressed administratively, please provide a copy of decision memos, legal opinions and other supporting materials and tables that led to the Department's decision to apportion funds based on incorrect data.

(3) Did the Department consult with the Office of Management and Budget (OMB) in making this decision? Did the 1997 budget baseline for the Department of Transportation assume that the error was corrected? Please describe any OMB policy guidance in this area.

(4) Does the Department have any recommendations to avoid a similar situation in the future?

Mr. DOMENICI. Interestingly enough, we have not heard from the Secretary of Transportation. This is an urgent request. They are in the middle of making final decisions which will cost my State a very big percentage of its highway trust fund, which will cost New York $111 million, which will cost States like New Jersey a very large amount of money.

Now, I am here because all I want is fairness. I cannot understand nor comprehend how the same old formula that is mandatory that they have to use, how it could turn out 1 year later to totally change what each State gets, when it has been applied for 4 consecutive years, and we could look at those averages, and nothing like this has happened.

Now, I have come to the Senate because I urge that the Secretary of Transportation fix this. I do not have any hopes that he will. In fact, I do not believe politically that they can. That does not make it right.

Can you imagine the Secretary of Transportation taking this money that I just described away from California, after they told them that is what they will get—even though it is wrong? Can you imagine the President saying, essentially, through his Transportation Secretary, to Texas that they should get what is the right number, instead of what is the wrong number—when they have already been telling them how much more they get? I could go on State by State.

I believe it should be fixed. I do not think the States which have been adversely effected by this should take this sitting down. We cannot fix this. That is the prerogative of the House of Representatives. They did not want to fix it. That does not mean it is right, nor does that add any strength to the fact that they are wrong. That does not make their numbers right because Congress did not take action in the waning days. That is obvious, as a matter of law that that is not the case.

Frankly, I hope the States that have been denied their fair proportion under errors in calculations by the Secretary of the Treasury, that were then forwarded to Transportation and apparently are about to be acted upon, that does not make those right. I believe States should take a look at it. They ought to look and see what their rights of action are.

This is a very, very, big mistake. For some States, it will never be corrected. I cannot tell New Mexico—we are a small State; $20 million is a small amount of money, big percentage, one of the highest percentage of reductions. The State of Rhode Island got a small amount but a big reduction. The State of Montana, small amount of money, but a big reduction—I cannot tell them come January, February, March, "We will fix this and give you the money you lost by the error."

I do not think I can promise that, for probably by then it will require we put a whole bunch of new money in the trust fund or that we allocate some extra money because, what about the States that think they can rely upon what the Federal Government has told them they will get. I submit they ought not be relying on it. I hope they have people keeping tab up here because I do not think they can rely on that money because I do not think it is theirs. I think it was erroneously allocated through a misapplication of a formula that is clear and precise and applied either the wrong numbers, wrong receipts—and they had plenty of time to fix it in the executive branch of Government.

Mr. President, while we are closing down tonight, I hope the Secretary of the Treasury's people that are watching, as they probably do from time to time, understand this may not be over with. I am urging States to do something about it themselves. I think they might look at whether they have a cause of action against the Federal Government. I am urging they take a look as to whether they can even get an injunction against the U.S. Government for misallocating this money and ask it be held up long enough for them to seek justice within the court system. That is just my thought. That is nobody else's. I do not hold anybody to it.

I tell you, this error is over $1 billion. That means, erroneously, States have been denied over $1 billion, and it has been funneled to other States, of the formula that they should have applied, was voted on up or down, and prevailed with a handsome majority when that formula was put in. I happen to know about that. I was not on the committee but I think I know how the formula came about. In fact, I know how the formula came about 5 years before that. It is very similar.

The point of it is, the formula has not been changed, the dollars to be distributed are higher, and 28 States get less. Now, that just does not jibe. It just does not make for good sense. Something is awry, amiss, gone wrong, and I hope it gets fixed. I hope the Secretary of Transportation takes a look. It has taken them about 10 days to answer the letter. That is pretty unusual. It has taken 5 days to answer a phone call where I asked him about this, and he will get back to me.

We will see tomorrow, 1 day before we go out, if we get something from them.

TECHNICAL ASSISTANCE—U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION: COMPARISON OF ESTIMATED FISCAL YEAR 1997 OBLIGATION LIMITATION

[In thousands of dollars]

State	Fiscal year 1996 actual	Conference	Percent	Dollar loss/gain
Alabama	270,610	329,746	22	59,136
Alaska	203,994	182,075	−11	(21,919)
Arizona	196,433	244,013	24	47,580
Arkansas	175,359	205,117	17	29,758
California	1,406,489	1,528,545	9	122,056
Colorado	199,342	198,171	−1	(1,171)
Connecticut	353,689	316,202	−11	(37,487)
Delaware	77,484	69,282	−11	(8,202)
District of Columbia	78,920	73,582	−7	(5,338)
Florida	598,880	711,991	19	113,111
Georgia	403,493	526,148	30	122,655
Hawaii	121,729	108,983	−10	(12,746)
Idaho	105,691	98,510	−7	(7,181)
Illinois	660,503	589,620	−11	(70,883)
Indiana	341,554	390,495	14	48,941
Iowa	197,960	177,316	−10	(20,644)
Kansas	205,052	183,204	−11	(21,848)
Kentucky	225,745	286,319	27	60,574
Louisiana	235,699	265,287	13	29,588
Maine	91,559	84,182	−8	(7,377)

TECHNICAL ASSISTANCE—U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION: COMPARISON OF ESTIMATED FISCAL YEAR 1997 OBLIGATION LIMITATION—Continued

[In thousands of dollars]

State	Fiscal year 1996 actual	Conference	Percent	Dollar loss/gain
Maryland	265,587	262,322	−1	(3,265)
Massachusetts	690,634	617,531	−11	(73,103)
Michigan	467,061	491,589	5	24,528
Minnesota	252,289	219,855	−13	(32,434)
Mississippi	183,481	203,112	11	19,631
Missouri	356,657	402,267	13	45,610
Montana	154,849	133,659	−14	(21,190)
Nebraska	139,084	124,262	−11	(14,822)
Nevada	104,575	105,029	0	454
New Hampshire	85,554	76,434	−11	(9,120)
New Jersey	478,929	434,884	−9	(44,045)
New Mexico	169,082	149,360	−12	(19,722)
New York	1,044,890	933,790	−11	(111,100)
North Carolina	399,218	446,693	12	47,475
North Dakota	102,064	91,086	−11	(10,978)
Ohio	594,508	575,591	−3	(18,917)
Oklahoma	227,795	258,883	14	31,088
Oregon	202,782	204,437	1	1,655
Pennsylvania	660,889	671,171	2	10,282
Rhode Island	85,850	71,582	−17	(14,268)
South Carolina	211,129	263,985	25	52,856
South Dakota	111,380	99,417	−11	(11,963)
Tennessee	325,654	371,667	14	46,013
Texas	984,970	1,167,763	19	182,793
Utah	125,684	121,489	−3	(4,195)
Vermont	78,511	70,155	−11	(8,356)
Virginia	341,432	393,580	15	52,148
Washington	324,150	291,059	−10	(33,091)
West Virginia	158,810	141,509	−11	(17,301)
Wisconsin	291,760	296,896	2	5,136
Wyoming	111,281	99,388	−11	(11,893)
Puerto Rico	76,122	73,648	−3	(2,474)
Subtotal	15,956,846	16,432,881		
Administration	529,843	521,119		
Federal lands	416,000	426,000		
Reserve	647,311	620,000		
Total	17,550,000	18,000,000		

Estimated apportionments provided by HPP–21.

I yield the floor.

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

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

MORNING BUSINESS

(During today's session of the Senate, the following morning business was transacted.)

THE 1997 OMNIBUS APPROPRIATIONS BILL

Mr. KERREY. Mr. President, although I am thoroughly disappointed in the process we endured to reach agreement on the fiscal year 1997 omnibus appropriations bill, H.R. 4278—I am pleased with the content of the bill. It is a huge package, so I am sure we will not know its full impact until weeks—possibly months—into this fiscal year. It would be difficult to put a package like this together without there being some disappointment in the final product. However, as a member of the Appropriations Committee, I worked hard to see that many programs that are important to Nebraskans and this Nation were addressed.

Let me highlight some of these programs.

COMMERCE-JUSTICE-STATE

I have long supported the National Telecommunication Administration's Telecommunications and Information Infrastructure Assistance Program. Last year I led the effort on the floor to include $21.5 million for TIIAP and I'm pleased to see that amount in fiscal year 1997 funding. This is especially important when considering the Senate Commerce-Justice-State Subcommittee began the process with zero funding for this important program. People sometimes ask why we need this program when there is so much going on in the telecommunications industry. We need it to help our rural areas share fully in the promise of networking and telecommunications. We need it to help our nonprofit sector participate. We need it to encourage the imaginative and sometime high-risk demonstrations of what can be done with the technology.

We have included $174.5 million for the Juvenile Justice and Delinquency Prevention Program and $560 million for the Byrne Memorial Grant Program which is important and insightful. If we can stop juveniles from turning to crime, I believe we have a chance at decreasing the need for courthouses, incarceration, and prison construction. The potential benefit is well worth the investment.

INTERIOR

I am pleased to see that the bill includes funding for one of my top priorities, Back to the River. This project is a collaborative effort to create a recreational, ecological, and cultural corridor along the Missouri River in the Omaha/Council Bluffs region. The project encompasses 64 river miles and has been ongoing for the last 2 years. It has the support of several public and private agencies. The Back to the River project will benefit Nebraska and the Nation by providing habitat restoration, floodplain management, recreation and river access, economic benefits, cultural resources and environmental education. The National Park Service and Fish and Wildlife Service have both been involved in this project.

The omnibus bill funds the National Endowment for the Humanities at the current level, which is higher than either the House or Senate number in the original Interior appropriations bill. NEH programs provide vital support to scholarship, education, and public programs in history, literature, and other aspects of the humanities. Support for our State humanities councils is particularly important because it is these generally small offices in each State that expand access to the humanities and that allows for a focus on local history, local literature, and local culture. They serve the very important function of helping us understand who and what we are.

The bill also funds the National Endowment for the Arts at its current level. NEA programs support our many performing arts' companies throughout the United States and our museums and also help fund the State arts councils.

In both instances I wish we had been able to provide additional funding but there will be an opportunity to revisit these programs next year.

LABOR-HHS

I am pleased about the increase in funding over the House and Senate levels for educational technology. I share some of the conferees' concerns over the educational technology program and believe that increased efforts must be undertaken to insure that technology advances learning and curriculum goals and that we understand how technology contributes to improved student performance. Over the years, we have come to understand that students' learning patterns may vary widely; technology offers us the opportunity to consider and to respond to the various ways in which an individual learns.

Of vital importance to Nebraska is the Impact Aid Program. Our commitment to militarily impacted and Native American districts is a Federal obligation; in fact, by shirking our responsibility to these districts, we create yet another unfunded Federal mandate. For fiscal year 1997, we were able to increase funding by $37 million over fiscal year 1996 to $730 million for Impact Aid districts, including additional funding for our heavily impacted, section F districts, such as Bellevue.

Equally important, this year's appropriations bill includes increased funding for the title I and Safe and Drug-Free Schools programs, both of which have proven to be successful programs here in Nebraska for the benefit of our students. Title I for disadvantaged students receives a $470 million increase over fiscal year 1996 which brings the total for fiscal year 1997 to $7.7 billion. This will enable us to serve nearly a half million more children. Safe and Drug Free Schools—a program for which I have heard many accolades from Nebraska educators and administrators—receives an additional $90 million over 1996 funding, for a total of $556 million.

Increasingly, concern exists among both students and their parents regarding escalating college costs. We are providing increased funding which will allow 3.8 million students to receive aid while also increasing the maximum award level to $2,700, a $230 increase. For fiscal year 1997, a total of $7.6 billion will be available for student financial assistance—$1.3 billion above the previous year's appropriations.

Job training efforts will also benefit from increased funding levels. I am especially pleased to see Summer Youth Employment and Training funded at $871 million. This program provides vital funding for youth summer jobs.

I am also pleased to see that the Health Careers Opportunity Program was funded at $26.8 million—an increase of nearly $3 million over fiscal year 1996. This award goes to medical schools and other medical professional training programs that recruit and train minority and disadvantaged students.

TREASURY-POSTAL

We were able to include funding, which the House had rescinded, for the National Archives for an on-line, interactive data base available via the World Wide Web. It provides unprecedented access to the National Archives' vast holdings. The National Archives holds a rich and priceless resource that, until now, has had limited access for a relatively small number of people. I feel strongly that information held by government at all levels should become more accessible and usable by the average American citizen. The treasures maintained by the National Archives should be accessible to all Americans—not just researchers who reside near College Park, MD, or those individuals who can afford a trip to Washington, DC or those who are fortunate to have a Federal archives facility located in their State.

The increase of methamphetamine use in the Midwest is a serious problem. I am pleased to see that this bill includes $8 million to designate the Midwest States of Nebraska, Iowa, Missouri, South Dakota, and Kansas as a high-intensity drug trafficking area [HIDTA]. This designation will provide added law enforcement resources to these Midwest States and will allow law enforcement officials in these States to conduct a coordinated tracking and enforcement effort.

Mr. President, let me restate my disappointment in the process that accompanied this spending bill. I firmly believe that every program and project that is funded with taxpayer dollars deserves the full scrutiny of all Americans, and should not be conducted in back-room negotiations. Two of the bills included in this package—those funding the Departments of Labor, Health and Human Services and Education and the Departments of Commerce, Justice and State—were never considered on the Senate floor. Further, funding legislation for the Department of the Treasury and the Postal Service as well as the Department of Interior were partially considered, but never finished.

Indeed, Members of this body—from both sides of the aisle—were denied the opportunity to offer pertinent, important amendments to these funding bills or to be heard simply because the process of debate and discussion was brought to an abrupt end and replaced with back-room negotiations. Mr. President, this is not the way policy should be made.

Last year we needed to pass several continuing resolutions—temporary funding measures—before we finally came to an agreement on spending levels for fiscal year 1996. We did not finish our appropriations work until April of this year. And that came after having to shut the Government down three times, which resulted in the additional expenditure of taxpayer dollars.

When faced with explaining why the Government spends hard-earned taxpayer dollars on any program or project, I believe that it must be able to pass the coffee shop test. That is to say, it must be defendable in a coffee shop in Fremont, North Platte, or O'Neill, NE, or any small town in the United States. After all it is their money we are spending. So at the very least, we as elected officials owe it to the people we represent to openly debate the merits of Government spending on the Senate floor.

I thought the Republican leadership had learned the lesson last year that getting our work done as legislators and representatives was the most important matter—not individual or political glory. And while this year we are not in the same situation of having a temporary funding measure—and a Government shutdown has been avoided—things are not that much different. I truly believe the American people have been shortchanged again.

Yes, I am glad the task is complete. And I am pleased, for the most part, with what I know is included in this funding legislation. But, Mr. President, I am concerned that the process—and perhaps this institution—has been slightly diminished. Diminished because the appearance and the reality is that our duty as legislators—and the interests of the American people—took a backseat to the interests of campaigning for reelection. During a time when we face an increasingly skeptical electorate, we can ill afford to continue this trend.

OMNIBUS CONSOLIDATED APPROPRIATIONS BILL

Mrs. FRAHM. Mr. President, I want to take just a moment to explain my vote in opposition to the omnibus consolidated appropriations bill. To me, the title of this bill goes a long way in explaining why I am skeptical about its content. When Congress delivers an omnibus spending bill, taxpayers should grab for their wallet. I wish to commend the tremendous effort of Chairman HATFIELD to bring together a bill that would satisfy the priorities of all of those involved. Indeed the chairman has been extremely generous to my State of Kansas. But I must protest a process and a final product that abdicates Congress' responsibilities to unselected officials who have no constitutional role in the power of the purse; a role relegated by Constitution solely to the Congress. I am speaking of President Clinton's Chief of Staff who sat in, with veto power over the deliberations of the house and Senate conferees.

I am at a loss to explain why those who maintain such an abiding commitment to reforming Congress and to cutting wasteful spending have cast their vote in support for this bill. If nothing else this bill represents business as usual. It is 16 pounds, 2,000 pages, and has no accompanying report, making it impossible to determine exactly where the money is going. Eight billion to jump start the war on drugs is just one example. What does that mean? To what programs will that large sum be directed? It sounds like a positive move, but it has no accountability. We shouldn't be making political statements of that magnitude with the taxpayers' money. As I have noted, this bill represents a total abdication of our constitutional responsibility. In short, it is a cop-out in our responsibility to the taxpayer.

I do not favor another Government shutdown. As Lieutenant Governor and secretary of administration with responsibility for the State employees of my State of Kansas, we were forced to furlough workers from their jobs, through no fault of their own because the President wanted to make political hay. Sadly, it was the Congress that received the blame. It seems that in Washington, if you lose the battle of the spin control, good policy and good Government don't matter. So cowed by the specter of another Government shutdown are Members of Congress that the political courage to get our job done, to make the tough calls and to provide a responsible spending package evaporated with the hint of misdirected public ire. Spin has once again won over responsible policy.

Senator after Senator has come to this Chamber to express their concern over the process that cobbled this bill together. The pork and largess included have been decried. But I don't see much willingness to confront the problem and fix it. That is what troubles me. This is not a good bill and Members know it. They have said so. I am saying so.

When I came to the U.S. Senate I pledged to the people of Kansas that I was prepared to make the tough calls. From my first vote, a vote to balance the budget and get the country's financial house in order, I have been committed to that pledge. So it is in keeping with my pledge that I cast my vote against this bill.

TRIBUTE TO SENATOR KASSEBAUM

Mr. PELL. Mr. President, I have had the honor and privilege of serving with Senator KASSEBAUM on both the Committee on Foreign Relations and the Committee on Labor and Human Resources and, I must say, that service together has always been, for me, a pleasure.

Senator KASSEBAUM has served on the Labor Committee from the 101st through the 104th Congress. In the 101st and the 102d she served as the ranking member of the Subcommittee on Education, Arts, and Humanities. During that period, we worked most closely and successfully together on matters such as the reauthorization of the Carl Perkins Vocational Education Act in 1990, Library Services and Construction in 1990, and the Higher Education Act in 1992. We worked in the strong bipartisan fashion that has traditionally been the hallmark of the subcommittee.

In the 103d Congress Senator KASSEBAUM became the ranking member of the full Labor Committee, and we continued to work closely together on such important matters as Goals 2000 and the reauthorization of the Elementary and Secondary Education Act in 1994.

Most recently, I have been proud to work with her in her present capacity as chairman of the Labor Committee in this, the 104th Congress. Her Workforce Development Act provided a much-needed overhaul and consolidation of our job training programs, and it also contained a series of very strong and positive vocational and adult education provisions. I supported the legislation both in committee and on the Senate floor, and regret very much that the Senate bill did not prevail.

Similarly, Mr. President, we served together since the 97th Congress on the Committee on Foreign Relations. There, to my enormous regret, the tradition of bipartisanship is not quite as well entrenched, but partisan conflicts were never caused by Senator KASSEBAUM. She always conducted herself in the most rational, informed and moderate fashion.

I would add that, in her years on the committee, she developed a remarkable expertise regarding the continent and the countries of Africa and an accompanying—and admirable—dedication to the often neglected peoples of that continent. During those years she traveled often to Africa, came to know its geography, and developed relationships with its political and business leaders. I think it is fair to say that she was unrivaled as the Senate's expert on Africa and African issues.

In the years we have worked together on both committees, I can say without question that Nancy KASSEBAUM has always been thoughtful, considerate, and gracious. I can also say that she is tenacious and determined. But most of all, she brings all of those traits together in the most marvelous way. I know that I am not alone in this assessment. Everyone in this Chamber knows that is the way it is with this gentlewoman from Kansas.

While I also will not be here next year, I know for sure that this body will not be the same without her principled and sensible approach to public policy. She will be sorely missed.

TRIBUTE TO SENATOR PRYOR

Mr. PELL. Mr. President, the departure of our dear friend the junior senator from Arkansas [Mr. PRYOR] from the Senate will leave a void that will be hard to fill. His special qualities of modesty and quiet accomplishment are all too rare. I have always greatly appreciated his decency and courtesy and his true sense of compassion. He epitomizes the sense of comity and civility which to my mind should pervade the body politic.

I wish for the sake of the Senate and the Nation that Senator PRYOR could stay longer. But he leaves now with the fullest possible measure of respect and affection of his colleagues. I wish all the best for DAVID and Barbara Pryor in the years ahead, and want them to know that they will always have my warmest friendship and admiration.

TRIBUTE TO SENATOR NUNN

Mr. PELL. Mr. President, we who have the privilege of serving in this body soon find that we may not always be in agreement with friends and colleagues for whom we have high regard.

The senior Senator from Georgia (Mr. NUNN) is such a colleague. I have always found him to be a man of singular ability, rectitude and decency. He came here as a youthful successor to a legendary predecessor, Senator Richard B. Russell, and quickly established himself as a serious and studious Member who could and did thoroughly master the intricacies of national defense policy.

Senator NUNN's term of service coincided with the last two decades of the cold war, and he leaves his mark as one of the architects of U.S. defense policy during that trying epoch. I sometimes found myself in disagreement with his emphasis on large defense budgets, since I was primarily committed to the cause of arms control and restraint in the nuclear arms race. History seems to have demonstrated that it took a balance of the two views we represented to assure our national survival.

Senator NUNN and I not only shared a common preoccupation with the major international issues of the time, but we brought to the task one very basic common thread of experience which may have colored our responses, and that was the fact that we were among the few members of the Senate who had served in the U.S. Coast Guard. I served as an enlisted man on convoy duty in the North Atlantic in World War II and SAM NUNN enlisted as a seaman some 20 years later when the world faced other stresses.

SAM NUNN leaves the Senate at a relatively early age with a solid record of accomplishment. I wish him well in the years ahead.

TRIBUTE TO SENATOR HATFIELD

Mr. PELL. Mr. President, as my own time in the Senate draws to a close, I find myself reflecting on those people and events that I will remember always.

A man who holds a unique place in my regard and that of many others in the Senate is the senior Senator from Oregon (Mr. HATFIELD). He came to the Senate in 1967, 6 years after I did, and he has become a Senator known for his intelligence, acuity, grace, and for love of his State and country.

The State of Oregon has a fine heritage. Mr. HATFIELD has a number of distinguished predecessors. A fellow Oregonian, Senator Wayne Morse, voted in 1964 against the Gulf of Tonkin Resolution that provided the congressional blessing for what later became the Vietnam War.

MARK HATFIELD was not in the Senate at that time. He was then Governor of Oregon. But in 1965 MARK HATFIELD cast the only vote at the National Governor's Conference in opposition to a resolution supporting President Johnson's Vietnam war policy.

He has taken other principled and unpopular positions over time. In 1981 he joined with my friend, the senior senator from Massachusetts (Mr. KENNEDY) in spearheading the Senate campaign for a nuclear freeze.

He has been a constant advocate of restraint in the nuclear arms race, limits on defense spending, an end to nuclear testing and a code of conduct in international arms transfers.

Some of Senator HATFIELD's efforts such as the Nuclear Freeze in the 1980's or the effort in the last several years to enact the code of conduct on arms transfers have not come to fruition. Other endeavors, such as his effort to bring about a comprehensive test ban have been smashing successes. It was Senator HATFIELD's own initiative in 1992 as ranking minority member of the Committee on Appropriations that led to the U.S. moratorium on nuclear testing and led to the eventual ending of testing by all the nuclear powers and the completion this summer of a Comprehensive Test Ban Treaty.

Like John the Baptist, MARK HATFIELD has often been a voice crying in the wilderness. It is not however a role in life he has regretted. He has felt obligated to speak his convictions and to let his judgments be known throughout his Senate career.

Mr. President, as a naval lieutenant (j.g.) in the Navy, MARK HATFIELD commanded landing craft in some of the bloodiest battles World War II in the Pacific. He was one of the first military officers to enter Hiroshima after the atomic blast destroyed that city in 1945. I was in the North Atlantic in Coast Guard escort duty during World War II, and I know some of the emotions MARK HATFIELD's experiences must have stirred in him and the feelings that remain after. I can tell you that, if you have seen combat, it is quite possible for you to become zealous in your desire to find solutions other than war and other than military buildups to the problems you face. Among other things, having seen combat, you do not want to capriciously subject your children or anyone else's children or loved ones, to the horrors of war.

The needless and pointless sacrifices of some conflicts, such as Vietnam, weighs heavily if you are in the position of participating in important national decisions, as MARK HATFIELD has been.

Senator HATFIELD has spoken to us all on the floor with great eloquence over time about the value of arms control and of the importance of peace to all Americans. In 1990, he told the Senate:

> Peace is not the town in Pennsylvania which last year was forced to cancel its high school graduation because officials believed that a group of students planned to commit suicide at the ceremony. And peace is not here in Washington—where after leading the Nation in murders last year, children are beginning to show the same psychological trauma as children in Belfast, Northern Ireland.
>
> Can we really believe that the decisions we have made—and are making—do not have a direct relationship to the violence which plagues our Nation?
>
> I suggest that we consider changing the motto on our coins. Mr. President, It now reads: In God We Trust—but by blindly pursuing the nuclear arms race, by putting the destruction of life over the preservation of life, we have foresaken our trust in God. We have shaken our fist at God—as E.B. White once put it, we have stolen God's stuff. Our motto ought to be: In Bombs We Trust. That is our national ethic—that is the example we are setting—here, on this floor.

In a time when too many opinions are formed on the basis of the latest polling results, it is good to have among us a Senator like MARK HATFIELD who moves unswervingly ahead toward what he perceives on the basis of his intelligence and experience to be the best course for the Nation and to continue the avid pursuit of what he sees as truly best for all of the people of America.

In his 30 years in the Senate MARK HATFIELD has tried time and again to do what is right. He has been willing to live with defeat, but he has been steadfast in his willingness to try and try again, so long as a chance at victory is in sight.

Mr. President, I am sure that the voters of Oregon, of Rhode Island, and of other States will do their best to make good choices in the next election. We will be replaced by people with different skills and capabilities, and many of them will have distinguished careers here in the Senate. There will not be another MARK HATFIELD, however. The nation should be thankful that it has been blessed with Senator HATFIELD's service.

TRIBUTE TO SENATOR SIMON

Mr. PELL. Mr. President, I first met the senior Senator from Illinois [Mr. SIMON] some 40 years ago in Moscow when we found ourselves sitting next to each other at the Bolshoi Ballet. Little did we ever think that our paths would intertwine so closely in the years that were to follow.

After PAUL came to the House of Representatives in 1974, we found ourselves in close collaboration in advancing the cause of education. We worked together on a myriad of education issues when he was chairman of the House Subcommittee on Postsecondary Education. When he came to the Senate more than a decade ago, he joined me on the Education Subcommittee and we have worked even more closely together on education issues since.

There is no Member of either House whose opinion on education issues I respect more. PAUL SIMON is the person we turn to for guidance on the subjects of literacy and adult education. His is the counsel I have valued most in higher education, on issues such as TRIO, institutional aid, international education, graduate education, foreign language instruction, and student aid. Even when we disagreed, as we did on direct loans, I listened to what PAUL SIMON said, and I have had a deep and abiding respect for his advocacy of that cause. While I have normally deferred to PAUL on library issues, I must candidly admit that the opinion of Jean, PAUL's wonderfully talented wife, carried equal weight on those matters.

During PAUL's first term in the Senate, our paths were to become further intertwined when he became a member of the Foreign Relations Committee. During his 8 years as a member of the committee he brought to its work the energy, creativity, and intellectual capacity which are his hallmarks. Much of that time he was chairman of the Subcommittee on Africa and he was tireless and eloquent in urging the committee's attention to the plight of that often neglected continent.

PAUL SIMON is very much an internationalist and he made important contributions in such areas as human rights, arms control, and foreign assistance. I deeply appreciate having him as an ally in the efforts to reinvigorate the Arms Control and Disarmament Administration and to restrain the proliferation of weapons of mass destruction. He was a true stalwart.

Finally, Mr. President, he brought his passion for the teaching of foreign languages to the field of foreign policy. He consistently pressed the State Department to broaden its foreign language capabilities and every State Department nominee knew that, during a nomination hearing, Senator SIMON was likely to grill him or her on how fluent they were in the language of the country to which they had been assigned. Alas, too often Senator SIMON

learned that the fluency was minimal, but he never ceased to press the Department to improve.

Throughout the period we have worked together, I have never failed to be impressed by the depth of PAUL's knowledge, the quiet deliberation with which he pursued his goals, the strength of his convictions, and perhaps most important, the wisdom of his counsel. I can think of no more decent and dedicated public servant.

OMNIBUS APPROPRIATIONS

Mr. FAIRCLOTH. Mr. President, yesterday, I was 1 of only 15 Senators to vote against the omnibus spending bill.

Mr. President, I deplore the process by which this bill was created.

Mr. President, when the Republicans took over the Congress—the Democrats were spending about $503 billion on domestic programs. Last year, after holding firm on principle we cut that to $488 billion. Now that number is back up to $503 billion.

Because we already have a $5 trillion debt, the billions in new spending represent a new 30-year obligation for our citizens. This is an obligation that we cannot afford.

Next year, we will have to cut $10 billion to get back on track and keep our commitments under the 1997 budget resolution. The budget resolution was the blueprint by which we would achieve a balanced budget in 7 years by the year 2002. We have already changed the plan and this is just year one.

There were supposed to be offsets to this new spending. But they were phony offsets.

The so-called refinancing of the savings insurance fund for the S&L problems is really coming from the banking industry. That money is to be used in a separate fund in case of future S&L failures. But the Congress has decided that we should use it to offset more spending.

We cut the defense budget further. Yet, the defense budget, in real dollars, has been cut in half since 1984.

While the President says on the campaign trail that he is not a liberal his aides were back here in Washington forcing us to spend more money on more liberal programs, cutting defense, and using accounting gimmicks to justify all of this.

This kind of game has gone on for too long, and it has to stop.

If we care so much for the children, why don't we leave them a country that is less in debt, not more in debt.

The wasteful spending that is littered throughout this bill is truly astounding. More foreign aid spending. Over $200 million for the United Nations, a bloated, wasteful bureaucracy. Over $200 million for the Advance Technology Program in the Commerce Department—this program has principally been known as the prince of corporate pork—serving Fortune 500 companies.

This is $40 million more for D.C. schools, even though they spend $9,000 per student, more than any other city in the United States.

And, $196 million for Howard University in the District of Columbia, $4 billion more for the Department of Education, $82 million for the National Endowment of the Arts, $1.6 million for the Kennedy Center, money for a new defense program called Security at International Sporting Events, $9 million for 100 percent guaranteed international housing loans, $1.9 million for supervision of the Teamsters election, $27 million for debt restructuring with Latin America countries, $19 million for the International Fund for Ireland, $5 million for the victims of Chernobyl, and the creation of a new Middle East Development Bank in which we authorize over $1 billion to be spent.

Mr. President, can we really afford this kind of spending. If we can't stop it where is it going to stop. This is the reason why I voted against this bill.

Now, Mr. President, I am grateful for the funding for Hurricane Fran in my State. This money will be helpful to that State, but my concern was that in order to vote for that funding—so much waste was attached to the bill—that on balance North Carolinians would be worse off for it.

Mr. President, finally, I am disappointed with the results of the illegal immigration bill.

Once again, the President campaigns like a moderate, but those are not the policies he advocates in Washington.

How can we stop illegal immigration if we continue to provide benefits to those that come here illegally.

The President has essentially forced ever school district in this country to educate, at taxpayers expense, children of parents who are in this country illegally. What kind of respect for the law does this demonstrate.

Mr. President, this Congress has made great progress on many issues. We fell just one vote short of getting a constitutional amendment to balance the budget. We made great strides in cutting spending. But in the wee hours of the morning this weekend, we had to give the President what he wanted or else he, not us, would have shut the Government down.

This is a shame, but next year the process will start again, and we have to be dedicated to reducing this debt on the American people by reducing the kinds of waste that we approved yesterday.

Thank you Mr. President, I yield the floor.

FAREWELL TO RETIRING COLLEAGUES

JIM EXON

Mr. HATCH. Mr. President, it has been a real pleasure serving with JIM EXON in the Senate. I have always admired his independence, dedication to his fellow Nebraskans, and his sense of humor.

As a small businessman, he brought an important perspective to our consideration of legislation; and as a former Governor, he never forgot about the important role of State governments.

On matters ranging from the budget to agriculture, in the minority or in the majority, he demonstrated amazing technical expertise as well as skillful and fair handling of debate.

I will miss Senator EXON and wish him the best in all his future plans.

NANCY KASSEBAUM

I want to congratulate our colleague from Kansas, NANCY KASSEBAUM, for her adroit and amicable leadership of the Senate Labor and Human Resources Committee.

As one who has "been there, done that," I can say with authority that she has led the committee expertly and fairly; and she surely deserves our commendation for delivering landmark health insurance reform legislation as well as so many other important measures in public health and education. And, no matter what side of a contentious labor issue one happens to be on, every Senator should admire the courage with which Senator KASSEBAUM tackled issues in labor and employment policy.

I know that NANCY is devoted to her family, and I can well appreciate that her future occupation is reported to be that of grandmother. It may be the only calling higher than leading public policy in some of the key and most pressing domestic and foreign policy issues. But, perhaps she will be training the next generation of Landons to follow her example of distinguished public service.

CLAIBORNE PELL

The Senate will indeed be a very different place as we say goodbye to our third most senior Member, the senior Senator from Rhode Island, CLAIBORNE PELL. Senator PELL has served the State of Rhode Island and our country extraordinarily well for over 35 years.

While Senator PELL has put his indelible mark on foreign policy as a long-time chairman and ranking member of the Foreign Relations Committee, it was through our common membership on the Labor and Human Resources Committee that I know him best.

Senator PELL will long be remembered for helping millions of young people achieve success by making a college education more accessible through the grant program which bears his name. He has helped more people gain access to the arts and cultural enrichment programs by sponsoring the law establishing the National Endowments for the Arts and Humanities.

It is hard to name a single education initiative that he has not been instrumental in enacting.

And, I might add, Mr. President, that Senator PELL's unfailing sense of civility and decorum, his insistence on fair debate, and his staunch adherence to agreements honorably entered into were without a doubt a major reason that so many education initiatives were not only enacted into law, but were enacted with strong bipartisan support.

I join my colleagues in expressing all best wishes to Senator PELL and his family.

MARK HATFIELD

The Senator from Oregon has brought a level of service and integrity to the Senate, this country, and his State that can be compared to few.

As chairman and ranking member of the Appropriations Committee, he has at once one of the most powerful positions in Congress and one of the most thankless. On the one hand, he has used his prerogatives to advance public policy, not personal gain; on the other hand, he has tirelessly struggled to fairly and effectively reduce Federal spending. Senator HATFIELD has always been able to rise above the pull and tug of competing interests to craft bipartisan and fair appropriations bills.

I will remember Senator HATFIELD for many things—his intelligence, his spirit, his character, his willingness to put aside partisan politics to achieve essential goals, and, of course, his friendship.

Despite our common objectives on a number of important issues, such as balancing the budget, abortion, and balanced land use policy, we have not agreed on every matter. But, what I will remember is the deep personal conviction that Senator HATFIELD brought to all that he did.

It is a sad day for us to lose his experience, knowledge, and character in this body. He will be sorely missed by me, the Senate, the State of Oregon, and, I believe, the country as a whole.

PAUL SIMON

Mr. President, it was my pleasure to participate in the "bow tie" tribute to the retiring senior senator from Illinois, PAUL SIMON. I want to thank him for his 12 years of contributions to the Labor Committee, which overlapped with my tenure as chairman and ranking member, as well as his decade of service on the Judiciary Committee.

Senator SIMON was, among other things, a champion of literacy programs to assist individuals and families achieve their full potential. PAUL SIMON knew that learning and personal fulfillment comes from walking through open doors—doors that exist in the written word. Without the key to unlock the door, people can become prisoners not just to welfare, but also to an extremely small universe of possibilities. I, for one, will remember Senator SIMON's tireless advocacy of literacy efforts—a passion he held in common with our former First Lady, Barbara Bush.

But, I will also remember the political courage and dedication PAUL SIMON demonstrated in our fight to pass a balanced budget amendment to the Constitution. As a believer in a strong central government, it would have been easy for Senator SIMON to ignore the problem of growing national debt. But he did not. I have rarely seen a Senator work harder on a piece of legislation.

Senator SIMON is going to pursue one of his first loves—teaching—at Southern Illinois University. His students' gain is the Senate's loss.

HANK BROWN

The election of HANK BROWN in 1990 was a great day for Colorado and for the Senate. The West had in HANK BROWN an energetic and diligent voice for balance and common sense.

No Senator was ever able to put anything past him—he was always prepared. He was always an articulate and forceful advocate for his position and always amicable in his approach.

HOWELL HEFLIN

Mr. President, it is hard to imagine the Judiciary Committee convening in the 105th Congress without the Judge. The discerning chairman and ranking member of the Courts Subcommittee, Senator HEFLIN has been a vigilant defender of the third branch of our Government.

As a former jurist, he has approached the committee's work with temperance and a strong respect for the Constitution. His deliberative nature is demonstrated by the fact that often no one on either side of an issue knew how Senator HEFLIN would vote.

Once again, I want to extend my appreciation to him for his hard work toward passage of the flag protection amendment. We could not have come as close as we did without his enthusiastic support.

BILL COHEN

Mr. President, I wish to honor the service of one of this body's most respected members, the senior Senator from Maine, Senator WILLIAM COHEN. I regret that our youthful colleague has decided not to run again. He has served the people of Maine well, and I believe they were prepared to reelect him for his fourth term in November. Our colleague has chosen, instead, to engage his substantial talents in other pursuits, pursuits I am sure will serve his home State and this country.

Those who study the careers of the Members of the Senate will know that Senator COHEN has demonstrated an analytical mind, a determination to the search for solutions, an intolerance for negativity, a commitment to civility in government, and an appreciation for public service in its best sense.

I had the pleasure of working with the senior Senator from Maine on a number of committees, including the Judiciary Committee. As chairman of the Intelligence Committee, it was always very clear that he took his responsibilities extremely seriously. He was a master of detail; and, for his work, the intelligence community owes him a great debt.

We know the Senator has spoken in the past several months about the difficulties of the current political climate, and the challenges of seemingly intractable budget issues. What is admirable about Senator COHEN is that he never became a naysayer of government: Senator COHEN believes that members are elected to government to find solutions, not to denounce the institutions they serve. Senator COHEN believes in good government, because Senator COHEN practiced good government.

This is the type of attitude that serves not only the best interests of government, but presents the most positive aspect of government to an increasingly disillusioned public. Senator COHEN embodies this character, and by doing so upheld the dignity of the U.S. Senate.

Senator COHEN has a long professional life before him. I know he will continue to serve the people of Maine while promoting free trade with that great State and the nations of Asia. By doing so, he will continue to promote the positive-sum solutions that he will be known for finding while serving this body. And, perhaps if we are lucky, there will also be another book or two from the Senate's most celebrated author.

BENNETT JOHNSTON

Mr. President, I rise to pay tribute to my good friend from Louisiana, J. BENNETT JOHNSTON, who will retire once the curtain is drawn on the 104th Congress.

Senator JOHNSTON has proven to be a stabilizing and reasonable voice on the many critical issues that have come before the Senate Energy and Natural Resources Committee, where he has served for 24 years, 16 of them in a leadership capacity as either chairman or ranking member. Every piece of legislation or proposal that has been considered by that committee during this time has reflected his knowledge on energy matters and represented his fine and exemplary legislative skills.

For example, he was a primary factor in the dismantling of the price control structure of petroleum during the 1980's. This case alone shows the commonsense approach he has undertaken over the years to address our Nation's energy policies. In addition, he has shown very progressive leadership and insight on regulatory matters involving the Federal Energy Regulatory Commission.

We Utahns owe Senator JOHNSTON a debt of gratitude for his understanding and attention to energy and natural resource issues critical to our State, including the Central Utah Project, grazing and mining reforms, Payments-In-

Lieu-of-Taxes, and our school trust lands. While BENNETT may not have hailed from the West, we have appreciated his sensitivity to Federal initiatives that particularly affect the West.

Throughout his tenure on the Energy and Natural Resources Committee, he has always said that if a State's two Senators supported a specific proposal that affected their State, he would not stand in the way to its becoming law. Despite his possible differences with these proposals, he has remained true to this principle. This was most apparent during our recent debate on a Utah BLM wilderness proposal, during which he helped craft release language that was more acceptable to many of our colleagues. In the end, he supported our bill when it came to the Senate floor. One of the best things that can be said about a departing Senator is that he was true to his word, and BENNETT JOHNSTON always was.

Mr. President, BENNETT JOHNSTON has been reasonable and diligent; he has been a servant of the environment and a protector of our natural resources. There is no doubt that he will be missed.

ALAN SIMPSON

Mr. President, what can I say about AL SIMPSON, my good friend and colleague from Wyoming? He is a genuine original.

Not only have we worked together over the years on issues pertaining to the West, but we have served together on the Judiciary and Finance Committees. I am pleased that, literally in AL's final hours as a Member of the Senate, the illegal immigration bill was finally passed. AL SIMPSON has many achievements to his credit, but I believe he will be most remembered for his strong commitment to preserving the integrity of America's borders. He worked tirelessly on this legislation, and we are going to miss his expertise on these issues.

On a personal level, we are all going to miss AL's sense of humor. I have often wished I could be as fast with a quip as AL SIMPSON. Since AL is also headed off to academia, I can only imagine the waiting list to get into his classes.

DAVID PRYOR

Mr. President, I would be remiss if I did not stand before the Senate to say a few words of tribute to my good friend and colleague from Arkansas, DAVID PRYOR.

This body has been fortunate to have had the capable wisdom of DAVID PRYOR, and I have had the pleasant experience of working closely with him, particularly since my joining the Finance Committee during the 102d Congress.

As is the usual order of business around here, Senator PRYOR and I sat on different sides of many difficult issues. But, on many other occasions we saw eye to eye and worked together to find the right solutions.

Just this year, it was my privilege to join DAVID in sponsoring three important pieces of tax legislation that I know he is proud of—the Pension Simplification Act of 1995, the S Corporation Act of 1995, and the Taxpayer Bill of Rights II. Through the tireless efforts of DAVID PRYOR, these important measures were finally enacted into law.

In every instance he was a gentleman. In the majority or in the minority, DAVID PRYOR has earned the admiration of every Senator in the Senate.

Mr. President, DAVID PRYOR will be missed. His gentle southern kindness and his honesty have earned him the respect of every member of this body. As he moves on to other pursuits, I wish him and his wife Barbara the very best.

BILL BRADLEY

Mr. President, as the 104th Congress draws to a close, I would like to express my best wishes to Senator BILL BRADLEY of New Jersey.

There are few people who can be all-stars in two professions. BILL BRADLEY is one of them. After an illustrious career in the National Basketball Association, he has spent three terms in the Senate. In both occupations, BILL BRADLEY has touched millions of lives through his great example of leadership, hard work, intelligence, team work, and integrity.

Senator BRADLEY has made an impact on each of the committees on which he served over the past 18 years—but none more so than on the Finance Committee, where we have served together for the past 5 years. Although we have not always agreed on issues of national tax, trade, and health care policy, BILL BRADLEY has earned my respect for his dedication to taxpayer fairness, a better and simpler tax code, and his tireless efforts to reduce the budget deficit.

As BILL BRADLEY moves on to the next phase of his already diversified public life, I wish him all the best.

SAM NUNN

Mr. President, all Americans who value a strong national defense will sorely miss the Senator from Georgia. His encyclopedic knowledge of defense issues has contributed not only to a much more efficient use of defense resources, but also greater accountability among defense contractors.

I also believe that Senator NUNN has the distinction, along with Senator THURMOND, of being the best friend our uniformed men and women ever had. SAM NUNN knows that our Armed Forces are the backbone of our defense. Without them, our technology and armaments are useless.

SAM NUNN has been instrumental in defining U.S. defense policy for the post-cold-war era. He leaves us with a blueprint on which we can build our national security strategy for the next decade and beyond. It is a well-conceived theory with a strong practical dimension. His thinking has the power of reasonable prediction of what lies ahead as well as of a clear grasp of the lessons of history.

Senator NUNN has been a thoughtful, hard-working legislator—a great example of what a Senator should be.

I wish him well in whatever his future plans may include.

SHEILA FRAHM

Mr. President, we have not had a chance to know well the new junior Senator from Kansas, but I would be remiss if I did not say to my colleagues how much I admire the way in which Senator FRAHM has jumped into the whirl of the Senate. She took over the seat of one of the giants of the Senate. She has had to become conversant on myriad topics that were already well in play before she got here. She has had to make some tough voting choices. Yet, she did not shrink from any of this.

I want to wish her well and hope she will continue serving her fellow Kansans in other ways.

ENVIRONMENTAL ACCOMPLISHMENTS OF THE 104TH CONGRESS

Mr. KEMPTHORNE. Mr. President, for the past 2 years, our critics have accused Republicans of rolling back environmental standards. Just suggest that an environmental law can be improved, and the critics quickly label you as "anti-environment." When we look back on this Congress, though, I believe that the newly enacted safe drinking water law stands as the true testament to what we're all about. It's not just empty rhetoric; it's real reform that improves the environment, protects public health and reduces unnecessary costs so that all Americans can enjoy clean, safe, and affordable drinking water.

To our critics, I would like to offer three comments.

First, Republicans are committed to protecting and improving our environment. We demonstrated this commitment throughout the Safe Drinking Water Act. We directed the Environmental Protection Agency to target those contaminants that are actually present in drinking water and are found to present a real health risk to humans. We authorized, for the first time, $1 billion annually for a State revolving loan fund so that local communities can construct and upgrade their treatment systems. We provided, also for the first time, tens of millions of dollars for important research on the health effects of contaminants, like cryptosporidium; and we created a new voluntary source water partnership program to encourage communities and landowners to work together to prevent contamination of drinking water before it occurs.

Second, Republicans are committed to making our environmental laws

work better. Certainly, our current framework of environmental laws has gone a long way toward addressing the major environmental problems of the 1970's and 1980's, but the problems have evolved and our laws need to evolve with them. Our laws must be more flexible to address the multitude of situations that States and communities face every day. We must work with our partners in State and local governments, not against them. And we must provide more incentives to achieve environmental excellence—more carrots and fewer sticks.

The Safe Drinking Water Act proves that these principles can indeed make our laws better for the environment and reduce unnecessary costs. The Congressional Budget Office reviewed our legislation and confirmed that it "would change the Federal drinking water program in ways that would lower the costs to public water systems of complying with existing and future requirements. On balance, CBO estimates that the bill would likely result in significant net savings to State and local governments."

In signing the Safe Drinking Water Act, President Clinton called the new law, "a model for responsible reinvention of regulations," that "will provide the American people with much greater protection for the drinking water on which we all rely every day of our lives." He's right; and it was a Republican initiative.

And, finally, I would like to emphasize that Republicans are committed to working with our colleagues on the other side of the aisle on the responsible reform of our environmental laws. The environment is not a partisan issue. Our environment is our lifeline and, if we are to preserve it for our children and their children, we must work together. The Safe Drinking Water Act was written with the advice of many public health experts, State and local government officials, and water providers. Republicans and Democrats alike were instrumental in the crafting of all of its provisions. And ultimately, it had the support of every Member of the Senate, virtually every Member of the House of Representatives, the administration, the regulated community and the public. To my mind, that's the model for future environmental legislation.

As this Session and this Congress winds to a close over the next few days, we should pause to look back. We have much to be proud of. Among other things, we reauthorized and significantly improved a major environmental law, the Safe Drinking Water Act. But, looking forward, we have much work yet to do.

Many of you know that I have been working hard this past year on legislation to reauthorize the Endangered Species Act. I had hoped to complete our work on that legislation this year as well, but political and practical obstacles got in the way. So, while we were able to make significant progress this year in resolving many of the problems underlying the Endangered Species Act, final resolution will have to wait until next year and the new Congress. I believe, though, that our efforts this year will pave the way for a bill next year.

There is no single environmental law that is in greater need of fundamental reform now than the Endangered Species Act. More than any other law, the Endangered Species Act truly pits humans against their environment. Loggers in the Pacific Northwest fear that they will lose their jobs—and many have—because of the spotted owl; farmers in Idaho fear that they won't be able to water their crops because of the salmon; and communities in Texas fear that they will lose their sole drinking water supply because of a salamander.

And all to no end. Since it was first passed, the Endangered Species Act has failed to recover a single species to the point that it could be removed from the list of threatened or endangered species. The fact is, we're spending millions of dollars now, putting communities at risk all in the name of protecting endangered species, but we have no clear policy, priorities, game plan, or even ability to measure results. We need to do better—both for the species and for our fellow Americans.

So, when we come back next January, I will pick up where we left off and introduce comprehensive legislation to significantly improve the Endangered Species Act.

It's time that the Endangered Species Act actually saved species from extinction. It's time that the Endangered Species Act treated property owners fairly and with consideration. It's time that the Endangered Species Act minimized the social and economic impacts on the lives of citizens. And it's time that the Endangered Species Act provided incentives to conserve rare and unique species. I believe that we can draft legislation that accomplishes those goals.

Over the next few months, I plan to continue negotiations with my colleagues on the Environment and Public Works Committee, Senators CHAFEE, BAUCUS, and REID, other Senators, and the administration. I will work with them, officials of State and local governments, the regulated community, and others to achieve meaningful Endangered Species Act reform. But, let me emphasize that it must be real reform.

We must ensure that decisions made under the Endangered Species Act are based on good science. All too frequently, species are listed and restrictions imposed on landowners as a result of junk science or no science. That must change.

We must streamline the consultation process under section 7. In just one case in Idaho, for example, a simple bridge was held up for over a year while the National Marine Fisheries Service reviewed a proposed construction plan that had already been approved by four State and Federal agencies. The bridge ended up costing over four times as much as the original approved design because of the National Marine and Fisheries Service. That must change.

We must strengthen the recovery planning process so that the emphasis is not just on listing a species, but also on bringing it back from the brink of extinction. We all agree that recovering species is the primary purpose of the Endangered Species Act, but the Fish and Wildlife Service has only developed recovery plans for about half of the species listed under the Endangered Species Act, and many of those plans are inadequate or have never been implemented. We must establish rigorous standards for recovery plans and require that they be implemented.

We must provide incentives for private landowners to help conserve endangered and rare species. Authorizing low effect conservation plans and multiple species conservation plans is just one way that we can encourage small and large landowners to voluntarily preserve habitat and take other measures to protect species.

And finally, we must be willing to commit more public resources to the cause of protecting endangered species and be creative in our search for funding sources. The Endangered Species Act benefits us all; its costs must not be borne only by a few.

Our job over the next few months and next year won't be easy. These are difficult and emotional issues. But the stakes are too high—the survival of our native wildlife—for us not to succeed.

I look forward to working with my colleagues and the administration to making the Endangered Species Act really work.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, 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 a nomination which was referred to the Committee on Environment and Public Works.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE OPERATION OF THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT—MESSAGE FROM THE PRESIDENT—PM 175

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

I hereby submit the Second Report to the Congress on the Operation of the Caribbean Basin Economic Recovery Act. This report is prepared pursuant to the requirements of section 214 of the Caribbean Basin Economic Recovery Expansion Act of 1990 (19 U.S.C. 2702(f)).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 1, 1996.*

MEASURE PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar:

S. 2161. A bill reauthorizing programs for the Federal Aviation Administration, and for other purposes.

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-4202. A communication from the Acting Administrator of the General Services Administration, transmitting, a draft of proposed legislation entitled "The Pennsylvania Avenue Development Corporation Authorities Correction Act of 1996"; to the Committee on Appropriations.

EC-4203. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a rule entitled "Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida," (FV96-905-1) received on September 27, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4204. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a rule entitled "Technical Amendments to the Soybean Promotion and Research Order and Rules and Regulations," received on September 27, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-677. A resolution adopted by the Mayor and City Council of North Wildwood, County of Cape May, New Jersey, relative to the Energy and Water Development Appropriations bill; to the Committee on Appropriations.

POM-678. A resolution adopted by the American Bar Association relative to a multilateral agreement on investment; to the Committee on Foreign Relation.

POM-679. A resolution adopted by the American Bar Association relative to implementation of waiting rooms for children in every appropriate courthouse; to the Committee on Foreign Relation.

POM-680. A resolution adopted by the American Bar Association relative to a recommendation for Violence Against Women Act; to the Committee on the Judiciary.

POM-681. A resolution adopted by the American Bar Association relative to the economic exploitation of persons under 18; to the Committee on Foreign Relation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROTH, from the Committee on Finance:

Report to accompany the bill (H.R. 3815) to make technical corrections and miscellaneous amendments to trade laws (Rept. No. 104-393).

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1277. A bill to provide equitable relief for the generic drug industry, and for other purposes (Rept. No. 104-394).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Report to accompany the bill (H.R. 3198) to reauthorize and amend the National Geologic Mapping Act of 1992, and for other purposes (Rept. No. 104-395).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

Mr. PRESSLER. Mr. President, for the Committee on Commerce, Science, and Transportation, I report favorably one nomination list in the Coast Guard, which was printed in full in the CONGRESSIONAL RECORD on September 27, 1996, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that this nomination lie at the Secretary's desk for the information of Senators

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of September 27, 1996, at the end of the Senate proceedings.)

The following Regular officers of the United States Coast Guard for promotion to the grade of lieutenant commander:

Brian C. Conroy
Ronald J. Magoon
Arlyn R. Madsen, Jr.
Chris J. Thorton
Keith F. Christensen
Douglas W. Anderson
Timothy J. Custer
Nathalie Dreyfus
Scott A. Kitchen
Kurt A. Clason
Jack W. Niemiec
Gregory W. Martin
Rhonda F. Gadsden
Nona M. Smith
Glen B. Freeman
William H. Rypka
Robert C. Lafean
Gerald F. Shatinsky
Thomas J. Curley III
Steven M. Hadley
Jerome R. Crooks, Jr.
John F. Eaton, Jr.
Charles A. Howard
David H. Dolloff
Mark A. Hernandez
Stephen E. Maxwell
Robert E. Ashton
David W. Lunt
Abraham L. Boughner
William J. Milne
Glenn F. Grahl, Jr.
Gregory W. Blandford
Anne L. Burkhardt
Douglas C. Lowe
Thomas M. Miele
Eddie Jackson III
Anthony T. Furst
Matthew T. Bell, Jr.
Duane R. Smith
Marc D. Stegman
Kevin K. Kleckner
William G. Hishon
James A. Mayors
Larry A. Ramirez
Wyman W. Briggs
Benjamine A. Evans
Gwyn R. Johnson
Tracy L. Slack
Geoffrey L. Rowe
Thomas C. Hasting, Jr.
John M. Shouey
William H. Oliver II
Edward R. Watkins
Talmadge Seaman
William S. Strong
Mark E. Matta
Richard C. Johnson
Janis E. Nagy
James O. Fitton
Salvatore G. Palmeri, Jr.
Terry D. Converse
Mark D. Rizzo
Mark C. Riley
Spencer L. Wood
Eric A. Gustafson
Ricardo Rodriquez
Christopher E. Austin
Randall A. Perkins III
Richard R. Jackson, Jr.
Timothy B. O'Neal
Pete V. Ortiz, Jr.
Robert P. Monarch
Paul D. Lang
Edward J. Hansen, Jr.
Donald J. Marinello
Paul E. Franklin
Charles A. Milhollin
Steven A. Seiberling
Dennis D. Dickson
Scottie R. Womack
Thomothy R. Scoggins
Ronald H. Nelson
Gene W. Adgate
Henry M. Hudson, Jr.
Barry J. West
Frank D. Gardner
Jeffrey W. Jessee
Ralph Malcolm, Jr.
George E. Eldredge
Donald N. Myers
Scott E. Douglass
Richard A. Paglialonga
John K. Little
James E. Hawthorne, Jr.
Samuel Walker VII
Jay A. Allen
Robert R. Dubois
Gordon A. Loebl
Robert J. Hennessy
Gary T. Croot
Thomas E. Crabbs
Samuel L. Hart
Steven D. Stilleke
Webster D. Balding
John S. Kenyon
Christopher N. Hogan
Douglas J. Conde
Thomas D. Combs III
William R. Clark
Beverly A. Havlik
Donna A. Kuebler
Thomas H. Farris, Jr.
Timothy A. Frazier
Timothy E. Karges
Rocky S. Lee
David Self
Randy C. Talley
John D. Gallagher
Robert M. Camillucci
Robert G. Garrott
Christopher B. Adair
Gregory W. Johnson
Eric C. Jones
Scot A. Memmott
John R. Lussier
Gregory P. Hitchen
Melvin W. Bouboulis
Richard W. Sanders
Melissa Bert
Jason B. Johnson
Anita K. Abbott
Raymond W. Pulver
Verne B. Gifford
Stuart M. Merrill
Scott N. Decker
Joseph E. Vorbach
Peter W. Gautier
Kevin E. Lunday
Matthew T. Ruckert
Brian R. Bezio
Christopher M. Smith
Christine L. MacMillian
Anthony J. Vogt
Joanna M. Nunan
James A. Cullinan
Joseph Segalla
Donald R. Scopel
John J. Plunkett
Gwen L. Keenan
Christopher M. Rodriguez
Richare J. Raksnis
Patrick P. O'Shaughnessy
Marc A. Gray
Anthony Popiel
Graham S. Stowe
Matthew L. Murtha
Christopher P. Calhoun
James M. Cash
Kyle G. Anderson
Dwight T. Mathers
Jonathan P. Milkey
Pauline F. Cook
Matthew J. Szigety
Robert J. Tarantino
Russel C. Laboda
John E. Harding
Andew P. Kimos
Craig S. Swirbliss
John T. Davis
John J. Arenstam
Anthony R. Gentilella
John M. Fitzgerald
John G. Turner

Kirk D. Johnson	Leigh A. Archbold
Ramoncito R. Mariano	William B. Brewer
	Dana G. Doherty
David R. Bird	William G. Kelly

The following Reserve officers of the United States Coast Guard for promotion to the grade of Lieutenant Commander:

Monica L. Lombardi	Sloan A. Tyler
Michael E. Tousley	Donald A. LaChance II
Laticia J. Argenti	
Thomas F. Lennon	Karen E. Lloyd

(The above nominations were reported with the recommendation that they be confirmed.)

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. DOMENICI (for himself and Mr. BINGAMAN):

S. 2183. A bill to make technical corrections to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; considered and passed.

By Mr. LAUTENBERG:

S. 2184. A bill to require the Commissioner of the Food and Drug Administration to issue regulations limiting the advertising of cigarettes and smokeless tobacco over the Internet, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. WYDEN:

S. 2185. A bill to improve Federal environmental policy by providing incentives for State and local growth management and land use programs, and for other purposes; to the Committee on Environment and Public Works..

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 2186. A bill to provide access to health care insurance coverage for children; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT:

S. Res. 307. A resolution electing Gary Lee Sisco of Tennessee as Secretary of the Senate; considered and agreed to.

S. Res. 308. A resolution notifying the President of the United States of the election of Gary Lee Sisco of Tennessee as Secretary of the Senate; considered and agreed to.

S. Res. 309. A resolution notifying the House of Representatives of the election of Gary Lee Sisco of Tennessee as Secretary of the Senate; considered and agreed to.

By Mr. LOTT (for himself, Mr. DASCHLE, and Mr. NICKLES):

S. Res. 310. A resolution commending Kelly D. Johnston for his service to the U.S. Senate; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LAUTENBERG:

S. 2184. A bill to require the Commissioner of the Food and Drug Administration to issue regulations limiting the advertising of cigarettes and smokeless tobacco over the Internet, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE TOBACCO-FREE CHILDREN'S INTERNET ACT OF 1996

• Mr. LAUTENBERG. Mr. President, I introduce the Tobacco-Free Children's Internet Act of 1996, a bill to protect children from the health hazards of tobacco by extending to the Internet existing limitations on tobacco advertisements.

Mr. President, countless studies have demonstrated the persuasive effect that tobacco advertising has on minors. This advertising encourages young people to smoke, which in turn leads to more lung cancer, more heart disease, and more death. As a result, the Food and Drug Administration has now decided to limit tobacco advertising in publications with a significant readership under age 18 to black-and-white text only. This is a significant, positive step, and should substantially reduce the effectiveness of such advertising in appealing to children.

Mr. President, the Internet provides unprecedented access to information to persons of all ages. I believe that the widespread use of the Internet should be encouraged. However, certain material, such as tobacco advertising, is not appropriate for children. In addition to the eye-catching images common in tobacco print advertisements and billboards, cigarette and smokeless tobacco ads on the Internet have one feature exclusive to this medium—they can be interactive.

The indiscriminate bombardment of advertisements on the Internet is also troubling if tobacco ads on this medium are not subject to FDA regulations. To view certain ads, a child need only sign onto an Internet provider. If an online provider decides to use a tobacco advertisement for one of its so-called banner ads, there is no doubt that children will see it. Similarly, a child browsing the World Wide Web for a research project on camels could end up viewing over 300 web pages about or mentioning Joe Camel merely by typing camel on an Internet search program.

I therefore believe restrictions on tobacco advertising should be extended to the Internet. Minors comprise a large percentage of Internet users in our country and this number is increasing. Although this is a welcome indication that our youth has access to information that may not be available at their local library or at their school, I am concerned that minors may be especially affected by interactive tobacco ads.

Mr. President, I understand that the FDA was reluctant to extend their advertising restrictions to the Internet in their last rulemaking because they believed tobacco companies had not yet exploited this medium. It is true that the majority of tobacco ads currently on the Internet are posted by foreigners; however, I am confident that this situation will not last. The Internet is a veritable wild West to the tobacco industry seeking to hook children.

It is my hope that, in addition to applying applicable tobacco regulations to the Internet, the FDA, perhaps in conjunction with the Federal Trade Commission, will develop an effective means of implementing the Surgeon General's warning to Internet advertisements.

Mr. President, I ask unanimous consent that a copy of the bill be placed in the RECORD.

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

S. 2184

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 "Tobacco-Free Children's Internet Act of 1966".

SEC. 2. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) CHILD.—The term "child" means an individual who has not attained the age of 18.

(2) CIGARETTE.—The term "cigarette" means any roll of tobacco wrapped in—

(A) paper or any substance not containing tobacco; or

(B) tobacco if, because of its appearance, type, packaging, or labeling, the roll wrapped in tobacco is likely to be offered to, or purchased by, consumers as a cigarette.

(3) COMMISSIONER.—The term "Commissioner" means the Commissioner of the Food and Drug Administration.

(4) INTERNET; INTERACTIVE COMPUTER SERVICE.—The terms "Internet" and "interactive computer service" have the meaning given those terms in section 230(e) of the communications Act of 1934.

(5) SMOKELESS TOBACCO.—The term "smokeless tobacco" means any cut, ground, powdered, or leaf tobacco that, because of its appearance, type, packaging, or labeling is likely to be offered to, or purchased by, consumers as a tobacco product to be placed in the oral or nasal cavity.

SEC. 2. REGULATIONS.

As soon as practicable after the date of enactment of this Act, the Commissioner shall issue regulations limiting the advertising of cigarettes and smokeless tobacco over the Internet or other interactive computer service within the United States in a manner consistent with the regulations issued by the Commissioner on August 28, 1996, at 61 Fed. Reg. 44396 et seq.•

By Mr. WYDEN:

S. 2185. A bill to improve Federal environmental policy by providing incentives for State and local growth management and land use programs, and for other purposes; to the Committee on Environment and Public Works.

THE LOCAL GROWTH MANAGEMENT INCENTIVES ACT

• Mr. WYDEN. Mr. President, there has been considerable discussion in this Congress about assaults on our environment. But up until now, a serious, stealth assault that threatens our environment, our citizens' health, and quality of life has been essentially ignored.

The threat I am referring to arises not from action that this Congress has taken. Rather, it comes from decades of Federal inaction in the face of haphazard development activities that are slowly degrading the landscape of our states and our communities.

Mr. President, what I am referring to is the wholesale strip malling of America.

If this trend continues unchecked, it will imperil our Nation's productive lands and natural resources, while turning the landscape into an unbroken expanse of suburban sprawl.

This pattern of sprawling, uncontrolled development is in many instances promoted by the Federal Government. Despite the major impacts many Federal programs have on growth and land use, the Federal Government has largely turned a blind eye to the visual blight these programs spawn, let alone the environmental, health and economic impacts of unmanaged growth and development.

Besides turning our landscapes into eyesores, unmanaged growth contributes to traffic congestion that snarls our highways, creating both additional stresses for commuters and additional exhaust emissions that degrade the quality of our air.

Uncontrolled development not only hurts our citizens where they live and breathe, it also hits them in their wallets. Several studies have come out that show the costs of sprawling growth are significantly higher than more compact, managed growth patterns. These studies show that taxpayers can save billions of dollars in public facility capital construction and operation and maintenance costs by opting for growth management.

Time and time again, I'm asked at town meetings what I can do at the Federal level to help manage growth in my home State of Oregon, so our State doesn't get overrun by suburban sprawl.

The answer, Mr. President, is not to create a new Federal program that will embroil the Federal Government in land use decisions that have historically been State and local issues. Rather, what we should do is create incentives to encourage and build on the State and local growth management efforts already underway.

For example, Oregon's pioneering Land Use Act builds environmental and resource protections into the State's growth management and development strategies. But our State gets no credit for this innovative program from the Federal Government.

As a result, Federal development projects in Oregon have to undergo Federal reviews that in many cases duplicate the process under State law. That's bureaucratic overkill.

Oregon and other States that have similar programs should be recognized by the Federal Government both when new Federal development projects are undertaken in these States and when new Federal requirements are imposed.

Today, I am introducing the Local Growth Management Incentives Act. This legislation will give Oregon and other States and localities with good growth management programs the credit they deserve.

Under this legislation, States that have good growth management programs will get several incentives.

First, the legislation directs Federal agencies to take steps to eliminate duplication of studies, environmental assessments, planning and other activities to the extent these actions have already been undertaken under a State or local growth management plan.

Because the State of Oregon and many cities in our State have environmentally protective growth management programs, development projects in our State frequently have to go through layers of duplicative environmental reviews—first at the local level, and then at the State level, and then again at the Federal level. In some cases, virtually identical environmental analyses are required by the different levels of government, each according to different sets of regulations.

Let me cite several examples affecting the Port of Portland in Portland, OR:

The Port of Portland's proposed development of additional marine terminals at Hayden Island in the Columbia River has already undergone extensive reviews and analysis by the city of Portland and by our State agencies. But in order for this project to proceed to the actual development stage, it still must undergo still another round of reviews by two Federal agencies—the Army Corps of Engineers and the National Marine Fisheries Service. The port estimates that if it could just eliminate the duplicative requirements, two or more years of unnecessary delay could be avoided for this project .

The port's efforts to identify better ways of handling materials dredged from around its docks and piers and from the Willamette River navigation channel is subject to two virtually identical, essentially independent environmental analyses, one by the State of Oregon and another by the Corps of Engineers. Avoiding duplication by allowing the Corps of Engineers to rely upon the State analysis could save considerable money for both the port and the Corps and expedite this project.

The port is currently planning further development and expansion at the Portland International Airport, the port's marine terminals, and several port-owned general aviation airports, all of which contain wetland areas. These activities could be facilitated, without diminishing environmental protections, if the State of Oregon's extensive process for addressing the environmental impacts associated with wetlands could be relied upon by the appropriate Federal agencies.

Under my legislation, Federal agencies would have to incorporate, as part of the reviews they require, any relevant reviews and analyses already conducted under State and local programs. This would save the project sponsors considerable time and expense compared to starting the Federal reviews essentially from scratch.

The net effect of this provision is that Federal development projects reviewed and approved under good State and local programs can avoid redundant Federal reviews that increase costs and cause delays with no environmental benefits. If environmental safeguards are already in place under State law, these protections should be recognized when it comes time to develop federally supported projects in the State.

Second, States and localities with good growth management programs will be eligible for extensions of up to 1 year to comply with new Federal requirements, when this additional time is needed to integrate a new Federal requirement with the State or local growth management program. However, additional time would not be provided if an extension of time would adversely affect public health or the environment.

This incentive recognizes that good growth management programs offer a more comprehensive and more long-term approach to protecting our environment than many of the specific requirements imposed by Federal environmental programs. At the same time, coordinating Federal requirements with State and local programs is hard work, as two leading growth management experts point out in their recent book "Land Use in America." For this reason, we should give those States and localities that are undertaking this difficult, but ultimately rewarding effort the extra time they need to do it right.

The same amount of additional time granted to the State or locality would also be provided to any private party in that jurisdiction who is subject to a compliance deadline under the new Federal requirement, unless this would adversely affect public health or the environment. While States and localities are working to meld their programs with Federal requirements, private parties should not be subject to double jeopardy by having to comply

first with a Federal requirement and then subsequently with a different requirement after the State or locality modifies its program to meet the new Federal mandate.

Third, Federal agencies conducting development projects and other activities affecting growth must ensure that their activities are consistent with States' and localities' growth management programs. This provision, which is modeled on a similar consistency requirement in the Coastal Zone Management Act, empowers States and localities by giving them the ability to affect Federal activities that could undermine State and local efforts to manage growth locally.

Fourth, my legislation amends the Intermodal Surface Transportation Efficiency Act [ISTEA] to give priority for discretionary spending under ISTEA to any State or locality that has a growth management program that meets the eligibility criteria set out in the bill. Giving States and localities with good growth management programs priority for ISTEA funding will not only provide a financial incentive to establish these programs, it will also help reduce Federal, State, and local transportation costs and even help reduce air pollution from motor vehicles.

The legislation I am introducing is the beginning and not the end of a process. It is my hope that the Local Growth Management Incentives Act will begin a discussion on what the Federal Government should be doing to address the impacts Federal actions have on growth and land use. In the next Congress, I will be looking for additional incentives to offer States and localities so they will develop their own programs to manage growth.

In summary, I think there is an appropriate role for the Federal Government to help States and localities to manage growth so we have smart growth, instead of either uncontrolled sprawl or NIMBY [Not In My Back Yard] efforts to block any kind of growth. I am introducing my legislation today in an effort to jumpstart a dialog on how the Federal Government can promote well-managed, sustainable growth that will best serve our environment, our citizens' health and, our Nation's economic well-being in the 21st century.●

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 2186. A bill to provide access to health care insurance coverage for children; to the Committee on Labor and Human Resources.

THE HEALTHY CHILDREN FAMILY ASSISTANCE HEALTH INSURANCE ACT

Mr. KERRY. Mr. President, I am proud to introduce legislation today, joined by my friend, colleague, and esteemed senior Senator, TED KENNEDY, to help ensure that the 10 million uninsured children in this country get the health care they need and their parents get the peace of mind they deserve.

Mr. President, the fact is that most of these 10 million uninsured children have parents who work—90 percent of these uninsured children have parents who work, according to the General Accounting Office [GAO]. And three out of five of these children have parents who work fulltime during the entire year.

Unfortunately, the problem of uninsured children is getting worse, not better—each year, more than 1 million additional children lose private insurance. No parent should have to choose between medicine for a sick child and food for the family. The thought of a mother and father, working hard to make ends meet, waking up in the middle of the night with a child in pain, and waiting to see if the pain passes because they cannot afford to go to the hospital, is a stark image of a national tragedy. Mr. President, American children without health care are alone in the world—we are the only Western industrialized nation that does not provide health care for every child.

I am proposing today with Senator KENNEDY a voluntary subsidy program to help working families to purchase private health insurance for their children. Only families with incomes too high to qualify for Medicaid would be eligible to receive these vouchers. Participation in the voucher program would be voluntary. The premium subsidy would be provided on a sliding scale with families earning 185 percent or less of the poverty line receiving the full subsidy; the subsidy would phase down so that families earning more than 300 percent of the poverty line would not receive a subsidy. Cost-sharing would be limited but everyone would pay something. The proposal includes a comprehensive benefits package with a full range of the essential services needed by children. The total cost of the plan is $24 billion over 5 years and is paid for by a combination of cuts in corporate welfare and a tobacco tax increase. Although it is apparent there is no chance the plan will be enacted this year, with Congress now in its final hour before adjourning prior to the election, we are introducing it as a bill today because we want to place this issue prominently on the national agenda during the next few months preceding convening of the 105th Congress.

Mr. President, I want to discuss 2 of the 10 million compelling reasons to provide basic health insurance to children who are not covered now.

One of the first reasons is a 13-year-old student in Lynn, MA, named Costa Billias. He played football at Breed Junior High and loved the game, but said, "For the past 2 years I gave my best to football, but my mom explained that we were not insured and if I got hurt we would lose our house and everything we own to pay the hospital." He quit the team, but he cannot quit life. If he gets hurt doing something else, his family still stands to lose everything. In addition, I think it is wrong that Costa Billias is being denied the opportunity to play football again.

One more of the 10 million reasons we must pass this bill is the Pierce family. Jim and Sylvia Pierce were married in 1980 and live in Everett, MA. Jim was a plumber and they had three children, Leonard, Brianna, and Alyssa. In October 1993, Sylvia was pregnant with her fourth child when Jim was tragically killed on his way home from the store. In that one horrible minute her life changed forever. She not only lost her husband, but, pregnant and alone, she lost her health insurance as well. Her survivor's benefits made her income too high to qualify for long-term Medicaid, and too low to pay the $400 a month it would take to extend her husband's health plan. Sylvia said, "I've always taken good care of my children. I feed them well; I take them to the doctors immediately when they need it. All of a sudden I couldn't do that anymore.

Mr. President, in addition to the moral imperative, the scientific evidence is overwhelming that lack of health coverage is bad for children, delaying medical care or making it impossible to get. A recent study in JAMA [the Journal of the American Medical Association] found that children with health coverage gaps were more likely to lack a continuing and regular source of health care—even when factors such as family income, chronic illness, and family mobility were factored out. Numerous studies by university researchers and by government agencies show that the uninsured are less likely to receive preventive care (such as immunizations for children), more likely to go to emergency rooms for their care, more likely to be hospitalized for conditions that could have been avoided with proper preventive care, and more likely to have longer hospital stays than individuals with health insurance coverage.

Mr. President, every hour we wait to take this step, another 114 children lose private health insurance. Every 30 seconds we wait, another child loses private health insurance. America's children cannot wait any longer. Families without insurance are forced to pay the full cost of medical services—an impossible burden for struggling families, one that often takes a back seat to putting food on the table and a roof over the children's heads.

Mr. President, this plan is an important, incremental step toward guaranteeing health coverage for all Americans. I urge my colleagues to support it.

Mr. KENNEDY. Mr. President, it is an honor to join Senator JOHN KERRY

in introducing this visionary and practical program. Senator KERRY has been a consistent leader in the Senate in fighting for children, for health care, and for working families. This initiative sets a benchmark for the next Congress and the American people. It is a proposal that is a reflection of true family values.

Every American child deserves a healthy start in life, but too many don't receive it. Seventeen industrialized countries do better at preventing infant mortality than we do. A quarter of American children do not receive basic childhood vaccines. Every day, 636 babies are born to mothers who receive inadequate prenatal care, 56 babies die before they are a month old, and 110 babies die before they are a year old.

Access to affordable health care is one of the greatest problems children face. Ten-and-a-half million children under the age of 19 have no health insurance—one in every seven American children. If it were not for the expansions of Medicaid over the past 5 years, the number would be seven million higher. Under Republican proposals to cut Medicaid, four million children would lose their coverage. Employer-based insurance coverage is eroding. Too many pregnant women—more than 400,000 a year—are uninsured, and lack access to critical prenatal care.

Almost all uninsured children are members of working families. Their parents work hard—40 hours a week, 52 weeks a year. But all their hard work does not buy their children the protection they deserve. Every family should have the right to health security for their children. No parents should fear that the loss of a job or their employer's failure to provide coverage will put their children out of reach of the health care they need.

Health insurance coverage for every child is a needed step in the fight to guarantee health care for every family. The cost is affordable. The benefits are great. The opportunities for bipartisanship are substantial.

The legislation we are introducing today is a simple, practical proposal. It imposes no new government mandates on the States or the private sector. It does not substitute for family responsibility. It fosters it, instead, by assuring that every family has the help it needs to purchase affordable health insurance for their children.

Our plan will establish no massive new Federal bureaucracy. Basic guidelines and financing would come from the Federal Government, but the plan would be implemented and administered by States.

The program will make a major difference in the lives of millions of families, but its basic principles are not novel or untested. Fourteen States already have similar programs in place and running. Earlier their year, for example, Massachusetts enacted a program very similar to our proposal.

Under our plan, the Federal Government will assist all families with incomes under 300 percent of poverty to purchase health insurance for their children, if they do not already receive coverage under an existing public program. Families with incomes under 185 percent of poverty will receive a full subsidy. Families with incomes between 185 percent of and 300 percent of poverty will receive assistance on a sliding scale. Between 80 and 90 percent of all uninsured children live in families with incomes below 300 percent of poverty. Even uninsured families with higher incomes might buy coverage for their children if policies designed for children were available. Families with income under 150 percent of poverty will also receive assistance with the cost of copayments and deductibles. Similar assistance will be provided to uninsured pregnant women.

The program will be administered by States under Federal guidelines. In general, States will contract with private insurance companies to offer children's coverage to any family that wants it. Lower income families will receive assistance with the cost of coverage, but coverage will be available to all families at all income levels. Basic rules will guarantee that coverage is adequate and tailored to the special needs of children, especially the need for comprehensive preventive care.

This plan does not guarantee that every child will have insurance coverage, but it gives the opportunity to every family to cover their children at a cost the family can probably afford. It will be a giant step toward the day when every member of every American family has true health security.

The cost of a similar program has been estimated at $24 billion over 5 years. We propose to finance our plan by a combination of tobacco tax increases and closing corporate tax loopholes. The Nation currently spends close to $1 trillion per year on health care. The additional cost of this proposal is substantial, but it is a needed step toward healthier lives for millions of American children and peace of mind for their parents.

In this Congress, we made substantial progress toward improving the health care system. We turned back extreme proposals to slash Medicare and Medicaid. Working together in a bipartisan way, we were able to pass the Kassebaum-Kennedy Health Insurance Reform Act, take a significant first step toward mental health parity, and protect mothers and infants from premature discharge from the hospital. Every Democratic and Republican health plan in the previous Congress endorsed the idea of subsidizing private insurance coverage for children. This proposal should be a bipartisan health priority for the next Congress. I believe it is an idea whose time has finally come.

ADDITIONAL COSPONSORS

S. 1178

At the request of Mr. CHAFEE, the name of the Senator from Kansas [Mrs. FRAHM] was added as a cosponsor of S. 1178, a bill to amend title XVIII of the Social Security Act to provide for coverage of colorectal screening under part B of the Medicare Program.

S. 1385

At the request of Mr. BREAUX, the name of the Senator from Kansas [Mrs. FRAHM] was added as a cosponsor of S. 1385, a bill to amend title XVIII of the Social Security Act to provide for coverage of periodic colorectal screening services under part B of the Medicare Program.

S. 2030

At the request of Mr. LOTT, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 2030, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles, and for other purposes.

SENATE CONCURRENT RESOLUTION 73

At the request of Mr. D'AMATO, the names of the Senator from Colorado [Mr. CAMPBELL], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Pennsylvania [Mr. SANTORUM], the Senator from Michigan [Mr. ABRAHAM], the Senator from Nevada [Mr. REID], the Senator from Florida [Mr. GRAHAM], and the Senator from Wisconsin [Mr. FEINGOLD] were added as cosponsors of Senate Concurrent Resolution 73, a concurrent resolution concerning the return of or compensation for wrongly confiscated foreign properties in formerly Communist countries and by certain foreign financial institutions.

SENATE RESOLUTION 307—ELECTING THE SECRETARY OF THE SENATE

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 307

Resolved, That Gary Lee Sisco of Tennessee be and he is hereby elected Secretary of the Senate.

SENATE RESOLUTION 308—A NOTIFICATION TO THE PRESIDENT OF THE UNITED STATES

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 308

Resolved, That the President of the United States be notified of the election of Gary Lee Sisco of Tennessee as Secretary of the Senate.

SENATE RESOLUTION 309—A NOTIFICATION TO THE HOUSE OF REPRESENTATIVES

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 309

Resolved, That the House of Representatives be notified of the election of Gary Lee Sisco of Tennessee as Secretary of the Senate.

SENATE RESOLUTION 310—COMMENDING KELLY D. JOHNSTON FOR HIS SERVICE TO THE UNITED STATES SENATE

Mr. LOTT (for himself, Mr. DASCHLE, and Mr. NICKLES) submitted the following resolution; which was considered and agreed to:

S. RES. 310

Whereas Kelly D. Johnston faithfully served the Senate of the United States as Secretary of the Senate during the 104th Congress, and discharged the duties and responsibilities of that office with unfailing dedication and a high degree of efficiency; and

Whereas, as an elected officer of the Senate and as an employee of the Senate and the House of Representatives, Kelly D. Johnston has upheld the high standards and traditions of the United States Congress, from his service on the staff of the House of Representatives from the 96th through the 101st Congress and then on the staff of the Senate from the 102nd through the 104th Congress; and

Whereas, through his exceptional service and professional integrity as an officer and employee of the Senate of the United States, Kelly D. Johnston has earned the high esteem, confidence and trust of his associates and the Members of the Senate:

Now, therefore, be it

Resolved, That the Senate recognizes the notable contributions of Kelly D. Johnston to the Senate and to his country and expresses to him its appreciation and gratitude for faithful and outstanding service.

AMENDMENTS SUBMITTED

THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996 AMENDMENT ACT

DASCHLE AMENDMENT NO. 5424

Mr. MURKOWSKI (for Mr. DASCHLE) proposed an amendment to the bill (S. 2183) to make technical corrections to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; as follows:

At the appropriate place, insert the following:

SEC. . EXTENSION OF NORTHERN GREAT PLAINS RURAL DEVELOPMENT COMMISSION.

Section 11 of the Northern Great Plains Rural Development Act (Public Law 103-318; 7 U.S.C. 2661 note) is amended by striking "the earlier" and all the follows through the period at the end and inserting "September 30, 1997.".

AUTHORITY FOR COMMITTEE TO MEET

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, October 1, 1996, at 9:30 a.m. to hold a hearing.

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

ADDITIONAL STATEMENTS

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

TRIBUTE TO SENATOR HANK BROWN

• Mr. CAMPBELL. Mr. President, I thank the leadership for submitting this statement for the RECORD on my behalf during my absence from the Senate due to an accident. Were I able to be on the Senate floor today, I would make a few brief comments about the distinguished senior Senator from Colorado, my colleague and friend, Senator HANK BROWN. As he departs this Chamber after the adjournment of the 104th Congress, his service and contributions to this body, both as a person and a legislator, will leave an indelible impression upon us all.

I believe that anyone who knows Senator HANK BROWN shares my belief that he possesses a great passion for public service and has committed a good part of his professional career to providing the people of Colorado with distinguished and honorable service.

As we reflect on his career, it is apparent that HANK BROWN's leadership abilities were evident at a very early age, and he has built on each successive milestone to achieve great acclaim for himself and for the people of Colorado.

HANK was born in Denver, CO, on February 12, 1940. He received his bachelors degree and law degree from the University of Colorado in 1960 and 1969, respectively. His leadership skills were exemplified as he served as student body president while completing his undergraduate studies. Adding to his collegiate achievements was his ability to also compete and earn a letter as a member of the University of Colorado wrestling team.

HANK served our country as a lieutenant in the U.S. Navy during the Vietnam war. His leadership abilities earned him several decorations—an Air Medal with two gold stars, a Vietnam Service medal, a National defense medal, and a Naval Unit Citation. He also served in the Colorado State Senate from 1972 to 1976, where he was the assistant majority leader for 2 years. In 1973, he was named "Outstanding Young Man of Colorado."

HANK came to Washington in 1980 where he served five terms in the House of Representatives. Following his achievements while representing the people of Colorado's Fourth Congressional District, HANK BROWN was elected to the U.S. Senate in 1990.

His service in the Congress has had many memorable highlights—from creating a wild and scenic designation for the Cache LaPoudre River and working to expand the Rocky Mountain National Park, to playing a pivotal role in pushing through a monumental Colorado wilderness bill. In addition, he has been a vocal advocate in the private property rights movement and has been instrumental in efforts to find innovative legislative solutions while working to achieve a balanced budget.

HANK has also been an outstanding leader on military, foreign policy and trade issues. His efforts to resolve the dispute with Pakistan over certain weapons transfers is certainly a notable highlight. His efforts to forge a compromise between Congress and the administration will greatly serve our national interests as well as those of India and Pakistan.

As the 104th Congress adjourns for the year, we will remember the contribution and leadership that HANK has exhibited throughout his career. I believe each of my colleagues shares my sentiments that we will miss HANK.

As the junior Senator from Colorado, I believe HANK has been a true friend to the people of Colorado and an outstanding legislator who consistently strived to do what was best for our Nation. My friendship with HANK has always transcended political affiliation. He and I were friends when I was a member of the Democratic Party, and that friendship has grown since I've been a Republican. Such an enduring friendship is a rare gift, one I value deeply. HANK and I also have shared many experiences. Both of our wives are teachers. We both raised families in Colorado while serving in Congress.

Let me offer one example of the depth of my friendship with HANK BROWN. He and his wife Nan, once let me keep my horse in their yard at their home in Colorado while I was attending the Greeley Independence Stampede celebration.

Mr. President, I won't give you the graphic details, but suffice it to say, there were a few less flowers and a more fertile environment in that back yard the following morning.

Anybody who has seen the Senators' vehicles parked outside of the Capitol can see that HANK has remained fiscally conservative. HANK's old red pickup is just as famous or should I say infamous, among the Colorado delegation. On days that I'm forced to drive

four wheels, both HANK's and my staff debate who drives the worst vehicle between HANK and his old red pickup and me and my old white coupe. With all due respect to my departing colleague, I think you win that contest hands down HANK.

Mr. President, let me close on a serious note. HANK BROWN's presence and wisdom will be sorely missed in this body when the next Congress convenes early next year. I join my colleagues in congratulating and commending him for his public service and wish him and his family well as he moves on.•

SUCCESS OF THE 1996 OLYMPIC AND PARALYMPIC GAMES

• Mr. NUNN. Mr. President, I would like to take this opportunity to recognize the success of the 1996 Centennial Olympic games and the Paralympic games which were held this summer in Atlanta.

The statement made by many that the Centennial games in Atlanta were the greatest ever was right on the mark. The athletes and the spectators who attended the events understand better than anyone the extraordinary success of the 1996 Olympics. In the face of pressures that defy imagination, ACOG staff and volunteers staged an Olympics of breathtaking grandeur and dignity. Our law enforcement and military personnel put together a security force that was unprecedented in its commitment, performance, and cooperation.

I have talked to countless people who attended both the Centennial games and the Paralympic games, and I have talked to numerous individual members of the International Olympic Committee. There was universal praise of the extraordinary job that was done in Atlanta and elsewhere in dealing with events that were unprecedented in their size and scope.

All in all, more than 10,000 athletes and 2 million spectators from around the world participated in the Olympics. In comparison, the Atlanta Olympic games were twice the size of the 1984 Los Angeles Olympics in terms of the number of participants and spectators, and larger than the Los Angeles and Barcelona games combined. More spectators attended women's events at the Centennial games than attended all events in Los Angeles. In addition, Atlanta hosted athletes from 197 countries around the globe. That is an additional 57 countries above the 140 who participated in the 1984 Games. To give my colleagues a point of reference, particularly for the football fans among them, the Atlanta Olympic games were the equivalent of one city hosting six Super Bowl games each day for 17 days straight. So it was a Super Bowl times six, each day for 17 days. That was quite an undertaking.

While much praise should be given to the many workers who contributed to the success of these Games, I would be remiss if I failed to mention some of the athletes who gave it their all in these Games. Who can forget the South African marathon runner, Josiah Thugwane, the first black South African to win a Gold Medal for the unified team of South Africa? Or Naim Suleymanoglu, endeared to all as "Pocket Hercules," who stunned the world by lifting over his head nearly triple his weight?

I will always remember watching Michael Johnson sprint across the finish line. Among America's special heroes was young Kerri Strug, who as you may recall, injured herself on the vault but continued valiantly to make a second leap to help ensure a team gold medal for the U.S. women's gymnastics team. I could spend all day recounting the many heroic and inspirational accomplishments from the Olympic games, but the story from Atlanta did not end there.

Just 12 days after the conclusion of the 1996 summer Olympics, another sporting event of great magnitude occurred in Atlanta. The Paralympic games hosted more than 3,500 athletes from 119 nations, competing in 19 different sports. While not as large as the Centennial games, this was the largest gathering of people with disabilities ever assembled anywhere in the world. Certainly it was every bit as large as the Centennial games in terms of the spirit, heart, and courage of those who competed.

I have been honored to work for a number of years in assisting the Atlanta Paralympic Organizing Committee in preparation for the Paralympics. I consider the opportunity I had to support these games to be one of the highlights of my Senate career. I also had the pleasure of being a spectator at many of the Paralympic events, and I know that the level of skill and achievement shown by these athletes was truly outstanding by any standard.

The opening ceremonies offered a glimpse of what was to come, as a sold-out crowd of over 64,000 spectators watched 36-year-old American mountain-climber Mark Wellman light the Paralympic Torch by pulling himself hand over hand up the 98-foot tower carrying the torch between his legs. Mark was paralyzed from the waist down after a 50-foot fall while mountain climbing 14 years ago. He was soon followed by Hou Bin of China who set a world record in the high jump on the first day of the track and field competition by clearing 1.92 meters, approximately 6 feet, 3 inches. For those of you unfamiliar with Hou Bin, he has only one leg, but that did not stop him from winning the hearts of spectators from around the world as he went on in an attempt to break his own record. While he was ultimately unsuccessful, you would not have known that from the roar of the crowd.

Yet, another stunning performance was that of Troy Sachs who led the Australian men's wheelchair basketball team to victory by scoring a Paralympic record-breaking 42 points. I rank it among the finest basketball performances I have ever seen. Leading the American Paralympic team was Tony Volpentest who set a new world record in the 100 meter dash, running a time of 11.36 seconds—that is 1.52 seconds shy of Donovan Bailey's record in the Olympics.

Mr. President, I also want to take this time to recognize and honor all of the many people who dedicated their time and efforts. This effort brought together literally hundreds of Federal, State, local, and civic leaders, as well as thousands of volunteers. The Atlanta volunteers were certainly the best in history. They were simply amazing, and the games could not have been held without them. Unfortunately, time prohibits me from mentioning all of the people who were truly instrumental in putting on the games, but I would like to recognize a few of them.

ATLANTA COMMITTEE FOR THE OLYMPIC GAMES

When Billy Payne originally submitted his proposal to bring the Olympic games to Atlanta, many people did not take him seriously; but just ask them now. He is perhaps the best example of what Atlanta has to offer in terms of leadership and vision. His partner, former Atlanta mayor, Congressman, and Ambassador Andy Young, provided the key element of diplomacy needed to convince the International Olympic Committee to choose Atlanta. I should also thank A.D. Frazier, who did an outstanding job, as well as the entire team at ACOG.

ATLANTA PARALYMPIC ORGANIZING COMMITTEE

My special thanks go to the Atlanta Paralympic Organizing Committee, led by its president, Andy Fleming. Andy had perhaps the most difficult challenge of all in leading the effort to stage the Paralympic games. Faced with the disadvantage of lesser name recognition and financial resources, the Paralympic Organizing Committee put on a world class event which truly met the high standards set by the Olympic games. Andy was assisted by the able leadership, service, and great dedication of Harald Hansen, chairman of First Union National Bank of Georgia, and David Simmons, chief operating officer for the Paralympic games.

DOD SUPPORT

The 1996 Centennial Olympic and the Paralympic games were successful in large part due to the tremendous support of the Department of Defense. Without the assistance of the Department of Defense, working in concert with State and local public safety officials, the Olympics and Paralympics could not have been held. Not surprisingly, these events were too big for any

single municipal or State government to ensure safety and security without appropriate help from the Federal Government.

Those who won the selection of Atlanta as the Olympic venue understood at the beginning that they would be responsible for providing the cost of putting on the Games, and they raised about $1.5 billion to do so. They could not, however, guarantee the security of all the athletes and the millions of visitors from all over the world. In the era of modern terrorism, safety for an event of this type simply cannot be guaranteed without help from the Federal Government. I hope the Congress will keep this in mind as our friends in Utah prepare for the 2002 winter Olympic games.

Billy Payne expressed his appreciation for the Department of Defense support this way:

Thanks to the support of the Department of Defense and the soldiers, sailors, and airmen who served in Atlanta during the 1996 Summer Olympic Games, the safety of the public and the athletes was assured. DoD and its military forces provided the safety net and back-up law enforcement needed when confronted with securing the largest peacetime event in history.

From the explosive ordnance teams to the military police units to communications specialists, DoD personnel performed critical missions. Working in conjunction with law enforcement, DoD personnel helped secure the village where the athletes of 197 nations were housed. On the night of the tragic bombing in Centennial Olympic Park, DoD personnel in the downtown area remained calm and at their posts, reinforcing the public's perception that security authorities were fully prepared to deal with the situation. The ability of military personnel to increase their shifts and immediately provide more manpower to the streets was a clear signal to the Olympic family and spectators that America was prepared for all contingencies.

All who came to the Games in Atlanta are indebted to the Department of Defense for the professional and dedicated effort of the troops who were part of the Summer Olympics. These men and women showed the world, once again, that the soldiers, sailors, and airmen of the United States military are the finest in the world.

In 1992, Congress first appropriated funds to the Department of Defense for security and logistical support for the 1996 Olympic and Paralympic games. Since that time, a multitude of DoD personnel have aggressively worked to ensure the success and security of this significant public event. The impact of DOD support to the 1996 summer Olympics is difficult to summarize in a short time. More than 13,000 active duty, Reserve, and National Guard personnel were committed in support of the Games in Atlanta and in the other competition cities. These military members came from 45 states and territories and provided support to security operations at 44 Olympic sites.

Of the men and women who came to Atlanta, over 9,000 National Guard personnel provided support in the form of roving and fixed perimeter security, command post support, route security, and vehicular inspection. More than 1,000 active duty soldiers, sailors, airmen, and Marines were entrusted with the important responsibility of transporting athletes and law enforcement personnel to the secured villages and venues. These drivers successfully negotiated the crowded streets of Atlanta more than 650 times each day. DOD provided 33 helicopters, and military aviators flew 300 missions in support of the law enforcement security operations. DOD provided critical equipment to more than 60 Federal, State, and local law enforcement agencies and organizing committees. DOD bomb disposal experts responded to 450 calls on suspect items; and DOD, the FBI, and our health officials prepared for any kind of chemical or biological attack. A force of more than 1,300 personnel, from all services, was required to provide base camp support for the DOD personnel supporting the Olympic games.

When the tragic explosion in Centennial Park occurred, National Guard and uniformed military personnel were on the scene immediately, and their calmness and discipline were absolutely indispensable in the first few critical moments. Within 24 hours, military personnel were able to double their security forces at select critical locations. DOD also provided critical transportation support for almost 500 additional State personnel who were activated in response to the bombing to supplement state law enforcement resources. The Federal law enforcement training center depended on DOD for transportation, housing, meals, and other support for more than 900 personnel they committed to the post-bombing security operations when no other source was available.

Let me pause here for a moment to again express my sympathy for the family of Mrs. Alice Hawthorne, who died during this tragic event. Her death has sent a powerful message throughout our Nation and the world about the horror of acts of senseless violence and terrorism. However, we must never forget that this tragedy in the context of the Olympics pales beside the unspeakable personal loss and grief that have befallen her family.

In addition to supporting the Olympic games, DOD extended assistance to the 1996 Paralympic games. Over 990 active duty and National Guard personnel supplied transportation, medical, linguistic, logistical, and communications support to 17 venues in the Atlanta area. Our soldiers took great pride in participating in a project that assisted athletes of such astounding and great courage. Members of our military sadly are no strangers to the impact of injury or illness that some define as incapacitating. But the Paralympic athletes proved by their own performance and their tremendous courage that the definition of incapacitated needs reexamination by our society.

I want to thank in particular Secretary of Defense Bill Perry, Secretary of the Army Togo West, Assistant Secretary Mike Walker, General John Tilleli, and his assistant General Bob Hicks for their outstanding leadership and support in assisting the Olympics and Paralympics. In addition to DOD personnel, I would like to thank the Attorney General Janet Reno, the Deputy Attorney General Jamie Gorelick, FBI Director Louis Freeh, Atlanta Director of the FBI Woody Johnson, and Gil Childers for all their hard work. Let me also recognize all the administration staff from the DOD and the Federal law enforcement agencies whom I have not named here for all of their hard work.

Finally let me thank President Clinton and Vice President GORE, particularly Vice President GORE, whose direct personal involvement from the beginning was vital in keeping the Federal involvement in the games focused and effective. All of us in Georgia are grateful for their support.

STATE AND LOCAL OFFICIALS

It goes without saying that State and local support was crucial in putting on these games. The State of Georgia spent more than $72 million on Olympic security alone, including the salaries of law officers who were assigned to full-time Olympic security duties. Not counting State prison guards, some 73 percent of all State of Georgia employees who have law enforcement credentials were assigned to the Olympics. These figures obviously do not include fire and emergency medical personnel.

Governor Zell Miller led the effort to ensure that the State of Georgia contributed the appropriate resources to help construct the various venues, roads, and buildings necessary for the games. Gary MCCONNELL, chief of staff of the State Olympic Law Enforcement Command, Georgia Adjutant General William Bland, Director Buddy Nix of the GBI, Colonel Sid Miles of the Georgia State Patrol and Department of Public Safety, and Atlanta chief of police Beverly Harvard led the State and local security effort. Our National Guard units from Georgia and other States under the leadership of General Bland were superb. Special thanks should also go to Atlanta Mayor Bill Campbell, members of the Atlanta city council, and the Fulton County Commissioners whose leadership was instrumental in preparing Atlanta to host the games.

In addition, I want to thank all the Georgia health officials who were involved in preparing for the Olympics and Paralympics and insuring the well being of the spectators and participants. They are often overlooked, but

their contributions are every bit as critical.

I would also like to thank my fellow colleagues in the Congress who helped with the Olympics and Paralympics, especially my fellow colleagues from the Georgia delegation. Most noteworthy, of course, were Congressman LEWIS, Speaker GINGRICH, and Senator COVERDELL. Finally, I would like to thank my staff on the Senate Armed Services Committee and my personal staff for their assistance to me in working on these games.

Mr. President, I wish I could personally thank everyone who was involved in preparing for these great games. This was literally a historic event. I am proud to have been a part of these games, and I am thankful for the opportunity. •

THE CHORUS GETS LARGER AND LOUDER ON THE YEAR 2000 COMPUTER PROBLEM

• Mr. MOYNIHAN. Mr. President, last Wednesday, September 25, I introduced S. 2131, a bill to establish a bipartisan National Commission on the Year 2000 Computer Problem. In a statement as ominous as the problem itself, I summarized the fears of the computer and information technology experts on this problem. Their voices, as yet largely unheard by Congress and the administration, are multiplying. On Monday, September 16, 1996, in the publication New Technology Week, Mark Crawford wrote about the lack of preventive action with regard to the Year 2000 Computer Problem and about new factors concerning the timeliness and costliness of this critical issue.

Previously, I informed my Senate colleagues that the cost of this problem had been estimated in the tens of billions. This article cites a recent industry report that tabulated the cost in the hundreds of billions. Crawford writes: "The magnitude of the problem is reflected in estimates of the repair bill: $300 billion for the United States and $300 billion for the rest of the world."

Until now, I had informed my fellow Senators that we had until December 1999 to address this problem. Mr. Crawford writes that we have even less time. He quotes Mr. Larry Olson, deputy secretary for information technology for the State of Pennsylvania, who argues that businesses and governments will have to fix their computer codes by the end of 1998—not 1999: "Pennsylvania's Olson figures that States, Federal agencies, and companies must fix their problems by the end of 1998 in order to have adequate time to run systems and identify any catastrophic glitches." So, not only are the cost estimates rising, but the date by which we must address this problem has moved up as well.

We must act expeditiously.

I ask that the article which appeared in New Technology Week on September 16, 1996, entitled "The Year 2000 Software Fix Unlikely To Beat Clock" by Mark Crawford, be printed in the RECORD.

The article follows:

[From the New Technology Week, Sept. 16, 1996]

YEAR 2000 SOFTWARE FIX UNLIKELY TO BEAT CLOCK

(By Mark Crawford)

The challenge that business, state and local government, and federal agencies face in changing millions of lines of code by the year 2000—so that computer record systems continue to function accurately in the new millennium—is getting bigger by the day.

According to experts testifying September 10 before a joint hearing held by subcommittees of the House's Science Committee and Government Reform & Oversight Committee, neither industry nor government agencies will be able to make all the required fixes before the clock strikes midnight on December 31, 1999. The magnitude of the problem is reflected in estimates of the repair bill: $300 billion for the United States and $300 billion for rest of the world (NTW, Dec. 12, 1995, p. 1).

At risk is the integrity of many services and functions that are taken for granted—the management of payroll services, retirement programs, medical and health insurance, traffic systems, information databases. The fix: Expand from two digits to four digits the date fields used in computer programs to designate the year. Without this modification, many computer programs, especially older software, will register "00" when 2000 arrives.

Left unchecked, the consequences will range from minor inconvenience to devastation for some record systems and management programs, according to industry and government analysts. The problem is equally daunting for companies, many of which are only now beginning to understand it, according to Larry Olson, deputy secretary for Information Technology for the state of Pennsylvania.

Olson's state has started an aggressive outreach program aimed at prodding companies located there to attack the problem. And large national companies also are moving expeditiously on the matter, particularly in the securities industry, where it's essential to maintain date-critical information on stock trades, retirement accounts, and other financial transactions.

Despite the potential for havoc, industry and government agencies have been moving slowly to address the problem. And now both legislators and computer industry officials fear there could be serious—not to mention costly—problems created.

Why? Daniel Houlihan, first vice president of the National Association of State Information Resource Executives (NASIRE), noted that there has been little direction from Washington on the matter. "There is no leadership on a uniform solution across the states," said Houlihan.

That criticism is not hard for Rep. Stephen Horn (R-Calif.), chairman of the Subcommittee on Government Management, Information, and Technology, to accept. In July he disclosed results of a survey conducted by his panel that showed few federal agencies to be moving aggressively on the issue (see chart, bottom).

Most of the government's large agencies were graded D or F on their level of preparation to address the Year 2000 problem. The Department of Defense got a C and the Nuclear Regulatory Agency a B, while the Social Security Administration was one of four agencies out of a total of 24 surveyed to get an A. Said Horn of the state of readiness in the federal government: "There were very few As, Bs, and Cs. There were a lot of Ds and Fs."

It's not likely that federal agencies, state governments, or businesses will be able to make all the computer program changes needed by 2000, said Houlihan. Government agencies and companies alike, he stressed, should focus on "identifying critical programs that will be affected and get those changes done first."

Indeed, Pennsylvania's Olson figures that states, federal agencies, and companies must fix their problems by the end of 1998 in order to have adequate time to run systems and identify any catastrophic glitches.

Only in the last year or so have industry and government begun to attack the problem with any intensity to understand the full scope of the records that must be modified. "I am afraid that some of the folks don't recognize that they have a problem," said Rep. John Tanner (D-Tenn.).

Harris Miller, president of the Information Technology Association of America (ITAA), said his organization is doing all it can to make industry aware of the Year 2000 problem and to get top management moving on it. But, Miller noted, some executives have been slow to recognize the scope of the problem and make it a top priority in their organization. Said Miller: "They need to wake up, look in the mirror, go to the office, and start asking some questions."

At the state government level, said NASIRE's Houlihan, who also is director of the data processing oversight commission for Indiana, there is now a high level of recognition of the problem. But states are moving at different speeds to address it, he said.

Survey data, he said, show that 75 percent of the states are still in the planning stage, with just 25 percent actually moving to implement system changes. At this point, Houlihan said, state projections for finishing software program modifications range from 1997 to December 1999. The size of the problem varies from state to state—ranging from 300,000 lines of code to 97 million lines.

What states that are moving aggressively to tackle the Year 2000 program, such as Pennsylvania, fear is that the federal government at this late juncture may step in with rules and standards that could slow their efforts—or, worse yet, cause them to modify program changes that have already been made.

NASIRE's Houlihan said that what states do want is a quick determination by federal agencies on the level of funding that might be provided to assist state governments and localities in fixing information systems that support or interact with federal programs.

The costs of modifying date fields in computer programs is daunting at a macro level. The estimate of $600 billion worldwide is based on an estimate of $1 for each line of code that must be changed. Most of that dollar is used not in making the change, but in conducting subsequent tests to make sure that affected programs continue to function properly.

Just what it will cost companies and governments to bring their software programs into compliance is expected to vary widely, depending on how old the programs are and whether all the underlying source code is available. Pennsylvania estimates that repairing the date fields in its payroll system

will involve changing 10,000 lines of code at a cost of $7,500.

While getting a fix on the accuracy of cost estimates is hard at this time, ITAA's Miller warned that there is certain to be upward pressure on costs—because of a shortage of qualified programmers. Miller said that ITAA, in fact, is concerned that industry and government demand will be so great that fly-by-night companies could spring up and create nightmares for unsuspecting firms.

To ward off this problem, ITAA is launching a certification program that will help companies and government agencies select firms that have the required capabilities to make software modifications.

YEAR 2000 AGENCY PREPAREDNESS

	Grades
International Aid	A
Personnel (OPM)	A
Small Business	A
Social Security	A
Education	B
Nuclear Regulatory	B
State	B
Defense	C
Treasury	C
Science Foundation	C
Agriculture	D
Commerce	D
Environmental Protection	D
General Services	D
Health and Human Services	D
Housing (HUD)	D
Interior	D
Justice	D
NASA	D
Veterans Affairs	D
FEMA	F
Labor	F
Energy	F
Transportation	F•

ATOMIC VETERANS

• Mr. WELLSTONE. Mr. President, I rise to announce my intention to introduce in the 105th Congress a companion bill to the provisions of H.R. 4173 which was introduced last week by Congressman Lane Evans, who is an exceptionally dedicated and effective advocate for all veterans, including atomic veterans. This important legislation would grant atomic veterans the presumption of service-connection for eight additional illnesses: Bone cancer; colon cancer; nonmalignant thyroid nodular disease; parathyroid cancer; ovarian cancer; brain and central nervous system tumors; unexplained bone marrow failure; and meningioma. Were this bill to be enacted, it would ensure that atomic veterans receive compensation for six diseases for which Marshall Islanders now automatically receive compensation under the Marshall Islands Nuclear Claims Tribunal Act and two diseases the VA accepts as radiogenic but does not deem to be presumptively service-connected.

I am convinced that enactment of the provisions of H.R. 4173 would help to rectify an injustice or, to put it more accurately, a series of injustices inflicted by our Government over the past 50 years on atomic veterans who served our country bravely, unquestioningly, and with great dedication.

If there's any doubt about the need to expand the list of presumptive diseases, it should have been dispelled by the final report of the President's Advisory Committee on Human Radiation Experiments which was issued almost a year ago. The report's recommendations echoed many of the complaints that atomic veterans have had for years about the almost insuperable obstacles they face when seeking approval of their claims for VA compensation. The report urged an interagency working group to work "in conjunction with Congress"—I repeat in conjunction with Congress—to promptly address the concerns expressed by atomic veterans. Among these concerns cited by the committee are several that I've long believed need to be urgently addressed, including:

The list of presumptive diseases for which atomic veterans automatically receive VA compensation is incomplete and inadequate.

The standard of proof for atomic veterans without a presumptive disease can't be met and are inappropriate given the incompleteness of exposure records retained by the Government.

Time and money spent on contractors and consultants in administering the claims program, particularly the dose reconstructions required for most atomic vets filing claims with the VA, would be better spent on directly aiding veterans.

With regard to the last two concerns, it is important to note that the Advisory Committee found that the Government didn't create or maintain adequate records regarding the exposure, identity, and test locale of all participants. This finding casts serious doubt on the ability of the Government to come up with accurate dose reconstructions on which the approval of claims for VA compensation of many atomic veterans depend.

In sum, there's no doubt that the report of the President's Advisory Committee strongly buttresses the case for expanding the list of radiogenic diseases for which atomic veterans must receive the presumption of service-connection and, therefore, for enacting the provision of H.R. 4173 in the next Congress.

Mr. President, for almost 3 years I've been deeply moved by the plight of our atomic veterans and their families, and frankly dismayed and angered when I have learned of the many injustices they've experienced over the past 50 years. My mentors on this issue have been Minnesota atomic veterans, particularly veterans of the U.S Army's 216th Chemical Service Company who participated in "Operation Tumbler Snapper," a series of eight atmospheric nuclear tests in Nevada in 1952. They are an extraordinary group of Americans who despite their many trials and tribulations have not lost faith in this country and believe and hope they will one day receive the recognition and compensation that is due them.

Mr. President, since January 1994, I have had numerous meetings and contacts with the men of the "Forgotten 216th" and their families. Since their problems typify those of other atomic veterans nationwide, permit me to tell you about veterans of the U.S. Army's 216th Chemical Service Company and about why they now term themselves the "Forgotten 216th."

When the men of "The Forgotten 216th," about 50 percent of whom were Minnesotans, participated in "Operation Tumbler Snapper," they believed their Government's assurances that it would protect them against any harm, but now are convinced they were used as guinea pigs with no concern shown for their safety. Many were sent to measure fallout at or near ground zero immediately after a nuclear bomb blast, encountering radiation so high that their geiger counters literally went off the scale while they inhaled and ingested radioactive particles. They were given little or no protection, sometimes even lacking film badges to measure their exposure to radiation and were not informed of the dangers they faced. Moreover, they were sworn to secrecy about their participation in nuclear tests, sometimes denied access to their own service health records, and provided with no medical follow-up to ensure that they had not suffered adverse health effects as a consequence of their exposure to radiation. Many members of the 216th have already died, often of cancer, some as long as 20 years ago. It should be obvious to all why these men now refer to themselves as "the Forgotten 216th."

For 50 years, atomic veterans have been one of America's most neglected groups of veterans. For almost 40 years there were no provisions in Federal law specifically providing veterans compensation or health care for service-connected radiogenic diseases. Even now, with laws on the books covering radiogenic diseases on both a presumptive and nonpresumptive basis, the rate of VA approval of atomic veterans' claims is abysmally low.

Mr. President, in this connection, permit me to quote from the testimony of Mr. Joseph Violante of the Disabled American Veterans before a House subcommittee on April 30, 1996:

> The DAV believes that a great injustice has been done to America's Atomic veterans and their survivors. . . . Only 10 percent of those atomic veterans who seek compensation for . . . disabilities are granted service connected benefits, although the VA cautions that "it cannot be inferred from this number that service-connection was necessarily granted on the basis of radiation exposure." . . . As of April 1, 1996, VA statistics show that there have been a total of 18,515 radiation [claim] cases. Service connection has been granted, as of April 1, in 1,886 cases. . . . Statistics current as of December 1, 1995, demonstrate that of the total number of cases in which atomic veterans have been granted service-connection, 463 involve the granting of presumptive service connection. . . .

To sum up, if we were to exclude the 463 veterans who were granted presumptive service connection, atomic veterans had an incredibly low claims approval rate of less than 8 percent. And of this low percentage, an indeterminate percentage may have had their claims granted for diseases unrelated to radiation exposure. Moreover, in the roughly 7-year period following the 1988 enactment of a law granting atomic veterans service connection on a presumptive basis for certain radiogenic disease to a degree of 10 percent disability or more, only 463 claims of presumptive diseases have been improved. By any standard, the VA's record of approving veterans' claims based on disabilities linked to radiogenic diseases is a sorry one.

Mr. President, permit me to quote further from the eloquent and persuasive testimony of Mr. Violante:

It cannot be overemphasized that radiation claims are wrongfully denied because of inaccurate reconstructed dose estimates used as the basis for the determination that the estimated minimal level of exposure experienced by the atomic veteran was insufficient to cause the cancer or other disease ravishing the atomic veteran's body. The reality is that atomic veterans are fighting a losing battle, not only with the disease or diseases that have taken away their good health, but with the very government that put them in harm's way. . . . Why are only 15 diseases given a rebuttable presumption of service connection for atomic veterans while Marshall Islanders receive an irrebuttable presumption for 25 medical conditions [now 27 conditions]? Why does our government continue to put the needs of its veterans behind those of other groups, such as the Marshall Islanders? . . . Congress should consider making all the recognized "radiogenic diseases" and any other disease, illness or disability that others, such as the Marshall Islanders are being compensated for, diseases for which presumptive service connection is granted.

I couldn't agree more with the DAV's cogent analysis and this is one of the reasons I'm determined to ensure that atomic veterans are granted service-connected compensation for all radiogenic diseases.

The cover of every copy of the Atomic Veteran's Newsletter, the publication of the National Association of Atomic Veterans, contains the simple but eloquent statement: "the atomic veteran seeks no special favor . . . simply justice."

Mr. President, I urge my colleagues from both sides of the aisle to join me in supporting the valiant and long struggle of atomic veterans for justice by strongly backing the bill that I plan to introduce next year and in fighting for its enactment.

I dedicate this statement to the members and families of "The Forgotten 216th" who have educated me about the plight of atomic veterans and whose courage and perseverance I shall always admire.

I ask that excerpts of the statement of Mr. Joseph Violante of the Disabled American Veterans before the Subcommittee on Compensation, Insurance and Memorial Affairs, House Committee on Veterans' Affairs, April 30, 1996, be printed in the RECORD.

The excerpts follow:

STATEMENT OF JOSEPH A. VIOLANTE

Mister Chairman and Members of the Subcommittee:

On behalf of the more than one million members of the Disabled American Veterans (DAV) and its auxiliary, I wish to thank you for this opportunity to present DAV's views on the controversy surrounding access to Department of Veterans Affairs (VA) medical treatment and VA disability compensation for veterans exposed to ionizing radiation, referred to hereinafter as "atomic veterans."

At the outset, Mr. Chairman, we wish to thank you, Ranking Democratic Member Representative Evans, and the members of this subcommittee for scheduling today's oversight hearing regarding the problems experienced by atomic veterans with respect to access to VA health care and disability compensation. Clearly, action taken by this subcommittee will materially affect the lives of America's citizen/soldiers who were placed in harm's way by our government for the sole purpose of obtaining first-hand evidence about the effects of exposure to ionizing radiation.

As my testimony will show, some atomic veterans have not received adequate health care treatment for the ailments believed to be associated with radiation exposure. Nor have the vast majority of atomic veterans been compensated for their residual disabilities. The remedial legislation passed by Congress over the years has not had the desired effects and must be revisited in order to provide meaningful health care and disability compensation for this group of veterans.

As you know, Mr. Chairman, the issue of ionizing radiation and its potential adverse health effects have been present for more than 50 years. Atomic veterans and their loved one have been patiently waiting for answers from the scientific and medical communities, as well as responses to their concerns from Congress and the VA. Unfortunately, all too often those answers were not forthcoming. Nor does it appear that definitive answers will ever be known. For each study done concluding one point, another study surfaces to discount the findings of the prior report. Thus, the debate rages, with no apparent end in sight.

Before I get into the specifics of VA health care for atomic veterans, let me state that atomic veterans experience the same frustrations as all other veterans who attempt to access the VA health care system—a system inadequate to meet veterans' medical needs and their demand for services. The crisis in VA health care results from years of inadequate funding and a "patchwork" approach to addressing the health care needs of veterans. In addition, atomic veterans believe that their particular medical needs are not being adequately met because the physicians who examine them, for the most part, do not have expertise in the harmful effects produced in body tissue by exposure to ionizing radiation to properly diagnose their illnesses and injuries. In fact, some atomic veterans honestly believe that these physicians are "intent on not encouraging radiation claims and, therefore, play down the medical problems" of atomic veterans.

Generally speaking, receiving disability compensation from the VA is another frustrating aspect of the ionizing radiation debate. All too many radiation claims are denied due to the unanswered questions from the scientific and medical communities, the apparent failure of dose reconstruction methods to adequately reflect the true extent of radiation exposure experienced by atomic veterans, and the inability to obtain meaningful adjudication of radiation claims. All too often, atomic veterans, their dependents and survivors are denied compensation from our government for the residual illness, disease, or death allegedly associated with exposure to ionizing radiation while others, such as the Marshall Islanders, receive compensation from the United States Government for the same disability(ies).

Before getting to the specifics of my testimony regarding access to VA health care and the payment of disability compensation for atomic veterans, I would note for the record that the DAV membership, present at our National Convention in Las Vegas, Nevada in July 1995, adopted a resolution in support of a military medal to recognize and honor the courage, sacrifice and devotion to duty of those veterans exposed to ionizing radiation during military service. This is but a small step towards recognizing the honorable service of these brave men and women, and we call upon the members of this subcommittee to support such legislation.

I also call your attention to another resolution passed by the delegates at our last National Convention in Las Vegas, Nevada, noting the inaccuracy of dose reconstruction estimates provided by the Defense Nuclear Agency (DNA) and calling for the condemnation of this action by DNA as well as urging the VA to undertake a review of the accuracy of dose reconstruction estimates by DNA. Your kind attention to this matter would be greatly appreciated.

At the very least, our government needs to take immediate action on these two items.

CONTROVERSY SURROUNDING POTENTIAL HEALTH EFFECTS OF EXPOSURE TO IONIZING RADIATION

Radiation exposure may be external or internal. External radiation exposure occurs when the radiation source is outside the body. External exposure can come from standing in a cloud of radioactive gas, swimming in water that has radioactive material in it, or x-rays. Internal radiation exposure occurs when radioactive material is taken into the body by such means as eating, breathing, drinking, or through cuts or breaks in the skin. Both external and internal radiation exposure can directly harm internal organs, cells, and tissues.

After radioactive material is taken into the body, some of it may enter the bloodstream. This blood then flows through various organs and tissues in the body, providing them with material necessary for their functioning. The body does not distinguish between radioactive and nonradioactive materials. Sometimes, radioactive substances concentrate primarily in one organ of the body and that organ, therefore, receives a larger dose of radioactive substance than do other organs. Other times, the radiation substance is distributed throughout the body. The dose received by different parts of the body depends on a number of factors, including whether the radiation substance dissolves easily in the blood, the type and energy of the radioactive material, the amount of radioactivity present, and its distribution in the body.

The radioactive substance, once taken into the body, will continue to give off radiation until either it has decayed or is eliminated

from the body through normal metabolism. The rate of decay depends on the radioactive substance's half-life—the time required for a radioactive substance to lose one-half of its activity by radioactive decay. Half-lives for different radioactive substances vary from hours to thousands of years. Plutonium, for example, has a half-life of 24,100 years.

For obvious reasons, researchers know more about the effects of high-dose radiation on the immune system than about low-dose radiation exposure. High-dose radiation is defined as any exposure above fifty rad to the whole body. A rad is the unit of radiation dose used to measure the amount of energy a body absorbs from ionizing radiation. Information on the effects of high-dose radiation exposure comes from studies of Japanese atomic bomb victims, radiation accidents, such as the accident at Chernobyl, and studies of Marshall Islanders exposed to radiation fallout from nuclear tests in the 1950s.

Less is known about low-dose exposure—less than fifty rads to the whole body—and its effect on the immune system because of the delayed period of time between the incident of exposure and the development of the disease. The late effects may show up months, years, or even decades after the exposure. . . .

Many mistrust the agency established to care for them—the VA—because it is part of the government, a government they perceive as covering up the true facts about the extent of their exposure and the adverse health effects associated with the exposure. While Congress has enacted a number of laws to provide atomic veterans with priority access to VA health care and VA disability compensation for their illnesses, diseases, and disabilities due to exposure to ionizing radiation, very few atomic veterans are able to access the VA health care system and receive adequate care and treatment. Even fewer atomic veterans and their survivors are able to establish entitlement to VA disability compensation benefits. . . .

VA DISABILITY COMPENSATION BENEFITS

Prior to the enactment of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, Pub. L. No. 98–542, 98 stat. 2725 (1984) ("the Act"), the authority for 38 C.F.R. §3.311 (formerly 38 C.F.R. §3.311b), there was no legal limitation to establishing service connection for residuals of ionizing radiation exposure. Service connection for a disability is generally established when a veteran's present condition can be reasonably related to an injury or disease which is shown to be incurred coincident with service. *See* 38 C.F.R. §3.303(a). Determination of service connection is based on a broad and liberal interpretation of the law consistent with the facts in each individual case. *Id.* It has long been the VA's policy that any condition which can be attributed to service shall be granted direct service connection, no matter how long after service the condition first became manifest. *See* 38 C.F.R. §3.303(d). However, because of the difficulty in proving causation in ionizing radiation cases, and the significantly small number of claims which had been allowed. Congress, in 1984, recognized that, statistically, there was enough of an association between some diseases and radiation exposure to establish them as "radiogenic." Congress responded by enacting remedial legislation, the Act, whereby a veteran suffering from a "radiogenic disease," was not required to submit evidence of causation. . . .

The stated purpose of the 1984 Act is "to ensure that [VA] disability compensation is provided to veterans who were exposed during service . . . to ionizing radiation . . . for all disabilities arising after service that are connected, based on sound scientific and medical evidence, to such service. . . ." The Act, §3. Congress's findings included: There is scientific and medical uncertainty regarding the long-term adverse health effects of exposure to ionizing radiation. *Id.* §2(2). Due to the long latency period involved, radiation claims present adjudicatory issues which are significantly different from issues generally presented. *Id.* §2(12). "It has always been the policy of the [VA] and is the policy of the United States, with respect to individual claims for service connection . . . that when, after consideration of all evidence and material of record, there is an approximate balance of positive and negative evidence . . . the benefit of the doubt in resolving each such issue shall be given to the claimant. *Id.* §2(13).

Presently, the VA recognizes 20 diseases as "radiogenic diseases"—a disease that may be induced by ionizing radiation—under §3.311. These "radiogenic diseases" include leukemia, other than chronic lymphocytic leukemia; breast cancer; lung cancer; bone cancer; liver cancer; skin cancer; esophageal cancer; stomach cancer; colon cancer; pancreatic cancer; kidney cancer; urinary bladder cancer; salivary gland cancer; multiple myeloma; posterior subcapsular cataracts; non-malignant thyroid nodular disease; ovarian cancer; parathyroid adenoma; and tumors of the brain and central nervous system.

Pursuant to the provisions of 38 C.F.R. §3.311, an atomic veteran diagnosed with a recognized "radiogenic disease" can have his or her claim for direct service connection for residuals of exposure to ionizing radiation adjudicated by the VA, notwithstanding the fact that the atomic veteran does not have any medical evidence to establish a cause and effect relationship between his exposure to ionizing radiation and his diagnosed "radiogenic disease." Otherwise, (based on a recent court decision discussed *infra*) an atomic veteran who believes that his or her disability, not found on the list of "radiogenic diseases," may have his or her claim for service connection on a direct basis adjudicated by the VA providing the atomic veteran has medical evidence to support the claim. Once the atomic veteran has demonstrated that he or she suffers from a "radiogenic disease" or provides medical evidence of a cause and effect relationship between his or her disability and exposure to ionizing radiation, the VA, pursuant to §3.311 must obtain a dose estimate as to the range of doses to which the atomic veteran may have been exposed. Final review of direct service connection claims based on exposure to ionizing radiation is conducted by the Under Secretary for Benefits, who may obtain and consider any opinion of the Under Secretary for Health in reaching his determination whether the atomic veteran's disease resulted from radiation exposure in service.

Mr. chairman, although §3.311 was passed by Congress in 1984 as remedial legislation, designed to assist atomic veterans and their survivors in obtaining compensation for illnesses, diseases, disabilities, and death due to exposure to ionizing radiation, this legislation has benefited very few atomic veterans or their survivors. Until recently, the VA considered the list of "radiogenic diseases" as an exclusive list thereby refusing to consider any claims for direct service connection for residuals of radiation exposure if the atomic veteran or his or her survivors could not demonstrate that the atomic veteran suffered from a listed "radiogenic disease," regardless of the evidence submitted in support of the claim. The VA's practice of adjudicating only those claims where the atomic veteran suffered from a recognized "radiogenic disease" was overturned by the United States Court of Appeals for the Federal Circuit on September 1, 1994, in *Combee vs. Brown*, 34 F.3d 1039, 1045 (Fed.Cir. 1994).

Once an atomic veteran seeking direct service connection for residuals of exposure to ionizing radiation has established that he or she suffers from a recognized "radiogenic disease" or have provided the VA with medical evidence of a cause and effect relationship, the burden of proof then shifts to the VA for consideration of the case on the merits. It is at this point that atomic veterans face their greatest obstacle in establishing their entitlement to service connection. Dose estimates and dose reconstruction data for the various radiation tests are handled by the Defense Nuclear Agency.

In more cases than not, no actual individual exposure record is available for the atomic veteran, and reconstructed dose estimates routinely fail to provide an accurate estimation of the level of radiation exposure experienced by the atomic veteran. Film badges, not issued to all participants in nuclear tests, did not provide a complete measure of radiation exposure, since they were not capable of recording inhaled, ingested, or neutron doses, or often shielded during the detonation, and were worn for only limited periods during and after each nuclear detonation.

Many atomic veterans who participated in the nuclear tests in the Pacific report visiting these islands a short time after the test detonation and eating locally grown fruits and swimming in the lagoons. Atomic veterans who participated in the Nevada test sites report being covered in fallout dust which was either brushed off of them by hand or with brooms. Many report being transported to mess halls shortly after walking through "ground zero" and not being able to properly clean themselves before eating. These factors are extremely important in determining a proper reconstructed dose estimate; however, it does not appear that the participant's comments are used to further the analysis with regards to the dose reconstruction estimate. Without accurate reconstructed dose estimates, atomic veterans and their survivors find it virtually impossible to obtain the benefits they seek.

All too often, reconstructed dose estimates show that the overwhelming majority of participants were supposedly exposed to one rem or less of external doses of ionizing radiation. It is extremely difficult to believe, based on the statements made by participants, that their total exposure was so minimal. The DAV believes that a great injustice has been done to America's atomic veterans and their survivors. As will be discussed later, only ten percent of those atomic veterans who seek compensation for their residual disabilities are granted service-connected benefits, although the VA cautions that "[i]t cannot be inferred from this number that service connection was necessarily granted on the basis of radiation exposure." In other words, although the atomic veteran claimed residual disability as a result of his exposure to ionizing radiation, the claim could have been allowed under general principles establishing service connection such as the disease or illness was evidenced in the service medical records, etc. . . .

Adjudication of radiation claims pursuant to 38 C.F.R. 3.311 have been a total failure.

With almost 95% of atomic veterans failing to establish service connection for their illness, disease, or disability, the remedial legislation passed in 1984 has not provided atomic veterans with meaningful consideration of their claims. The present statistical data showing an extremely high denial rate has changed very little since 1984 when former Senator Cranston expressed the need for this remedial legislation.

In May 1988, aware that something more was needed, Congress passed Pub. L. No. 100-321, §2(a), 102 Stat. 485, which grants service connection on a presumptive basis for certain diseases becoming manifest in an atomic veteran to a degree of 10% or more. Currently, the list of presumptive diseases, a total of 15 in all, include: leukemia, other than chronic lymphocytic leukemia; thyroid cancer, breast cancer; cancer of the pharynx; esophageal cancer; stomach cancer; cancer of the small intestine; pancreatic cancer; multiple myeloma; lymphomas, except Hodgkin's disease; bile duct cancer; gall bladder cancer, primary liver cancer, except if cirrhosis or hepatitis B is indicated; salivary gland cancer; and urinary tract cancer. While 20 diseases are recognized as "radiogenic diseases" pursuant to 38 C.F.R. §3.311, only 15 diseases are presumed to be service-connected as a result of exposure to ionizing radiation. Yet, pursuant to the Marshall Islands Nuclear Claims Tribunal Act, 25 separate medical conditions are irrebuttably presumed to be the result of radiation exposure and Marshall Islanders are compensated for these disabilities. It is difficult to understand the lack of consistency in these lists. Why are only 15 diseases given a rebuttable presumption of service connection for atomic veterans while Marshall Islanders receive an irrebuttable presumption for 25 medical conditions? Further, at the very least, why are not all 20 "radiogenic diseases" presumed to be service-connected as a result of ionizing radiation exposure pursuant to 38 U.S.C. 1112(c)? Why does our government continue to put the needs of its veterans behind those of other groups, such as the Marshall Islanders? America's veterans should always be considered a special and unique group for having served their nation with honor. . . .

Congress should consider making all the recognized "radiogenic diseases," and any other disease, illness, or disability that others, such as the Marshall Islanders, are being compensated for, with those diseases for which presumptive service connection is granted. The Marshall Islanders have an irrebuttable presumption, at the very least, America's atomic veterans should receive a rebuttable presumption for all diseases, illnesses or disabilities for which others are compensated.

The DAV commends this subcommittee for it's recent, favorable action on adding bronchiolo-alveolar carcinoma, a form of lung cancer, to the list of diseases presumed to be service-connected for veterans exposed to ionizing radiation. As stated above, however, all recognized "radiogenic diseases" including lung cancer should be added to the list of diseases presumed to be service-connected. . . .

In closing, I would like to refer to a phrase which appears on the Atomic Veterans' Newsletter, published by the National Association of Atomic Veterans, Inc. that states: "The atomic veteran seeks no special favor . . . simply justice." This justice is long overdue. DAV encourages this subcommittee to do everything necessary to ensure that this group of forgotten veterans—atomic veterans—receive meaningful justice from our government.

This concludes my statement. I would be happy to answer any questions you may have.•

THE OMNIBUS APPROPRIATIONS BILL

• Mr. KERRY. Mr. President, even in an age of spin control, when it is often difficult to wade through the rhetoric to find the truth, it is possible to determine the true measure of a government. That measure can be found quite revealingly in the budget. For it is in the budget that the priorities become clear. It is in the budget that the rhetorical claims can be separated from the real claims. In Elizabethan England, as the old saw tells us, the proof may have been in the pudding. But in modern day America, the proof of an administration's or a political party's claims is in its budget proposals.

We have just come through two exceptionally challenging years. The Republican Party, led by Speaker of the House NEWT GINGRICH and then-Senate majority leader and now Presidential nominee Bob Dole, sought to upend government—to eliminate or slash service after service upon which Americans depend. The effect of their efforts, had they been successful, would have been to heap on the rich and the powerful in this Nation even greater riches and power. Those additional riches and power would have come at the expense of working Americans, at the expense of the environment which we have been laboring for decades to clean up, at the expense of those who need health care, at the expense of children and young people seeking quality education, at the expense of those who have been victimized by crime, drug abuse, and domestic violence, at the expense of America's future.

The Republican Party correctly identified the importance of gaining control of our Nation's fiscal household, but then threw wisdom and prudence to the wind, and concluded that the only legitimate objective was to slash Federal spending, regardless of how or where, regardless of the harm that would be caused to our Nation and its people as a result of those actions. Paradoxically, the only large category of discretionary spending Republicans excepted from their frenzied assault was that for armies and weapons, despite the fact that the cold war ended over 5 years ago, and that, for the first time in 50 years, we have no superpower adversary.

The budget the Republicans brought forward last year dramatized this extremist philosophy. It portrayed a singular absence of vision, confirming that the Republican party neither understood nor subscribed to the concept of investment in the future by our Government on behalf of this Nation's citizens.

The Democrats in the Senate and the House, led by President Clinton, rejected this extreme agenda. We did not shy from the fierce conflict the Republicans promised if anyone dared challenge their zealous actions to demolish vital services.

After nearly a year of pitched battle over the 1996 budget—that resulted in several Government shutdowns—it became clear even to the Republicans that the American people did not support their objectives or their approach. A budget finally was enacted halfway through the fiscal year that came much closer to reflecting the principles and priorities Democrats had consistently said the American people supported.

But while the Republicans acknowledged tactical defeat, they had not yet learned the lesson. Once again, in the form of the 1997 budget, they showed their true colors. Once again, they launched forth in pursuit of an extremist agenda to cut education funding, cut job training, cut health care, cut law enforcement assistance, cut assistance to small businesses, cut programs to help American companies more effectively compete with foreign firms.

Again, the Clinton administration and congressional Democrats met them head-on. Today we have reached the end of this second budget campaign of the 104th Congress. Once again, because the congressional Democrats more accurately reflected the values and views of the American people, the Republicans' budget has been repudiated in large measure. This time, in fact, the battle has been won with far less bloodshed and in far less time. The Republicans, knowing they did not have the support of the majority of the Nation, and knowing the elections are only weeks away, ran up the white flag almost as soon as the battle was really joined.

Mr. President, the American people are the winners. The future of our Nation is the winner. I am relieved and heartened to see that our democratic process has operated in such a way as to earn our faith and confidence.

With the leadership of President Clinton and his administration, we have taken a devastating Republican budget and transformed it into one that manages to pass the basic test of responsibility. I commend the President and the Vice President for their courage and resolve. I commend White House Chief of Staff Panetta and his staff, the Office of Management and Budget, and others from the Administration who were involved. Also deserving of praise are Senate Democratic Leader TOM DASCHLE and his staff, Appropriations Committee ranking Democrat ROBERT BYRD and his staff, and the subcommittee ranking members and their staffs.

While none of us has ever seen a budget that is identical to the one he

or she would have proposed, the budget that emerged from the negotiations in the wee hours of this past Saturday morning is one that I can support. It is true that the portions that address our Government's domestic services generally are preferable to the portion that addresses defense; the defense portion provides more funding than we need in the post-cold-war era to ensure our national security. We have pressing domestic needs to which this surplus defense funding would be more beneficially targeted. And some of this excess funding beyond the Defense Department's request should be used to further reduce the deficit, a vital objective.

Not only for this reason—but significantly for this reason—this legislation could be better; it could be stronger; it could be fairer. But it passes the threshold test. With many reservations, I voted for it because it is better than anything we've seen in the past 2 years; it is better than we were afraid we would see this year; and it protects and in some cases enhances some vital services for the American people. In some cases the best that can be said for it is that it preserves important services through another year so that we may return to attempt to allocate sufficient resources to them next year. But that was enough to secure my vote.

I would like to mention several of the bill's components that are of particular importance to Massachusetts and the Nation.

PARKS AND INTERIOR

I am proud of the rich historical heritage of my State of Massachusetts and I am pleased to support funding for many of the State's historic sites in the continuing resolution for fiscal year 1997.

The first historic site, established in 1938, the Salem National Historic Site, represents a slice of Massachusetts life from the 17th through the 19th centuries, when Salem traded with the East Indies and throughout the world, opening new markets for exports and importing treasures from far away. The site includes 18th- and 19th-century wharves, the Custom House, the West India Goods Store, and the 17th-century Narbonne-Hale house, where local craftsmen worked. In June 1994, the new regional visitors center opened after a $4.7 million Federal investment. The operational funding increase of $341,000, plus five additional personnel, will ensure that the regional visitors center, which offers information about cultural and natural resources throughout Essex County, remains open year-round. These increased funds will help the site to accommodate the growing number of visitors to the park, which has grown by at least 30 percent since 1990, and exceeded 1 million in 1992.

The site is also completing construction of the sailing vessel *Friendship*, an exhibit dedicated to the master craftsmen shipbuilders of the 18th century. This funding will also go toward operating the Salem site. With its authentic replica of the historic *Friendship* nearly completed, it offers an educational opportunity for children and their families that can be a model for similar parks in the State.

I am also pleased, Mr. President, that funds have been approved for continued maintenance, protection, and development of the Lowell National Historic Site, and to continue the 17-year efforts of the Lowell Historic Preservation Commission. The operating increase of $404,000 is required to continue operations in the park that commemorates the birthplace of the American Industrial Revolution. Located in downtown Lowell, the park includes the Boott Cotton Mills Museum, "mill girl" boarding houses, and the Suffolk Mill turbine, and offers guided tours depicting how the transition was made from farming to industry, the history of immigrants and labor in Lowell, and the development of industrial technology. Although the economy in Lowell has not been strong in the past few years, the tourist industry has been a staple of the city's livelihood. The National Park Service conducts tours that take visitors around the city, via canals, trolleys, and walking tours. With the addition of professional baseball and hockey teams, there are now more reasons than ever to visit Lowell, and its historic preservation efforts will reflect the renewed interest in the city.

To many of us, classic American poetry and Henry Wadsworth Longfellow are synonymous. His home, a national historic site, will justifiably receive an operating increase of $112,000. Longfellow lived in this residence for nearly 50 years while teaching at Harvard. This house was also General George Washington's headquarters during the siege of Boston in 1775. In addition, the Longfellow National Historic Site manages one of the largest and most important fine arts collections in the National Park Service. Unfortunately, recent cutbacks in funding have forced the Park Service to close its door for 6 months a year, thus ending public tours and student programs from November to May. Countless historic books and textile exhibits have deteriorated. Moreover, the vast majority of the archives remain uncatalogued and inaccessible to researchers. This operating increase will enable the Longfellow House to provide critical security and management for the museum collections contained in this monument to America's struggle for independence and rich cultural history.

Mr. President, I am pleased this continuing resolution contains $301,000 for continued maintenance, protection and security of the Cape Cod National Seashore. This increased funding for park operations and maintenance will be used to improve park security, caretaking, and fire protection at the newest section of the Cape Cod Seashore, the decommissioned North Truro Air Force Station that was annexed in 1986. This request was supported by the Cape Cod Commission, many residents, and organizations on the Cape. Over 5 million visitors and vacationers annually visit the Cape Cod National Seashore, a park on the outer beaches of Cape Cod, extending 40 miles from Chatham to Provincetown. The park is made up of oceans, beaches, dunes, woodlands, freshwater ponds and marshes. It is home to a vibrant ecosystem of plants and animals. The area is also home to numerous historical structures, including Marconi's wireless station.

I am also very pleased that this omnibus package includes nearly $1 million for the Blackstone River Valley National Heritage Corridor including $324,000 to support the important ongoing efforts of the Corridor Commission and $460,000 for development and construction projects in the Blackstone River Valley. With the passage last week of legislation to expand the boundaries of the Blackstone Corridor, the corridor size will increase by 60 percent, with approximately 150,000 new acres including two national historic landmarks. These funds are needed to develop resource inventories, interpretive programs, and protection strategies for the five communities newly included in the corridor, including Worcester, MA.

Established in 1986, the Blackstone Valley National Heritage Corridor, encompassing 400,000 acres, is the largest national park in the North Atlantic Region of the National Park Service. It contains over 10,000 historic structures, and is significant for its 18th and 19th century industrial production systems of mill villages, farms, and transportation that illustrate America's transition from an agricultural to an industrial Nation. It also includes acres of farms and pastures and beautiful riverside scenery. The Blackstone Corridor is unique in the National Park Service because it is predominantly funded and maintained with local resources, encouraging a public-private partnership that has become a model for other parks, using Federal seed money to encourage local preservation and revitalize the economy.

I applaud the inclusion of additional funds for land acquisition in the Mashpee National Wildlife Refuge. A transfer of $750,000 from another defunct Fish and Wildlife Service project was recently made to Mashpee. While my request for $1.582 million for the acquisition, which was originally included in the fiscal year 1997 appropriations bill passed by the Senate, was not fully funded in the conference report, I am pleased that two-thirds of our request was included in this legislation to secure this important natural resource.

Mr. President, with regard to one other Parks and Interior component of this legislation that directly impacts my State of Massachusetts, I support the increased funding it contains for the John F. Kennedy National Historic Site. Although the site attracts 15,000 visitors during its brief open season—one-third of which are visiting from abroad and who consider the birthplace their primary destination—recent funding shortages have forced the JFK National Historic Site to eliminate school programs, and significantly reduced the number of tours that can be accommodated. The funding increase of $57,000 will allow the hiring of one permanent park ranger and three seasonal park rangers to give tours, conduct school programs, and provide information services. The additional resources will allow the site to remain open for at least 9 months per year.

Interior Subcommittee and full Appropriations Committee Ranking Democrat ROBERT C. BYRD, Subcommittee Chairman SLADE GORTON, and their staffs have done a commendable job in addressing all the needs for funding within the constraints that have been imposed on them. I thank them for their help.

FISH AND OCEANS

Mr. President, I am pleased to support the Commerce, Justice, State, and Judiciary appropriations provisions in this continuing resolution and I want to especially commend the ranking member of the Commerce, Justice, State and Judiciary subcommittee, Senator HOLLINGS, for his work on this portion of the bill. The Appropriations Committee faced the daunting task of fairly distributing funding to a broad array of important programs, many of which are critical to our economy, our personal security, our marine environment, and international relations within a budget framework of extremely limited resources. While there are always some disappointments about specific programs and projects, I believe this portion of the bill is a balanced measure of significant benefit.

As the ranking member of the Commerce Committee's Subcommittee on Oceans and Fisheries, I am pleased that this measure provides funding increases to some key marine and coastal programs and at least assures the continuation of others.

The importance of a healthy environment to the citizens of this nation and to those living in the Commonwealth of Massachusetts is reflected in the bill's provision of $1.85 billion for NOAA. NOAA is one of the Federal Government's premiere scientific research agencies, with responsibility for the stewardship of our living marine resources, operation of our National Weather Service and its environmental satellite system, management of our National Marine Sanctuaries, the coordination of activities impacting the coastal zone, and the integration of a cooperative research program with universities through the Nation.

Of special interest to many citizens of Massachusetts are programs which help to protect and conserve valuable natural resources along our coastline. Just a few of the programs of national importance which are funded include the Coastal Zone Management Program, the National Marine Sanctuary Program, the National Undersea Research Program, the Coastal Ocean Program, and the National Sea Grant Program. Working in concert with each other, and with other Federal, State and local programs, these NOAA programs constitute part of the front line in defending the natural beauty and biologic diversity of our coastal resources. We all have come to recognize the important cultural and economic benefits of marine-related industries and recreational activities and I believe that strong support for these program will help to ensure that these benefits will be passed along to future generations.

Of great importance to me and to my fishing constituents is the continued funding for the research programs targeted on the New England groundfish disaster. The Gulf of Maine Groundfish Survey, New England Stock Depletion Studies and Management of Georges Bank projects provide funding for scientists in the National Marine Fisheries Service [NMFS] to more carefully examine the causes of the groundfish fishery collapse and to identify ways to rebuild and manage these stocks so they return to healthy levels. This continued support is needed for the scientific and assessment efforts that form the basis for the difficult management decisions necessary to preserve fisheries while considering the needs of those whose livelihoods depend on fishing or on commerce in fish and fish products.

Massachusetts will also benefit from additional resources provided to NMFS. These programs include right whale research, the New England Fishery Management Council, Marine Mammal Protection Act implementation, habitat conservation, and fisheries enforcement. Additionally, the funding provided for Atlantic salmon, the Atlantic Migratory Pelagics Observer Program, and the aquaculture programs will continue valuable programs which provide both direct and indirect benefits to citizens of the Commonwealth. The health of living marine resources along the coast of the Commonwealth continues to be of great concern to my constituents, and I echo their sentiment both personally and as their representative in the U.S. Senate.

Whales are one of the great symbols of the ocean and are closely associated with Massachusetts. Funding for North Atlantic right whale research is of critical importance this year. The North Atlantic right whale is the most endangered of all mammals, with approximately 350 remaining in the world. Unfortunately, this year alone, seven right whales have died as a result of being hit by ships and other unknown causes. The funds provided in this bill will help to advance our knowledge of right whale behavior and habitat requirements and hopefully lead toward measures which will avoid the unacceptable level of mortalities experienced this year.

The Saltonstall-Kennedy fisheries grants programs is another important program for our Nation's coastal regions, providing funding for research to enhance fish stocks, develop new markets for underutilized fish species, and assess new fishing gear technologies. Often, Saltonstall-Kennedy grants are the only source of funds available to assist the fishing industry in its effort to adapt and diversify.

I am also pleased to see continued funding for the Coastal Zone Management [CZM] Program, particularly the funding for State grants. Just this past spring we reauthorized the Coastal Zone Management Act. The CZM program is a highly successful voluntary State-Federal partnership to protect, develop, restore, and enhance our coast for present and future generations. The program has proven to be very effective in enhancing coastal economies while minimizing the impacts of the increasing pressures of growing populations, environmental degradation, and conflicting uses of our fragile and finite coastal area.

NOAA's Coastal Ocean Program [COP] is a Nationwide science program conducting important interdisciplinary research on oceanographic problems, including ecosystem research on Georges Bank. The COP provides one focal point through which NOAA integrates and coordinates its research activities with other Federal, State, and academic programs. Through its comprehensive, proactive approach, the COP offers policy makers the best information available, providing them with the balanced perspective needed to promote economic growth while maintaining a healthy and sustainable environment.

I would like to commend the committee for its continuing support for the Sea Grant Program. This is a Program that builds bridges between Government and academia, as well as between research laboratories and groups in need of reliable information. It serves as a successful model for multidisciplinary research directed at scientific advancement and economic development by funding regional research, promoting technology, and enhancing public education and outreach services for the Nation's coastal resources.

I am also pleased to see continued funding for the Global Climate Change

Program. This Program seeks to develop a clearer picture of the relative roles of various greenhouse gases in causing global warming. The NOAA Program is an important part of the overall U.S. interagency effort to improve the science that is needed to make critical decisions about the future of our planet.

Another ocean Program very important to my State is the National Marine Sanctuary Program. Stellwagen Bank National Marine Sanctuary off the coast of Massachusetts is an excellent example of Federal activity that produces both environmental protection and economic enhancement. This marine mammal feeding area is popular with whale watchers and fishermen, and protection of the bank has received wide support—not only among my constituents but Nationwide. The funding provided in the CR will help to maintain this important national program, especially Stellwagen Bank.

Another program which is receiving well-deserved funding is the National Undersea Research Program [NURP]. This program consists of six centers where regional undersea research activities are conducted. Its funding also will cover the NURP share of the operating expenses for the ALVIN, the deep submersible research vessel based at the Woods Hole Oceanographic Institute.

The Fishing Vessel Obligation Guarantee Program is also administered by NOAA and was established to provide loan guarantees to the commercial fishing industry. The program was recently expanded to include aquaculture facilities, making the program the single most important financing vehicle for this rapidly expanding industry.

On global environmental issues, I have worked actively for an Antarctic Environmental Protocol, including the Convention on the Conservation of Antarctic Marine Living Resources [CCAMLR]. Additionally, the President soon will sign the Antarctic Science, Tourism, and Conservation Act, which I authored, which will implement the International Antarctica Treaty. Data provided by NOAA's Antarctic Marine Living Resources [AMLR] Program are critical to CCAMLR's implementation and I am very pleased that $1.2 million has been provided to ensure the continuation of this critical work.

I compliment my good friend and colleague, Senator HOLLINGS, for his leadership in these oceans issues which he has successfully championed for years. It is my pleasure to serve with him on the Commerce Committee, where he served as chairman until 1995.

BOSTON HARBOR—CLEAN WATER

Mr. President, recently the Congress passed and the President signed into law the VA-HUD and independent agencies appropriations bill for fiscal year 1997. During Senate consideration of that bill, I expressed my deep concern that the Republicans refused to meet the President's requested funding level for a critical environmental protection measure, the project to clean up Boston Harbor. While the President held firm in his support for $100 million for Boston Harbor for 1997 as Senator KENNEDY and I urged him to do, by a party line vote the Republican conferees forced a funding reduction to just $40 million.

However, the story did not end there. I continued to work closely with Senator KENNEDY in supporting the President's efforts to secure more funding for Boston Harbor. I wrote and spoke to the President, his Chief of Staff, Leon Panetta, and others in the administration many times over the past few weeks, urging them to increase funding for this environmental cleanup effort.

Therefore, I am very pleased and very appreciative that the President and congressional Democrats were victorious in their attempts to secure more funding for Boston Harbor in this omnibus budget package. It contains an additional $35 million for Boston Harbor, raising the fiscal year 1995 funding level to $75 million. The residents of Massachusetts and the ratepayers of the Boston metropolitan area are well served by this action.

ECONOMIC DEVELOPMENT

I am extremely pleased to have secured another key provision for Massachusetts in this bill—language that will permit financing to go forward to revitalize the Fore River Shipyard in Quincy, MA. This provision was originally sought by Senator KENNEDY and me in the Commerce/State/Justice appropriation bill for fiscal year 1997, and was later modified by Majority Leader LOTT, who sought, not inappropriately in my view, to toughen up the language. In the case of the Quincy project, this language alteration will place a greater responsibility on the Commonwealth of Massachusetts to help underwrite the necessary financing. I am satisfied that the new language leaves enough discretion to the Maritime Administration so that a suitable arrangement can be reached that is both affordable and acceptable to the Commonwealth. This is a matter on which I, Senator KENNEDY, and Representative STUDDS have been working for over a year.

Specifically, section 1139 establishes the basis for the Secretary of Transportation to assist certain shipyards, including the yard at Quincy, by facilitating the extension of Federal loan guarantees for the reactivation and modernization of those yards and the construction of vessels by the yards. Significantly, this section has been carefully drafted to provide several layers of protection to the Federal taxpayer, and to ensure the State where a yard is located shoulders a degree of the financial burden of revitalizing the yard, and also a portion of the financial risk. For example, subsection (d) requires the State or a State-chartered agency where the yard is located to deposit into the Federal treasury the amount of funds needed to cover the percentage of the risk factor cost required by the Federal Credit Reform Act, and provides for the reversion of the funds to the State if no obligation needs to be paid from the deposited funds. I fully expect that the percentage of the risk factor under this subsection will never exceed 12 percent for the Quincy project. It appears to me that a deposit from the State of 12 percent will be more than adequate to fulfill the requirements associated with the risk of default for a project of this nature.

This provision is significant to my State because the Quincy Shipyard project is the first of its kind. It is the first project to revitalize an inoperative shipyard and put it back into production as a State-of-the-art facility that will employ up to 2,000 workers in good jobs. This makes sense, because the proposal to revitalize the Quincy Shipyard will turn it into a shipyard on the cutting edge of technology and one which will produce vessels that will be in demand in the international marketplace for years—double-hulled oil tankers to carry petroleum safely around the world. The Federal Government's investment in the Quincy Shipyard will be repaid many times over through the jobs that will be created, and through the renewed position of American maritime leadership that the project will help us attain. Now that Congress has done its part, it is incumbent upon the Commonwealth, the city of Quincy, the Massachusetts Heavy Industries Corp., and the Maritime Administration to bring the project to reality.

I must note with disappointment that, despite the stalwart support of administration and Senate Democratic negotiators, House Republicans insisted on cutting the cap on the permissible guarantee for any one project from $100 million to $50 million. This would have constrained the project in Quincy. Fortunately, however, with identical legislation moving on a separate track, which now has been sent to the President for signature, we have overcome that last-minute partial hurdle.

I am pleased that the continuing resolution contains language expressing the support of House and Senate appropriators for Massachusetts Biomedical Research Institute [MBRI] and other biomedical research and innovation centers throughout the country that have received past financial support from the Department of Commerce. This language is specifically intended to continue the Federal Government's support for one institution in particular—MBRI. MBRI is familiar to some of my colleagues from other States because it has been a model for several

biomedical research programs elsewhere in the country. Designed by the business and academic community of Worcester, MA, to nurture the transfer of biomedical technology from the laboratory into new business start-ups and the growth of those start-ups into job-creating businesses offering cutting-edge medical products, since its inception in 1986, MBRI has spawned 20 new firms in the biomedical industries—firms that now employ over 2200 people.

I am proud that Democratic majorities in the Senate wisely chose to fund MBRI. I regret, however, that the new Republican majority again this year, as it did last year, has refused to fund MBRI directly. This year, it chose instead to instruct the Commerce Department to "provide support for * * * initiatives previously supported by [the Department] to * * * increase small business global competitiveness in biotechnology." Nonetheless, using this language, I will continue to work closely with the administration to maintain MBRI's vital services.

I am also pleased that the continuing resolution contains a provision with the effect of making the University of Massachusetts at Dartmouth a full member of the National Textile Center University Consortium, and directing the Department of Commerce to provide financial support to the University of Massachusetts at Dartmouth to sustain its activities as a member of the National Textile Center. This will help to ensure that the University of Massachusetts at Dartmouth can meet the research needs of Massachusetts textile companies and help revitalize textile manufacturing in Massachusetts.

Over 30,000 people living in Massachusetts work in the textile industry. The 1,000 textile companies located within Massachusetts are mostly small-to-midsized companies whose unique research needs have been well served by the University of Massachusetts at Dartmouth. I am confident that the research activities at Dartmouth will be greatly enhanced by the designation of the University as a full member of the National Textile Center University Consortium.

I must, however, express my disappointment that the Republicans who control the Congress chose to provide for the inclusion of the University of Massachusetts at Dartmouth in the National Textile Center through a "direction" to the Department of Commerce, rather than through the express language which Senator KENNEDY and I had asked be included in the Commerce/State/Justice Appropriations Committee report. I am fully confident the Department of Commerce will provide to the University of Massachusetts at Dartmouth the full $500,000 that is contained in the Senate Commerce/State/Justice Appropriations Committee Report.

I am disappointed that, once again, Congress decided to severely underfund the Advanced Technology Program, or ATP, at the Department of Commerce. The continuing resolution funds ATP at a level of $225 million. While this is a welcome increase from the level contained in the Senate Commerce/State/Justice bill, this amount is significantly less than the President's budget request of $350 million.

ATP provides matching funds for high-risk, enabling technologies with commercial potential. To date, ATP has had a significant impact upon the development and successful marketing of new technologies by businesses in Massachusetts and across the Nation. More than 40 Massachusetts organizations have participated in 27 ATP projects. In Massachusetts alone, ATP has produced over $110 million in public-private partnership funding to enhance Massachusetts businesses that are on the cusp of technological innovation. Furthermore, the impact of this program is one in which all Americans can take pride. ATP generates a return to the economy of $6 for every dollar of program funding.

AMTRAK

I am pleased that Congress has decided to increase funding for Amtrak over the amount that was approved in the Transportation appropriations bill recently sent to the President for signature. This will permit the Massachusetts portion of the Lake Shore Limited to continue to operate for an additional 6 months. The Lake Shore Limited crosses Massachusetts from east to west with stops in Pittsfield, Springfield, Worcester, Framingham and Boston. Saving this train is especially important to the residents of the Berkshires and Western Massachusetts who depend on the Lake Shore Limited as their sole source of intercity passenger rail service. I strongly opposed Amtrak's decision to eliminate this service when the cuts were announced in August. We must now confront the more serious challenge of finding a permanent solution to preserve Amtrak service throughout Massachusetts. I intend to work diligently with Amtrak, the State, and congressional appropriators in the next Congress to ensure that the Lake Shore Limited can continue its present level of service.

I am also pleased that the omnibus bill increases funding for Amtrak's Northeast Corridor Improvement Project, or NECIP, by $60 million over the amount that was approved in the transportation appropriations bill. The funds will finance much need track maintenance and upgrades, and the electrification of the Northeast Corridor. This additional funding will greatly facilitate achievement of NECIP's goal to provide reliable, high-speed rail transport service between Washington, DC, and Boston, with the objective of achieving 3-hour service between Boston and New York.

SMALL BUSINESS

I am pleased that the Small Business Programs Improvement Act of 1996, which is included in the omnibus appropriations bill, includes legislation that I introduced earlier this year to end discrimination by the Federal Government against small business and also includes an amendment I sponsored that will provide fishermen access to SBA's disaster assistance program when fishing is prohibited because of a commercial fishery failure or a fishery resource failure.

Last year, Congress passed the Small Business Lending Enhancement Act of 1995 which lowered the maximum guarantee rate for SBA's section 7(a) guaranteed loan program. The legislation also lowered the guarantee rate from 90 percent to either 75 or 80 percent depending on differing circumstances, for SBA's Export Working Capital Program, which guarantees loans made by banks and other lenders who use loans to produce goods and services to export. However, financing for business loans through the Export-Import bank are still guaranteed at 90 percent.

My legislation that is as part of the omnibus bill restores the 90 percent guarantee for the Export Working Capital Program to assure that small businesses do not lose export opportunities just because they cannot get financing from banks. This change will have a minimal impact on SBA's credit subsidy rate and overall lending authority. However, it is crucial to small business exporters who need better access to financing. At a time when exports are a key component of continued economic growth, increasing the SBA guarantee will increase the amount of small business exports—which in turn will create jobs in Massachusetts and across the Nation.

This legislation also includes an amendment which will provide fishermen access to disaster assistance under section 7(b)(2) of the Small Business Act's disaster assistance program if fishing is prohibited because of ocean conditions or a commercial fishery failure. Most fishermen are individual small business owners and consequently are very susceptible to severe economic loss or even economic failure in the event of fishery closures or declines. Fishing is a capital intensive industry composed primarily of individually owned fishing vessels. These small businesses are financially incapable of enduring even a short term fisheries closure.

This amendment allows the Administrator of the SBA, after the Secretary of Commerce has declared a commercial fishery failure or a commercial fishery disaster, to provide fishermen access to disaster assistance. I know how important it will be to helping maintain the commercial fishing heritage in Massachusetts, and it is for that

reason I believed it was essential to include such a provision in this legislation.

The decline in the groundfish stocks off the coast of Massachusetts, and the subsequent Federal restrictions on fishing in Georges Bank, have resulted in significant economic hardship for Massachusetts fishermen. These problems in the fishing industry have driven many fishermen to the brink of economic demise. In many cases, having taken loans to purchase their fishing vessels, fishermen confronting a fishery collapse have lost their homes which they commonly use as collateral for their vessel loans.

I believe that we need to continue to implement fishery conservation and rebuilding measures or the Massachusetts fishing industry will cease to exist. I believe the interim financial support the SBA can offer through disaster assistance will play an important role in keeping commercial fishing alive in Massachusetts and all Coastal States that from time to time experience the economic devastation associated with a fisheries natural disaster.

This bill also improves and expands the Small Business Investment Company Program which is crucial to the growth of small business and our economy. Small businesses need access to capital, and SBIC's have invested $12 billion in over 75,000 small businesses and have helped to create one million new jobs. This bill increases the level of private capital needed to obtain an SBIC license from SBA, requires experienced and qualified management for all SBIC's, requires diversification between investors and the management team and increases fees paid by SBICs which will reduce the credit subsidy rate.

I want to thank Small Business Committee Democratic Ranking Member Senator BUMPERS and his staff, especially John Ball, for their assistance with this portion of the omnibus bill. I also would like to acknowledge the assistance of Chairman KIT BOND and his staff.

LAW ENFORCEMENT

Mr. President, this bill includes funding for a number of important anticrime programs. I am encouraged that it contains language originally offered by Senator LAUTENBERG which will keep anyone who has been convicted of a domestic violence crime from owning a gun. I co-sponsored his legislation because simple common sense dictates that guns absolutely must be forbidden for those who abuse their spouses.

The Local Law Enforcement Block Grants Program provides funds to local communities to use as they deem necessary to reduce crime and enhance public safety. This allows localities to address community-specific crime problems using solutions that they have developed with added resources and flexibility. Due to Democrats' efforts, $523 million is contained in this legislation, $20 million more than provided by the Republicans.

I am proud of the role I was able to play in passing the Community Oriented Policing Services [COPS] Program in the 1994 crime bill. This program was developed to deploy 100,000 new police officers on the streets of our Nation by the year 2000. This bill continues the commitment to that program with funding of $1.4 billion.

Both the block grants and the COPS funding have been widely and effectively used in Massachusetts communities, and crime statistics as well as local observation show that they are working to reduce crime. It is vital that they be continued.

EDUCATION

Mr. President, I am heartened that, despite the best efforts by some of my colleagues on the other side of the aisle, it has been possible to include at least a minimally adequate level of funding in this bill for many key programs designed to aid this Nation's children. Democrats successfully fought to add money to the bills produced by House Republicans and the Senate Appropriations Committee. Unfortunately, the amounts still are not what this Nation ought to be providing for most of these programs and I urge Congress next year to provide sufficient resources to ensure that a floor of decency and hope is provided for all children.

Head Start provides comprehensive development services for low-income children and families, emphasizing cognitive and language development, physical and mental health, and parent involvement to enable each child to develop and function at his or her highest potential. I support full funding for this prevention program because it is cost effective—for the price of a single space in a juvenile detention facility, we can provide a full-day, full-year Head Start experience for five young people. Children that participate in Head Start are more likely to graduate from high school, earn more, and commit fewer juvenile crimes. That is why I supported the President's 1997 request of $3.98 billion and am glad that due to Democrats' efforts, we will approve that amount, which is $381 million more than the amount originally approved by the Republicans.

The Summer Youth Jobs Program offers work experience, supportive services, and academic enrichment to economically disadvantaged youth, ages 14 to 21. This important program addresses the severe problems facing out-of-school youth in communities with high poverty and unemployment. Cities and towns in Massachusetts depend on it, and I am glad it will be funded at $871 million, the President's request—an amount that is $246 million more than provided by the Republicans.

HEALTH/HUMAN SERVICES/EMPLOYMENT

The National Institutes of Health [NIH] is the world's leading biomedical research institution. Our investment in NIH's research saves lives and reduces health care costs while creating jobs and economic growth in a global economy. In recent years, this research has produced major advances in the treatment of cancer, heart disease, diabetes, and mental illness that have helped thousands of American families. NIH supports over 50,000 scientists at 1,700 universities and research institutes across the United States. I am glad that funding for NIH is increased by $819 million over fiscal year 1996, a 6.5-percent increase, bringing fiscal year 1997 funding to $12.7 billion, which is $332.6 million more than provided by the Republicans.

The Maternal and Child Health Block Grant provides funds to States to meet a broad range of enhanced, wrap-around health services, including personal health services; general population-wide health services, such as screening; family support services; and integrated systems of care. About 16 million women, infants, children, adolescents and children with special health care needs will be served in 1997. Due to Democrats' efforts, $681 million is approved, which is $2.9 million more than provided by the Republicans.

The Substance Abuse Block Grant provides funds on a formular basis to States to support alcohol and drug abuse prevention, treatment, and rehabilitation services. Due to Democrats' efforts, this program will receive $1.3 billion, which is $125 million more than provided by the Republicans.

The Low-Income Home Energy Assistance Program [LIHEAP] provides assistance to States to help low-income households meet the costs of home energy. It is crucial to New England States including Massachusetts. States have great flexibility in how they provide assistance, which may include direct payments to individuals and vendors and direct provision of fuel. In this legislation, LIHEAP is funded at the President's request level of $1.3 billion and includes $300 million in fiscal year 1996 advanced emergency funds. Due to Democrats' efforts, we were able to save this program from the House Republicans who eliminated it in their Labor-HHS appropriations bill.

Mr. President, I am disappointed that this legislation does not include any funding for the Homeless Veterans Reintegration Program [HVRP], which has been authorized for fiscal year 1997 by both the Senate and House Veterans Committees at $10 million. HVRP is a successful job placement program that has put 13,000 homeless veterans back to work. A sizeable proportion of homeless people in this country are veterans; this should not be the case. The HVRP Program helps veterans on public assistance become productive, tax-

paying citizens. It is so successful because HVRP provides grants to community-based groups that employ flexible and innovative approaches to help homeless veterans reenter the work force.

Furthermore, HVRP is cost-effective. It is estimated that it only costs $1,200 per person placed in a job, which is equal to the cost of unemployment for 1 month. HVRP succeeds in breaking the cycle of poverty and homelessness by giving people the ability to work their way out. Instead of giving handouts, this program gives veterans the tools, skills, and training they need to be productive members of society. As a veteran of the Vietnam war, I believe that we owe this type of service, among others, to the men and women who so honorably served our country.

In my home State of Massachusetts, the New England Shelter for Homeless Veterans has helped over 6,600 veterans since opening its doors in 1990, and housed within the shelter is the Vietnam Veterans Workshop, which is one of the community-based organizations that provides job training and work placement. The program has trained over 1,600 veterans, 72 percent of which are working citizens today. In the absence of earmarked appropriations for the coming year, I hope that the Departments of Housing and Urban Development and Labor will find some discretionary money to fund this important program.

Mr. President, I am pleased that the Labor-HHS title in the bill continues the Democrats' strong commitment to combat the AIDS epidemic. After 12 years of inaction and ignorance by Republican administrations, this country has moved decisively into a new era in the fight against HIV-disease. Working with President Clinton, Health and Human Services Secretary Donna Shalala, and the director of national AIDS policy, Patsy Fleming, the Democrats in Congress have pushed for increases in the Ryan White CARE Act of more than $200 million over last year's level. We have nearly tripled the money going to States and cities affected by the AIDS epidemic through the previously underfunded Ryan White Program, and we have renewed our pledge to the States that the Federal Government will take seriously the critical AIDS Drug Assistance Program. In calling for these increases, I was pleased to work with the AIDS Action Committee in Boston and other groups across the Commonwealth of Massachusetts who serve on the front lines of the epidemic as care and service providers.

Caring for those already infected with HIV is only one piece of a comprehensive national response to the AIDS epidemic. In this legislation, we are finally providing enough funding to the Centers for Disease Control to undertake a serious campaign to prevent new infections. Democrats on both ends of Pennsylvania Avenue urged the appropriators to increase funding for the CDC's AIDS prevention programs by nearly $33 million over last year's level to bring it to $617 million for fiscal year 97. And we are providing a substantial increase to the National Institutes of Health for our top biomedical researchers to redouble their efforts to find a cure for this dread disease. We cannot set our sights lower than finding a cure to AIDS. To that end, in this bill, we are committing nearly $1.5 billion to NIH research and retaining the Office of AIDS Research.

Mr. President, these funding levels are the clearest signal of the Democrats' commitment to fight a war on AIDS—and not a war on people with AIDS that characterized the Government's response during the 1980's and early 1990's.

FOREIGN RELATIONS AND AID

Turning to the foreign aid components of this bill, I think it is important to note that the overall funding is $500 million less than what the administration requested. This decrease will result in programmatic cuts nearly across the board, resulting ultimately in the decreased ability of the United States to address global issues such as famine, child nutrition, sustainable development and the environment. With respect to the last of those, I am deeply concerned that the bill provides only $35 million for the Global Environment Facility. This is $65 million below the President's request.

I am pleased that the omnibus bill incorporates the Humanitarian Aid Corridor Act which I cosponsored. This provision reaffirms the United States' commitment to the safe arrival of all U.S. humanitarian aid. It also provides $95 million in aid to Armenia, an increase of $10 million from the fiscal year 1996 level.

The bill also retains a provision, which I strongly supported, taken from the Senate-passed foreign aid bill, that would establish a new exchange program focused on legal reform in Vietnam. I would note that the Senate voted to retain funding for this program by a vote of 56 to 43. This program is in our long term interest; it is a means of bringing Vietnam into the larger international community while imparting our own values and norms, particularly in the economic arena.

As one who has cosponsored all of Senator LEAHY's bills on landmines, I am pleased that there is a $10 million earmark for demining in this bill and a $5 million earmark for assistance to the victims of landmines. There are over 100 million active, deadly landmines in 60 different countries around the world, killing and maiming approximately 26,000 people per year. Most victims are innocent children. These earmarks indicate the broad bipartisan support in Congress for devoting resources to clearing landmines, recognizing the integral role that demining plays not only in saving the lives of innocent civilians, but also in the rebuilding of communities.

Mr. President, by far the most egregious part of this bill that pertains to foreign aid is its treatment of international family planning programs. I am saddened and at the same time outraged that the House Republicans, in an undisguised way, tried to do as much damage as possible to population assistance. Their actions are mean spirited, punitive, and short-sighted.

This bill provides that no fiscal year 1997 funds can be used for population assistance until July 1, 1997—a full 9 months after the fiscal year begins. Beginning in July, the program will be funded at a rate of 8 percent of the annual appropriation each month. Mr. President, this is ludicrous. No other program in this entire appropriations bill is crippled in this way, and the unwillingness of the House Republicans to accept the Senate's position on family planning programs is disgraceful.

Mr. President, their tactics are simply illogical. By severing funds for family planning programs the Republicans are taking away the one tool that allows women in impoverished countries to choose not to have an abortion. Family planning does not mean abortion—it means quite the opposite. Those who continue to equate the two should take a minute to look at the facts. Statistics, across the board, show that when women have access to family planning programs, the incidence of abortion decreases. Those who continue to equate the two should also read the laws. Federal law prohibits the United States from funding abortions abroad. The U.S. Agency for International Development has strictly abided by that law. For the House Republicans to slash funding for international family planning programs on the premise that they do not want U.S. tax dollars funding abortions can only be described as illogical and wholly unwarranted.

By denying people access to family planning worldwide by slashing funding for those programs, there will be millions more unintended pregnancies every year, close to a million infant deaths, tens of thousands of deaths among women and—let me emphasize to colleagues who oppose permitting women to choose abortions in the case of unwanted pregnancies—over one million more abortions.

These programs provide 17 million families worldwide the opportunity to responsibly plan their families and space their children. They offer a greater chance for safe childbirth and healthy children, and avoid adding to the population problem that affects all of us.

I am unwavering in my conviction that international family planning programs are in America's best interest.

Funding for these programs is an investment in our future and an investment that will save the lives of thousands of women and infants. I will continue to fight for what is moral. The House majority needs to start acting responsibly on an issue that will affect generations to come.

On matters pertaining to foreign policy, the bill offers mixed news. It provides $892 million for contributions assessed on the United States as a result of its membership obligations to the United Nations and other international organizations. While this figure is an improvement over the levels in the House-passed bill and the Senate-reported bill, it is still $110 million less than the administration's adjusted request. This means that the administration will lack the funds to pay arrearages and that we will fall into greater debt at the United Nations. I strongly believe that we must press the United Nations to make administrative, financial, and management reforms, but continued failure to pay our contributions will only serve to undercut our ability to achieve those reforms. The bill provides a somewhat more reasonable level for peacekeeping, $352.4 million, but, it, too, falls short of the administration's adjusted request of $377 million.

With respect to funding for international exchanges, the bill provides only $185 million. In the last 2 years, the Republican Congress has succeeded in cutting funds dramatically for exchange programs. I believe that this is a mistake. Exchanges, particularly the Fulbright program and other academic exchanges, are one of our most effective instruments of foreign policy.

I am pleased that at the end of the day, House and Senate negotiators agreed to provide the President with his adjusted request of $41.5 million for the Arms Control and Disarmament Agency. The challenges in the area of arms control and nonproliferation are increasing, not decreasing in the more complicated world that pertains after the breakup of the former Soviet Union. To make deep cuts in the ACDA budget, as was contemplated by the Senate appropriators, would have seriously undermined our national security interests.

DEFENSE

Providing a sufficient national defense is one of the bedrock responsibilities of our Government to its people. I stand behind no Member of this institution in my commitment to an adequate defense. But I do not believe a gold-plated defense serves our Nation's interests, and I know without doubt that the tax dollars we spend for weapons and armies beyond those our armed services chiefs believe are necessary result in shortchanging our people in other vital ways, both now and in the future.

Despite a number of component decisions that appear to me to be carefully considered and justified, the defense and national security portion of this omnibus bill demonstrates the inability of this Republican-controlled Congress to make tough choices when it comes to defense. While the budget negotiators used approximately $1 billion in defense spending to offset antiterrorism efforts funded in this bill, the bill still contains $9.3 billion more than the Pentagon's budget request. Illustrative of the flawed decisions that contributed to this distressing overrun is the Ballistic Missile Defense Program. Certainly one is not vulnerable to the charge of failing to prepare for a ballistic missile threat by supporting the Pentagon's and administration's request for $2.9 billion for their BMD effort. Indeed, I strongly support the vigorous research and development effort to enhance our technical capabilities to spot, track, intercept, and destroy intercontinental ballistic missiles and their warheads, and I have been a consistent supporter of programs to develop and field theater ballistic missiles.

Unfortunately, the Republicans cannot recognize when they have had enough of a good thing. They insisted on spending an additional $885 million for ballistic missile defense.

The absence of the spending discipline with respect to defense and national security that the Republicans adamantly insist be directed toward domestic Government services is the cause of this legislation's single greatest flaw—an unsupported and unsupportably high aggregate appropriation for defense.

CONCLUSION

In summary, Mr. President, the negotiators labored mightily. Thanks to the fortitude of President Clinton, his Chief of Staff, and other administration negotiators, and Democratic congressional leaders and appropriators, this product passes the smell test, and manages to pass muster. I voted for it, disappointed that it fails in so many ways to provide what I believe our Nation should be providing, but cognizant that it could have been far worse. That definitely is not the measure to which I believe we should aspire. But in the final days of the 104th Congress, I believe it is the best anyone could have expected. As we look to November, we also look with great hopes to the 105th Congress and the opportunity it will afford to come to terms again with the way in which our budget reflects our national priorities and values. I hope we will do better next time.●

DRS. JOHN AND WINONA VERNBERG

● Mr. HOLLINGS. Mr. President, South Carolina has been dealt a double blow by the retirement of two leaders who have dedicated their professional lives to the public good. Drs. John and Winona Vernberg have been the University of South Carolina's power couple in the areas of public health, science, and the environment.

This beautiful couple has been together for nearly 50 years and has been serving the public just as long. They met in the Navy Hospital Corps at the end of World War II, and embarked on stellar careers in academia afterwards at Duke University and then at the University of South Carolina. John became a Guggenheim Fellow, both won Fulbright-Hayes Fellows, both won the Russell Award for Research in Science and Engineering, both received the William S. Proctor Prize for Scientific Achievement, and Winona was named Woman of the Year in 1980 by the University of South Carolina.

While their academic work has been top notch, they have not confined their activities to the classroom or laboratory. Winona became dean of the School of Public Health at U.S.C. in 1978, and within a year it was accredited. She has made that school an active, leading institution. It has 10 times the staff and 30 times as many students as when she took over. It has taken on the environmental health questions of our times in an interdisciplinary way and with an eye to the future. More recently, the university has recognized her management skills and longstanding contributions to the institution by naming her acting provost.

While Winona has been dean of the School of Public Health, John has been dean of the School of the Environment and head of the Baruch Institute at the University. We in South Carolina have a treasure in the coastal ecosystem, and John and Winona have worked in concert to understand it, to teach others, and to protect it. Diverse research within the Baruch Institute's 17,000-acre coastal preserve has ranged from studies of ocean tides, to tracking sea turtle nesting sites, to collecting data on the effects of Hurricane Hugo on the ecosystem. For John's part in these and other efforts, he has been named South Carolina Conservationist of the Year by South Carolina Wildlife and was honored with the Waddell Lifetime Achievement Award by Friends of the Coast. John and Winona often publish joint research projects, and Winona's environmental leadership was recognized through the Water Conservationist of the Year award by the South Carolina Wildlife Federation.

Mr. President, the Vernbergs are a couple we will continue to admire and cherish in South Carolina, and we will watch for their continued accomplishments as professors emeritus at the university. The institutions they have led and built up will continue to be a force for the good in our State and the Nation. I commend their work to my colleagues interested in public health and the environment, and wish the

Vernberg family my best in the years ahead.•

COAST GUARD AUTHORIZATION ACT FOR 1996

• Mr. WYDEN. Mr. President, passage of a Coast Guard reauthorization bill is a matter of vital importance to Oregon, particularly to smaller communities on the Oregon coast. A strong Coast Guard presence is essential to safeguard the lives of fishermen, recreational boaters, and all others who venture out into the frigid Northwest waters.

Because of the cold temperature of Pacific Northwest waters, a delay in Coast Guard response time by even a few minutes could mean a matter of life and death to capsized boaters. For that reason, I worked with a bipartisan group of coastal State Senators to ensure Coast Guard stations would not be closed unless there are strong safeguards in place to ensure maritime safety will not be diminished.

Specifically, under section 309 of the conference report, the Secretary of Transportation is prohibited from closing any Coast Guard multimission small boat station unless the Secretary determines that closure of a station will not diminish maritime safety in the area of the station, taking into account water temperature and other local conditions.

This section also provides an opportunity for affected communities to have a voice in any decision on a proposed station closure. The Secretary must provide an opportunity for public comment and hold public meetings before closing any small boat station.

The Coast Guard stations in Oregon covered by section 309 are: Coos Bay, Depoe Bay, Siuslaw River, Tillamook Bay, Chetco River, Yaquina Bay, and Umpqua River.

Section 309 also contains a provision I authored to ensure that all small boat stations will have available at least one vessel capable of performing ocean rescues. This provision was included to address a situation that arose last summer when the Rogue River Sardet station near Gold Beach was assigned a 20-foot vessel that was useless for performing ocean rescues. Under my provision, all small boat stations, including seasonally operated facilities like the Rogue River Sardet, will be guaranteed to have at least one vessel capable of performing ocean rescues.

By including these provisions in the conference report, we are giving the Coast Guard the tools needed to protect our citizens' lives and enhancing safety in the waters off Oregon's coast.•

IN RECOGNITION OF MARIAN McPARTLAND'S "PIANO JAZZ"

• Mr. HOLLINGS. Mr. President, I rise today to recognize Marian McPartland's Piano Jazz, produced by the South Carolina Educational Radio Network. This Peabody Award-winning show has earned recognition for its educational value and importance in promoting and preserving a distinctly American art form—jazz.

Piano Jazz is National Public Radio's [NPR] longest running music series and airs on over 250 NPR member stations nationwide. The series was conceived in 1979 by the South Carolina Educational Radio Network. South Carolina Educational Radio took a considerable risk by launching one of the first station-based, locally produced public radio programs to air across America.

The risk paid off. Serving South Carolinians for 17 years, the program is a showcase for many of jazz's greatest performances and artists, including Bobby Short, Mary Lou Williams, Dizzy Gillespie and Wynton Marsalis, and has helped launch the careers of some lesser known musicians as well.

The programs are hosted by Marian McPartland who blends informal but information packed conversation with improvisational performances. McPartland has been honored by special performances of Piano Jazz at the Lincoln Center's Avery Fisher Hall. In 1986, she also was inducted into the International Association of Jazz Educators Hall of Fame.

The program has been recognized with many major awards for broadcasting excellence, including the Peabody, Gabriel, Armstrong, Ohio State and several New York International Radio Festival awards. In fact, the show's recordings are so valuable that both the Library of Congress and the Rogers & Hammerstein Archive of Recorded Sound of the New York Public Library at Lincoln Center are preserving complete collections of the series.

I hope this innovative and award-winning show is able to continue serving its broad and varied audience which includes older, established jazz aficionados, as well as listeners 25 years old and under. From senior citizens to seniors in high school, this program provides the best of South Carolina Educational Radio network. Piano Jazz has been such a success because of the public's longstanding support. I hope the public continues in this support so the show remains strong and prosperous.

In recognition of Piano Jazz, I ask my colleagues to join me in paying tribute to Marian McPartland, Henry Cauthen, president and founder of the South Carolina Educational Radio Network, and Shari Hutchison, the program's producer, for this tremendous and valuable cultural jewel.•

CHEMICAL WEAPONS CONVENTION

• Mr. KYL. Mr. President, on September 12, Secretary of State Warren Christopher personally asked the Senate majority leader to withdraw the Chemical Weapons Convention [CWC] from consideration by the Senate. The majority leader had scheduled a vote on the treaty on that day. Obviously the administration did not believe the Senate would ratify the agreement. As a result, we were not able to have the public debate that, I believe, would have shown why the treaty was in such trouble. Since the treaty could be resubmitted for consideration by the Senate, I believe it is important to submit for the RECORD a sampling of articles, editorials, and opinion editorials which outline the basis for the case against the CWC.

The material follows:

[From the New York Times, Sept. 13, 1996]

A TREATY THAT DESERVED TO DIE

(By Jon Kyl)

An extraordinary thing happened in the Senate yesterday. The proponents of the Chemical Weapons Convention surprisingly pulled the plug on their effort to obtain immediate Senate approval of the treaty's ratification.

Last June, the advocates thought this treaty was all but ratified. They had won a commitment for it to be brought up for a vote in the last few weeks before the November elections. They assumed, not unreasonably, that the treaty would be seen as a motherhood and apple-pie proposition—aiming as it does to ban these horrible weapons worldwide.

By any political analysis, this calculation should have been right. But substantive analysis of the treaty's flaws proved to be more powerful than superficial political considerations.

That such serious deliberation could occur reflects great credit on both the treaty's proponents and its opponents. In particular, its champions largely refrained from portraying themselves as the champions of the abolition of these weapons and casting the other side as "pro-poison gas."

The opponents, however, made clear that they too are in favor of the elimination of chemical weapons, including the American stockpile. By law, the destruction will take place with or without this convention. But they fear that under present circumstances the treaty will not accomplish its purpose and that it will do more harm than good.

First, the convention will not include many dangerous chemical-weapons states, notably Iraq, North Korea, Libya and Syria, which will not become parties. Worse yet, American intelligence could not reliably detect militarily significant cheating in countries like Iran, Cuba, China and Russia that are likely to became parties to the treaty.

Second, the convention would impose significant costs on the American taxpayer and new, substantial burdens on industries. It would, moreover, actually aggravate the current, serious problem of chemical weapons proliferation. This is true for several reasons.

The treaty prohibits restrictions on trade in chemicals among its parties. It even requires them to transfer chemical technologies to other treaty members. In other words, if the United States and Iran were to ratify the convention, Teheran would have a powerful claim, under the treaty's Article XI, against American-led trade restrictions in the chemical field.

This arrangement repeats the mistake made in the Nuclear Nonproliferation Treaty—the so-called Atoms for Peace initiative—under which ostensibly peaceful technology is provided to nations determined to divert it to proscribed military purposes.

The treaty would also create a false sense of security, probably increasing the dangers from these weapons. And it will harm arms control and international law to enter into a convention that everyone knows is going to be unverifiable and ineffective. For all these reasons, the United States is better off having no treaty than a seriously defective one.

This critique was sufficiently compelling that a number of leading proponents acknowledged the serious flaws. Although these advocates nonetheless content that the treaty was still worth having, more than a third of the Senate concluded that the convention was, at best, deeply flawed. At worst, it would exacerbate the problem it was trying to fix.

As a result, the treaty's proponents realized that they were going to lose. Let us hope that the serious discussions we have had leading up to that decision will lead to bipartisan support for constructive, sensible arms control approaches for dealing with this scourge in the future.

[From the Washington Times, Sept. 12, 1996]

REJECT THE CWC

Opposition is mounting to the Chemical Weapons Convention (CWC), which the Senate is expected to vote on today. While most people—terrorists and lunatic dictators excepted—regard chemical weapons with abhorrence and indeed would like to see them banished from the face of the earth, the unfortunate fact is that the CWC will do little to inhibit their production and use by those who are sufficiently unscrupulous. What will happen instead is that law-abiding American businesses, both those who manufacture chemicals and those who merely use them, will be subjected to an intrusive, expensive and possibly unconstitutional international regulatory regime.

For anyone interested in what the reporting procedures will look like for users of chemicals covered under CWC—and that includes companies from Starbucks to Revlon—the chart on the opposite page should give an indication. Some might find that it bears a more than passing resemblance to the chart depicting Hillary Clinton's health care reform plan in all its infinite variety.

An estimated 3,000 to 8,000 U.S. companies will be affected by the CWC. That means they will be subject to warrantless inspections with only 48 hours notice for an international U.N.-style bureaucracy. Those most likely to be affected are users of what the treaty calls Discrete Organic Chemicals (DOCs). That includes not just the members of the Chemical Manufacturers Association, but also companies in such industries as automotive, food processing, biotech, distillers, brewers, electronics, soap and detergents, perfume—even manufacturers of ball point pens! While it may seem a little farfetched that international inspectors might descend on the Bic factory forthwith, the burden of reporting the use of chemicals will be severe. And this from the administration that calls for "smaller, less intrusive government."

And, of course, inspections, when they do occur, will be golden opportunities for countries that engage in industrial espionage against the United States—just as they will be for those eager to learn because they harbor the notion of developing their own chemical weapons industry. (Remember the Iraqi scientist who boasted to representatives of the International Atomic Energy Agency how the Iraqis had gained invaluable information on nuclear technology this way?)

Senators who plan to vote to ratify the treaty must ask themselves whether they are ready to impose this kind of burden on domestic companies for the sake of an elusive and unrealistic goal. The list of distinguished experts in the fields of defense and foreign policy who have denounced the CWC as ineffectual, unverifiable and certainly not global, since numerous outlaw nations like Libya and Iraq will not sigh, ought to give serious pause. A letter dated Sept. 9 to Senate Majority Leader Trent Lott, urging him to "reject ratification of the CWC unless and until it is made genuinely global, effective and verifiable," is signed among many others by former Secretary of Defense Dick Cheney, former National Security Advisor William Clark, former Secretary of State Alexander Haig, former Secretary of Energy James Herrington, former U.N. Ambassador Jeane Kirkpatrick, former Attorney General Edwin Meese III, former Secretary of Defense Donald Rumsfeld and former Secretary of Defense Casper Weinberger. Weigh that list against the Clinton administration, and it really shouldn't be a difficult decision.

[From the Washington Post, Sept. 12, 1996]

CHEMICAL WEAPONS FRAUD

(By Lally Weymouth)

If the Clinton administration succeeds in persuading the Senate to ratify the Chemical Weapons Convention, the mere fact of a new treaty will not help the United States combat the spread of this weapon of mass destruction. Indeed, this particular treaty may do the reverse: Some of the treaty's opponents argue convincingly that it would actually increase the trade in chemical agents with military application. Certainly, it would facilitate the establishment of an unnecessary international regulatory agency with unlimited police powers over thousands of U.S. companies that produce chemicals that could be used to make weapons.

Sen. Jon Kyl (R-Ariz.) agrees with the majority staff of the Senate Committee on Foreign Relations: Of course a verifiable treaty that achieved real reductions in chemical weapons would serve U.S. national security interests. But, argues Kyl, this treaty isn't verifiable. Nor would it reduce the chemical arsenals in countries U.S. officials deem most likely to use such war tools against America and its allies: Libya, Syria, North Korea and Iraq. Not surprisingly, these rogue states have refused to sign on to the regime.

In fact, not one country of concern to the United States on the chemical weapons front has ratified this convention: not the People's Republic of China, Iran, Cuba or even Russia, which has signed but not ratified and is said to possess one of the most sophisticated chemical arsenals in the world.

When President Bush signed the chemical weapons treaty, he did so with the understanding that Moscow would implement a 1990 U.S.-Russian bilateral agreement that called for both countries to destroy their chemical weapons stockpiles. Thus far, however, Moscow has refused to implement this accord, thus undermining the larger international convention.

One of the treaty's most dangerous features is that it undercuts the work of the Australia Group, a collection of Western countries that have an informal agreement banning the transfer of potentially dangerous dual-use chemicals to non-members. If ratified, the convention will end restrictions on trade in deadly chemicals and chemical technology. Treaty-signers, in fact, will have a right to demand both the chemicals and the relevant technical information they need from other signatories, who will have an obligation to fulfill the requests.

This raises the issue of dual-use chemicals—those that, while intended for peaceful use, can be used to make weapons. If Cuba and Iran sign and then ratify the convention, they can break out of the embargoes on chemicals the United States has imposed on them.

Treaty proponents argue that the convention would enable the United States to gather intelligence on other countries' chemical weapons programs. But Sen. Kyl calls such benefits "marginal" and says, "It's not worth the price."

If the treaty is ratified, moreover, the United States will have to pick up a considerable part of the setup costs of a massive new international regulatory body in the Hague. This superagency would be empowered to subject U.S. businesses to routine or "challenge" inspections of sites that allegedly might contain chemical weaponry or its key ingredients.

A challenge inspection would be undertaken merely upon the request of a member. The CWC gives any ratifier the right to ask for an arbitrary inspection of a private facility—anytime, anywhere; the ratifier merely has to allege that deadly chemicals might be on the premises. The treaty requires that "the inspected . . . party shall be under the obligation to allow the greatest degree of access." According to the implementing legislation for CWC, it would be "unlawful for any person to fail or refuse to permit entry or inspection.

The inspection teams that will enter U.S. plants if this convention is ratified could have representatives from states such as France and Japan, for example, that practice industrial espionage. Ironically, Washington also will have to foot some of the bills for these inspections, which experts believe may violate the constitutional rights of U.S. companies and citizens.

Lt. Gen. James A. Williams, a former director of the Defense Intelligence Agency, has written to Majority Leader Trent Lott warning that "the opportunity for unfettered access to virtually every industrial facility in this country, not merely the pharmaceutical and chemical plants, would make most foreign intelligence organizations very happy."

American companies also would have to provide continuing, time consuming reports. While arms control officials told the Senate Foreign Relations Committee that at least 3,000 U.S. firms that use, process or consume chemicals would have to make so-called "data declarations" under CWC, the majority staff of the committee contends that as many as 8,000 companies—firms that manufacture anything from dyes to pigments to insecticides—could be forced to contend with this burdensome load of paperwork.

Negotiations on the treaty began under President Reagan; the accord was seen then as a verifiable, global ban on chemical weapons. As time passed, the purposes changed. Arms control experts concluded that constitutional rights clashed with the need to verify. There would have to be a compromise. The balance that was struck, according to Kyl, adversely affects the United States: While the convention doesn't catch and punish many countries that have secret

chemical weapons programs, it ends up imposing heavy costs and constitutional burdens on the United States.

[From the Washington Post, Sept. 12, 1996]

PEACE THROUGH PAPER

(By Charles Krauthammer)

The Senate is about to vote on ratification of the Chemical Weapons Convention. Senate Democrats maneuvered—by threatening to filibuster the defense authorization bill—to have the vote just before the election. The timing fits the political strategy. And the strategy is emotional black-mail: Who is going to vote against a treaty whose lofty goal is to eradicate chemical weapons from the face of the earth?

Who? Every senator should. The goal is indeed lofty, but the treaty that purports to bring it about is a fraud.

The fatal problem with the chemical weapons treaty is that it is unverifiable. Sure, it has elaborate inspection procedures. And an even more elaborate U.N. bureaucracy to oversee them. No treaty is complete without that nowadays. As a result, the treaty will be perfectly able to detect the development of chemical weapons by free, open governments (like ours) that have never used and have no intention of using chemical weapons. (Indeed, the United States now is actively destroying its Cold War stockpile.)

And the treaty will be perfectly useless at preventing development of chemical weapons by closed societies such as Iran, Iraq (which in 1988 blatantly violated the current treaty banning the *use* of chemical weapons), Libya, Syria and North Korea. These are precisely the places where chemical weapons are being made today for potential use against the United States or its allies.

How can anyone seriously defend this treaty as verifiable when, even as the Senate votes, Iraq—subject to a far more intrusive inspection regime than anything contemplated under the CWC—nonetheless is going ahead with its chemical (and nuclear and biological) weapons programs right under our noses? When North Korea, signatory and subject to all the fancy inspection provisions of the Nuclear Nonproliferation Treaty, went blithely ahead and with impunity made nuclear bombs?

And these are violations by countries that had submitted to intrusive international inspection. Yet we already know that Libya, North Korea and Syria have not agreed to sign the CWC and thus will be subject to no chemical weapons inspection at all! Not to worry. The treaty will definitively banish the threat of chemical attack by Australia.

All arms control treaties have problems with verification. But with chemical weapons, the problem is inherently insoluble. Consider the (nuclear) START treaties with Russia: hard to verify, but at least they involve fixed numbers of large objects—missiles—with no other use and not that hard to find. Chemical weapons, on the other hand, involve small quantities of everyday stuff that is impossible to find.

How small? The sarin nerve gas use for the Tokyo subway attack was manufactured by the Aum Supreme Truth cult in a single room.

How everyday? As Jeane Kirkpatrick and Dick Cheney and many others pointed out in a letter to the Senate majority leader opposing the CWC, the treaty does not even prohibit the two chemical agents that were employed to such catastrophic effect in World War I and that are the backbone of Iran's current chemical arsenal—phosgene and hydrogen cyanide. Why? Because they are too widely used for commercial purposes.

All right, you say (and many senators up for reelection are privately thinking): So the CWC is useless. What harm can it do? The harm it—like all panaceas—does is induce a false sense of security.

Treaties are not feel-good devices. They are not expressions of hope. They are means of advancing peace by putting real constraints on the countries that pose threats.

Syria has put chemical weapons on the tips of its Scud missiles. Iraq is rebuilding its arsenal. Libya is constructing the largest underground chemical weapons plant on the planet. And what are we doing? Passing a treaty that will allow international agents to inspect up to 8,000 American businesses, searching and seizing without warrant.

The logic is more than comical. It is dangerous. The chemical weapons treaty is part of a larger administration scheme to build a new post-Cold War structure of peace through the proliferation of paper. Yesterday, a test ban treaty. Today, chemical weapons. Tomorrow, a biological weapons convention and strengthening the ban on anti-ballistic missiles.

The conceit of this administration is that it is following in the footsteps of Truman and Marshall in the 1940s, building a structure of peace after victory in a great war. In fact, they are following in the footsteps of Harding and Coolidge, who spent the 1920s squandering the gains of World War I on the false assurances of naval disarmament treaties and such exercises in high-mindedness as the Kellogg-Briand Pact.

The Clinton administration calls the chemical weapons treaty "the most ambitious arms control regime ever negotiated." Its ambition is matched only by that of the Kellogg-Briand Pact, also an American brainchild, also promulgated to great international applause. (Frank Kellogg, Coolidge's secretary of state, won the Nobel Peace Prize for it.) All parties to that piece of paper pledged the renunciation of war forever. The year was 1928. Germany and Japan were signatories.●

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 104–36

Mr. DOMENICI. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Convention on International Maritime Organization, Treaty Document No. 104–36, transmitted to the Senate by the President on October 1, 1996; and I ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to accept, amendments to the Convention on the International Maritime Organization, signed at Geneva, March 6, 1948 (the IMO Convention). The amendments were adopted on November 7, 1991, and November 4, 1993, by the Assembly of the International Maritime Organization (IMO) at its seventeenth and eighteenth sessions. I also transmit, for the information of the Senate, the report of the Department of State describing the amendments, their purpose and effect.

The United States is the world's largest user of international shipping. These amendments strengthen the International Maritime Organization's capability to facilitate international maritime traffic to carry out its activities in developing strong maritime safety and environmental protection standards and regulations. The IMO's policies and maritime standards largely reflect our own. The United States pays less than 5 percent of the assessed contributions to the IMO.

The 1991 amendments institutionalize the Facilitation Committee as one of the IMO's standing committees. The Facilitation Committee was created to streamline the procedures for the arrival, stay and departure of ships, cargo and persons in international ports. This committee effectively contributes to greater efficiencies and profits for the U.S. maritime sector, while assisting U.S. law enforcement agencies' efforts to combat narcotics trafficking and the threat of maritime terrorism.

The 1993 amendments increase the size of the IMO governing Council from 32 to 40 members. The United States has always been a member of the IMO governing Council. Increasing the Council from 32 to 40 Member States will ensure a more adequate representation of the interests of the more than 150 Member States in vital IMO maritime safety and environment protection efforts worldwide.

The 1991 amendments institutionalize the Facilitation Committee as one of the IMO's main committees. The 1993 amendments increase the size of the Council from 32 to 40 members, thereby affording a broader representation of the increased membership in the IMO's continuing administrative body.

Support for these amendments will contribute to the demonstrated interest of the United States in facilitating cooperation among maritime nations. To that end, I urge that the Senate give early and favorable consideration to these amendments and give its advice and consent to their acceptance.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 1, 1996.*

ORDERS FOR WEDNESDAY, OCTOBER 2, 1996

Mr. DOMENICI. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 noon on Wednesday, October 2; further, immediately following the prayer, the Journal of proceedings be deemed approved to date, the morning

hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and that there then be a period for morning business until the hour of 2 p.m., during which Senators may speak up to 10 minutes each.

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

Mr. DOMENICI. Mr. President, following morning business, I ask unanimous consent that the Senate resume consideration of the conference report to accompany H.R. 3539, the FAA authorization bill.

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

PROGRAM

Mr. DOMENICI. Mr. President, under a previous order, there will be 3 hours of debate equally divided on the FAA authorization bill conference report tomorrow. The Senate may also turn to consideration of any other items cleared for action, including the possibility of considering the Presidio parks bill conference report. Therefore, there is a possibility of votes during tomorrow's session. Senators are also reminded that under the previous order, there will be a cloture vote on the FAA authorization conference report at 10 a.m. on Thursday. All Senators are urged to be in attendance for that important vote Thursday morning.

ADJOURNMENT UNTIL 12 NOON TOMORROW

The PRESIDING OFFICER. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate now stand in adjournment under the previous order.

There being no objection, the Senate, at 6:01 p.m., adjourned until Wednesday, October 2, 1996, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate October 1, 1996:

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

JUDITH M. ESPINOSA, OF NEW MEXICO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM OF 4 YEARS. (NEW POSITION)

HOUSE OF REPRESENTATIVES—*Tuesday, October 1, 1996*

The House met at 2 p.m. and was called to order by the Speaker pro tempore [Mr. WALKER].

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let us pray using the words of the 100th Psalm:

Be joyful in the Lord, all you lands.

Serve the Lord with gladness and come before His presence with a song.

Know this: The Lord Himself is God; He Himself has made us, and we are His; we are His people and the sheep of His pasture.

Enter His gates with thanksgiving; go into His courts with praise; give thanks to Him and call upon His name.

For the Lord is good; His mercy is everlasting; and His faithfulness endures from age to age. 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.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Mississippi [Mr. MONTGOMERY]) come forward and lead the House in the Pledge of Allegiance.

Mr. MONTGOMERY 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.

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:

WASHINGTON, DC,
October 1, 1996.

Hon. NEWT GINGRICH,
The Speaker,
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, the Clerk received the following messages from the Secretary of the Senate on Monday, September 30, 1996 at 7:10 p.m.:

That the Senate agreed to conference report H.R. 3610.

With warm regards,

ROBIN H. CARLE,
Clerk, House of Representatives.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill on Monday, September 30, 1996: H.R. 3610, making omnibus consolidated appropriations for the fiscal year ending September 30, 1997, and for other purposes.

GENERAL LEAVE

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of the special order of the gentleman from Wisconsin, [Mr. SENSENBRENNER].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

HOUR OF MEETING ON TOMORROW

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 2 p.m. tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

DISPENSING WITH CALL OF PRIVATE CALENDAR

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that the call of the Private Calendar be dispensed with today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

FAREWELL TO CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. CLINGER] is recognized for 5 minutes.

Mr. CLINGER. Mr. Speaker, as the 104th Congress winds to a close, and along with it my tenure in this body, I am delighted to have this opportunity, this unexpected opportunity, to take a moment to say thank you, thank you to all of the dedicated men and women who have served me and the constituents of my district in Pennsylvania so well, and members of my personal staff, both current and former staff members, but most especially to those who have been with me from the beginning; that is, from January 3, 1979.

They include Nancy Scott. They say there is no such thing as an indispensable person. Nancy Scott was indispensable to me throughout my entire tenure. She was the absolute office manager par excellence in my Washington office, along with Becky Mills in my district office in State College, as well as Rosemarie Massa in my Warren office. My gratitude also to Susan Gurekovich in the State College office, who has run my military academy selection board for 18 years.

They are the 18-year veterans, but there are others. My AA, Ed Feddeman; LA's Allison Beltz and Jill Hershey; press secretary Chris Krese; and so many others who have made my life so much easier and the lives of so many of my constituents so much better.

It has also been a great honor and extraordinary experience, I must say mostly pleasurable experience, to serve as chairman of the Government Reform and Oversight Committee, and I also want to salute the superb cadre of professionals I have had the honor of being associated with on that committee.

First and foremost, my long time friend, Jim Clarke, who came to Washington with me in 1979 and has served in almost every capacity on the personal staff, from go-fer, to administrative assistant, and now as the highly respected Chief of Staff of the Government Reform and Oversight Committee. He has performed in every one of those capacities with consummate skill and ability.

But so many others deserve commendation. Eddie Amorosi, who is an alumni of my personal office as well, who became a first class media expert on the committee; Monty Tripp, our line item veto guru; Kristine Simmons, our unfunded mandates expert; Ellen BROWN, without whom procurement reform, dramatic procurement reform, would never have happened; Jane Cobb and Diann Howland, who helped

produce significant reports on such things as the looming decennial census and a critique of this administration's management reform.

My thanks also to Kevin Sabo for his wise and helpful advice as Chief Counsel, and to Barbara Olson and Barbara Comstock and the entire investigative team for their very careful, tenacious, very tenacious work, in conducting the numerous investigations that we have undertaken as a committee. And to all of the unnamed others who helped make our committee among the most productive, if not the most productive of the entire Congress, thank you from the bottom of my heart.

Finally, my greatest thanks to my wife Judy, who has put up with the unpredictability and the general chaos of life in Congress with few complaints and enormous good humor for the past 18 years. I have had a great ride, and I have enjoyed almost all of it.

As I have said, as someone said, I am humble enough to know I have made mistakes, but vain enough to have forgotten what they are. I also know whatever success I have had, I owe to all of the people, named and unnamed, past and present, who I have thanked today.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. CLINGER. I am delighted to yield to my classmate and good friend, the chairman of the Committee on Rules, JERRY SOLOMON.

Mr. SOLOMON. I just want to the say to the gentleman from Pennsylvania that we certainly are going to miss you, BILL. You and I came here together 18 years ago, 2 years after the speaker pro tem in the Chair there, BOB WALKER, and the two of you coming from Pennsylvania have been great Members of this body.

But I just wanted to say a few words about you, because you and I, I think we started out, I was a member of the Committee on Transportation and Infrastructure back 18 years ago, went on that committee with you, and did not last long. They pulled me off and put me on some other committees. But you did such a magnificent job on the Transportation Committee.

But more than that, in the last 2 years, you certainly have established just an impeccable record as chairman of the Government Oversight Committee. That is not an easy committee. You had many difficult subjects to deal with.

There are those of us that have admired you for a long time, but in the last 2 years, that admiration has just escalated. Your demeanor and the way you handle yourself is so appreciated by all of us.

I just wanted to take this opportunity to wish you the best, you and your wife and your family when you leave us. I hope you do not go too far away, because we want to lean on you for your old sage advice, even though you might not be here in the Chamber with us.

Mr. CLINGER. I thank you very, very much, JERRY.

[The following bill (H.R. 4236) was omitted from the RECORD of Saturday, September 28, 1996, at page 25784—Part II.]

H.R. 4236

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be cited as the "Omnibus Parks and Public Lands Management Act of 1996".

Sec. 1. Short title and table of contents.

DIVISION I

TITLE I—THE PRESIDIO OF SAN FRANCISCO

Sec. 101. Findings.
Sec. 102. Authority and responsibility of the Secretary of the Interior.
Sec. 103. Establishment of the Presidio Trust.
Sec. 104. Duties and authorities of the Trust.
Sec. 105. Limitations on funding.
Sec. 106. General Accounting Office study.

TITLE II—BOUNDARY ADJUSTMENTS AND CONVEYANCES

Sec. 201. Yucca House National Monument boundary adjustment.
Sec. 202. Zion National Park boundary adjustment.
Sec. 203. Pictured Rocks National Lakeshore boundary adjustment.
Sec. 204. Independence National Historical Park boundary adjustment.
Sec. 205. Craters of the Moon National Monument boundary adjustment.
Sec. 206. Hagerman Fossil Beds National Monument boundary adjustment.
Sec. 207. Wupatki National Monument boundary adjustment.
Sec. 208. Walnut Canyon National Monument boundary modification.
Sec. 209. Butte County, California land conveyance.
Sec. 210. Taos Pueblo land transfer.
Sec. 211. Colonial National Historical Park.
Sec. 212. Cuprum, Idaho relief.
Sec. 214. Relinquishment of interest.
Sec. 215. Modoc National Forest.
Sec. 216. Conveyance to City of Sumpter, Oregon.
Sec. 217. Cumberland Gap National Historical Park.
Sec. 220. Alpine School District.
Sec. 221. Merced Irrigation District land exchange.
Sec. 222. Father Aull site transfer.
Sec. 223. Coastal Barrier Resources System.
Sec. 224. Conveyance to Del Norte County Unified School District.

TITLE III—EXCHANGES

Sec. 301. Targhee National Forest land exchange.
Sec. 302. Anaktuvuk Pass land exchange.
Sec. 303. Alaska Peninsula subsurface consolidation.
Sec. 304. Snowbasin Land Exchange Act.
Sec. 305. Arkansas and Oklahoma land exchange.
Sec. 306. Big Thicket National Preserve.
Sec. 307. Lost Creek land exchange.
Sec. 308. Cleveland National Forest land exchange.
Sec. 309. Sand Hollow land exchange.
Sec. 310. Bureau of Land Management authorization for fiscal years 1997 through 2002.
Sec. 311. Kenai Natives Association land exchange.

TITLE IV—RIVERS AND TRAILS

Sec. 402. Rio Puerco watershed.
Sec. 403. Old Spanish Trail.
Sec. 404. Great Western Scenic Trail.
Sec. 405. Hanford Reach Preservation.
Sec. 406. Lamprey Wild and Scenic River.
Sec. 407. West Virginia National Rivers Amendments of 1996.
Sec. 408. Technical amendment to the Wild and Scenic Rivers Act.
Sec. 409. Protection of North St. Vrain Creek, Colorado.

TITLE V—HISTORIC AREAS AND CIVIL RIGHTS

Sec. 501. The Selma to Montgomery National Historic Trail.
Sec. 502. Vancouver National Historic Reserve.
Sec. 503. Extension of Kaloko-Honokohau Advisory Commission.
Sec. 504. Amendment to Boston National Historic Park Act.
Sec. 505. Women's Rights National Historical Park.
Sec. 506. Black Patriots Memorial Extension.
Sec. 507. Historically black colleges and universities historic building restoration and preservation.
Sec. 508. Memorial to Martin Luther King, Jr.
Sec. 509. Advisory Council on Historic Preservation reauthorization.
Sec. 510. Great Falls Historic District, New Jersey.
Sec. 511. New Bedford National Historic Landmark District.
Sec. 512. Nicodemus National Historic Site.
Sec. 513. Unalaska.
Sec. 514. Japanese American Patriotism Memorial.
Sec. 515. Manzanar National Historic Site.
Sec. 516. Recognition and designation of the AIDS Memorial Grove as national memorial.

TITLE VI—CIVIL AND REVOLUTIONARY WAR SITES

Sec. 601. United States Civil War Center.
Sec. 602. Corinth, Mississippi, Battlefield Act.
Sec. 604. Revolutionary War and War of 1812 Historic Preservation Study.
Sec. 605. American battlefield protection program.
Sec. 606. Chickamauga and Chattanooga National Military Parks.
Sec. 607. Shenandoah Valley battlefields.
Sec. 608. Washita Battlefield.

TITLE VII—FEES

Sec. 701. Ski area permit rental charge.
Sec. 702. Delaware water gap.
Sec. 704. Glacier Bay National Park.

TITLE VIII—MISCELLANEOUS ADMINISTRATIVE AND MANAGEMENT PROVISIONS

Sec. 801. Limitation on park buildings.
Sec. 802. Appropriations for transportation of children.
Sec. 803. Feral burros and horses.
Sec. 804. Authorities of the Secretary of the Interior relating to museums.
Sec. 805. Volunteers in parks increase.
Sec. 806. Carl Garner Federal Lands Cleanup Day.

Sec. 807. Fort Pulaski National Monument, Georgia.
Sec. 808. Laura C. Hudson Visitor Center.
Sec. 809. Robert J. Lagomarsino Visitor Center.
Sec. 810. Expenditure of funds outside authorized boundary of Rocky Mountain National Park.
Sec. 811. Dayton aviation.
Sec. 812. Prohibition on certain transfers of national forest lands.
Sec. 813. Grand Lake Cemetery.
Sec. 814. National Park Service administrative reform.
Sec. 815. William B. Smullin Visitor Center.
Sec. 816. Calumet Ecological Park.
Sec. 817. Acquisition of certain property on Santa Cruz Island.
Sec. 818. National Park Agreements.

TITLE IX—HERITAGE AREAS

Sec. 901. Blackstone River Valley National Heritage Corridor.
Sec. 902. Illinois and Michigan Canal National Heritage Corridor.

TITLE X—MISCELLANEOUS

Subtitle A—Tallgrass Prairie National Preserve

Sec. 1001. Short title.
Sec. 1002. Findings and purposes.
Sec. 1003. Definitions.
Sec. 1004. Establishment of Tallgrass Prairie National Preserve.
Sec. 1005. Administration of National Preserve.
Sec. 1006. Limited authority to acquire.
Sec. 1007. Advisory Committee.
Sec. 1008. Restriction on authority.
Sec. 1009. Authorization of appropriations.

Subtitle B—Sterling Forest

Sec. 1011. Palisades Interstate Park Commission.

Subtitle C—Additional Provisions

Sec. 1021. Recreation lakes.
Sec. 1022. Bisti/De-Na-Zin Wilderness expansion and fossil forest protection.
Sec. 1023. Opal Creek Wilderness and Scenic Recreation Area.
Sec. 1024. Upper Klamath Basin ecological restoration projects.
Sec. 1025. Deschutes Basin ecosystem restoration projects.
Sec. 1026. Bull Run protection.
Sec. 1027. Oregon Islands Wilderness, additions.
Sec. 1028. Umpqua River land exchange study: policy and direction.
Sec. 1029. Boston Harbor Islands Recreation Area.
Sec. 1030. Natchez National Historical Park.
Sec. 1031. Substitution of timber for canceled timber sale.
Sec. 1032. Rural electric and telephone facilities.
Sec. 1033. Federal borough recognition.
Sec. 1035. Extension of statue of limitation.
Sec. 1038. Regulation of fishing in certain waters of Alaska.
Sec. 1039. Credit for reconveyance.
Sec. 1040. Radio site report.

TITLE XI—CALIFORNIA BAY DELTA ENVIRONMENTAL ENHANCEMENT

Sec. 1101. Program Funding.

DIVISION II

TITLE I—NATIONAL COAL HERITAGE AREA

Sec. 101. Short title.
Sec. 102. Findings.
Sec. 103. Establishment.
Sec. 104. Contractual agreement.
Sec. 105. Eligible resources.
Sec. 106. Coal heritage management plan.
Sec. 107. Sunset.
Sec. 108. Authorization of appropriations.

TITLE II—TENNESSEE CIVIL WAR HERITAGE AREA

Sec. 201. Findings and purposes.
Sec. 202. Definitions.
Sec. 203. Tennessee Civil War Heritage Area.
Sec. 204. Compact.
Sec. 205. Management.
Sec. 206. Duties and authorities of Secretary.
Sec. 207. Savings provisions.
Sec. 208. Sunset.
Sec. 209. Authorization of appropriations.

TITLE III—AUGUSTA CANAL NATIONAL HERITAGE AREA

Sec. 301. Findings.
Sec. 302. Purpose.
Sec. 303. Designation of Augusta Canal National Heritage Area.
Sec. 304. Management.
Sec. 305. Management plan.
Sec. 306. Grants and technical assistance.
Sec. 307. Acquisition of real property.
Sec. 308. Occupational, safety, conservation, and environmental regulation.
Sec. 309. Land use regulation.
Sec. 310. Sunset.
Sec. 311. Authorization of appropriations.

TITLE IV—STEEL INDUSTRY HERITAGE PROJECT

Sec. 401. Short title.
Sec. 402. Findings and purpose.
Sec. 403. Steel Industry American Heritage Area.
Sec. 404. Compact.
Sec. 405. Management plan.
Sec. 406. Authorities and duties of management entity.
Sec. 407. Duties and authorities of Federal agencies.
Sec. 408. Sunset.
Sec. 409. Authorization of appropriations.

TITLE V—ESSEX NATIONAL HERITAGE AREA

Sec. 501. Findings and purpose.
Sec. 502. Definitions.
Sec. 503. Designation of National Heritage Area.
Sec. 504. Management entity.
Sec. 505. Duties of the Secretary.
Sec. 506. Private property.
Sec. 507. Sunset.
Sec. 508. Authorization of appropriations.

TITLE VI—SOUTH CAROLINA NATIONAL HERITAGE CORRIDOR

Sec. 601. Short title.
Sec. 602. Findings and purpose.
Sec. 603. Definitions.
Sec. 604. South Carolina National Heritage Corridor.
Sec. 605. Management entity.
Sec. 606. Duties of the Secretary.
Sec. 607. Sunset.
Sec. 608. Authorization of appropriations.

TITLE VII—AMERICA'S AGRICULTURAL HERITAGE PARTNERSHIP

Sec. 701. Findings and purposes.
Sec. 702. Definitions.
Sec. 703. Establishment of the America's Agricultural Heritage Partnership.
Sec. 704. Establishment of the America's Agricultural Heritage Partnership management entity.
Sec. 705. Partnership management plan.
Sec. 706. Land use regulation and private property protection.
Sec. 707. Sunset.
Sec. 708. Authorization of appropriations.

TITLE VIII—OHIO & ERIE CANAL NATIONAL HERITAGE CORRIDOR

Sec. 801. Short title.
Sec. 802. Findings and purpose.
Sec. 803. Definitions.
Sec. 804. Ohio & Erie Canal National Heritage Corridor.
Sec. 805. The Ohio & Erie Canal National Heritage Corridor committee.
Sec. 806. Powers and duties of the national heritage corridor committee.
Sec. 807. Management entity.
Sec. 808. Duties of the management entity.
Sec. 809. Duties and authorities of Federal agencies.
Sec. 810. Lack of effect on land use regulation and private property.
Sec. 811. Sunset.
Sec. 812. Authorization of appropriations.

TITLE IX—HUDSON RIVER VALLEY NATIONAL HERITAGE AREA

Sec. 901. Short Title.
Sec. 902. Findings.
Sec. 903. Purposes.
Sec. 904. Hudson River Valley American Heritage Area.
Sec. 905. Compact.
Sec. 906. Management Plan.
Sec. 907. Authorities and Duties of Management.
Sec. 908. Duties and Authorities of Federal Agencies.
Sec. 909. Authorization of Appropriations.
Sec. 910. Sunset.

DIVISION I

TITLE I—THE PRESIDIO OF SAN FRANCISCO

SEC. 101. FINDINGS.

The Congress finds that—

(1) the Presidio, located amidst the incomparable scenic splendor of the Golden Gate, is one of America's great natural and historic sites;

(2) the Presidio is the oldest continuously operated military post in the Nation dating from 1776, and was designated a National Historic Landmark in 1962;

(3) preservation of the cultural and historic integrity of the Presidio for public use recognizes its significant role in the history of the United States;

(4) the Presidio, in its entirety, is a part of the Golden Gate National Recreation Area, in accordance with Public Law 92–589;

(5) as part of the Golden Gate National Recreation Area, the Presidio's significant natural, historic, scenic, cultural, and recreational resources must be managed in a manner which is consistent with sound principles of land use planning and management, and which protects the Presidio from development and uses which would destroy the scenic beauty and historic and natural character of the area and cultural and recreational resources;

(6) removal and/or replacement of some structures within the Presidio must be considered as a management option in the administration of the Presidio; and

(7) the Presidio will be managed through an innovative public/private partnership that minimizes cost to the United States Treasury and makes efficient use of private sector resources.

SEC. 102. AUTHORITY AND RESPONSIBILITY OF THE SECRETARY OF THE INTERIOR.

(a) INTERIM AUTHORITY.—The Secretary of the Interior (hereinafter in this title referred to as the "Secretary") is authorized to manage leases in existence on the date of this Act for properties under the administrative jurisdiction of the Secretary and located at the Presidio. Upon the expiration of any

such lease, the Secretary may extend such lease for a period terminating not later than 6 months after the first meeting of the Presidio Trust. The Secretary may not enter into any new leases for property at the Presidio to be transferred to the Presidio Trust under this title, however, the Secretary is authorized to enter into agreements for use and occupancy of the Presidio properties which are assignable to the Trust and are terminable with 30 days notice. Prior to the transfer of administrative jurisdiction over any property to the Presidio Trust, and notwithstanding section 1341 of title 31 of the United States Code, the proceeds from any such lease shall be retained by the Secretary and such proceeds shall be available, without further appropriation, for the preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to Presidio properties. The Secretary may adjust the rental charge on any such lease for any amounts to be expended by the lessee for preservation, maintenance, restoration, improvement, repair and related expenses with respect to properties and infrastructure within the Presidio.

(b) PUBLIC INFORMATION AND INTERPRETATION.—The Secretary shall be responsible, in cooperation with the Presidio Trust, for providing public interpretive services, visitor orientation and educational programs on all lands within the Presidio.

(c) OTHER.—Those lands and facilities within the Presidio that are not transferred to the administrative jurisdiction of the Presidio Trust shall continue to be managed by the Secretary. The Secretary and the Presidio Trust shall cooperate to ensure adequate public access to all portions of the Presidio. Any infrastructure and building improvement projects that were funded prior to the enactment of this Act shall be completed by the National Park Service.

(d) PARK SERVICE EMPLOYEES.—(1) Any career employee of the National Park Service, employed at the Presidio at the time of the transfer of lands and facilities to the Presidio Trust, shall not be separated from the Service by reason of such transfer, unless such employee is employed by the Trust, other than on detail. Notwithstanding section 3503 of title 5, United States Code, the Trust shall have sole discretion over whether to hire any such employee or request a detail of such employee.

(2) Any career employee of the National Park Service employed at the Presidio on the date of enactment of this title shall be given priority placement for any available position within the National Park System notwithstanding any priority reemployment lists, directives, rules, regulations or other orders from the Department of the Interior, the Office of Management and Budget, or other Federal agencies.

SEC. 103. ESTABLISHMENT OF THE PRESIDIO TRUST.

(a) ESTABLISHMENT.—There is established a wholly owned government corporation to be known as the Presidio Trust (hereinafter in this title referred to as the "Trust").

(b) TRANSFER.—(1) Within 60 days after receipt of a request from the Trust for the transfer of any parcel within the area depicted as Area B on the map entitled "Presidio Trust Number 1", dated December 7, 1995, the Secretary shall transfer such parcel to the administrative jurisdiction of the Trust. Within 1 year after the first meeting of the Board of Directors of the Trust, the Secretary shall transfer to the Trust administrative jurisdiction over all remaining parcels within Area B. Such map shall be on file and available for public inspection in the offices of the Trust and in the offices of the National Park Service, Department of the Interior. The Trust and the Secretary may jointly make technical and clerical revisions in the boundary depicted on such map. The Secretary shall retain jurisdiction over those portions of the building identified as number 102 as the Secretary deems essential for use as a visitor center. The Building shall be named the "William Penn Mott Visitor Center". Any parcel of land, the jurisdiction over which is transferred pursuant to this subsection, shall remain within the boundary of the Golden Gate National Recreation Area. With the consent of the Secretary, the Trust may at any time transfer to the administrative jurisdiction of the Secretary any other properties within the Presidio which are surplus to the needs of the Trust and which serve essential purposes of the Golden Gate National Recreation Area. The Trust is encouraged to transfer to the administrative jurisdiction of the Secretary open space areas which have high public use potential and are contiguous to other lands administrated by the Secretary.

(2) Within 60 days after the first meeting of the Board of Directors of the Trust, the Trust and the Secretary shall determine cooperatively which records, equipment, and other personal property are deemed to be necessary for the immediate administration of the properties to be transferred, and the Secretary shall immediately transfer such personal property to the Trust. Within 1 year after the first meeting of the Board of Directors of the Trust, the Trust and the Secretary shall determine cooperatively what, if any, additional records, equipment, and other personal property used by the Secretary in the administration of the properties to be transferred should be transferred to the Trust.

(3) The Secretary shall transfer, with the transfer of administrative jurisdiction over any property, the unobligated balance of all funds appropriated to the Secretary, all leases, concessions, licenses, permits, and other agreements affecting such property.

(4) At the request of the Trust, the Secretary shall provide funds to the Trust for preparation of the program required under section 104(c) of this title, hiring of initial staff and other activities deemed by the Trust as essential to the establishment of the Trust prior to the transfer of properties to the Trust.

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The powers and management of the Trust shall be vested in a Board of Directors (hereinafter referred to as the "Board") consisting of the following 7 members:

(A) The Secretary of the Interior or the Secretary's designee.

(B) 6 individuals, who are not employees of the Federal Government, appointed by the President, who shall possess extensive knowledge and experience in one or more of the fields of city planning, finance, real estate development, and resource conservation. At least one of these individuals shall be a veteran of the Armed Services. At least 3 of these individuals shall reside in the San Francisco Bay Area. The President shall make the appointments referred to in this subparagraph within 90 days after the enactment of this Act and shall ensure that the fields of city planning, finance, real estate development, and resource conservation are adequately represented. Upon establishment of the Trust, the Chairman of the Board of Directors of the Trust shall meet with the Chairman of the Energy and Natural Resources Committee of the United States Senate and the Chairman of the Resources Committee of the United States House of Representatives.

(2) TERMS.—Members of the Board appointed under paragraph (1)(B) shall each serve for a term of 4 years, except that of the members first appointed, 3 shall serve for a term of 2 years. Any vacancy in the Board shall be filled in the same manner in which the original appointment was made, and any member appointed to fill a vacancy shall serve for the remainder of the term for which his or her predecessor was appointed. No appointed member may serve more than 8 years in consecutive terms.

(3) QUORUM.—Four members of the Board shall constitute a quorum for the conduct of business by the Board.

(4) ORGANIZATION AND COMPENSATION.—The Board shall organize itself in such a manner as it deems most appropriate to effectively carry out the authorized activities of the Trust. Board members shall serve without pay, but may be reimbursed for the actual and necessary travel and subsistence expenses incurred by them in the performance of the duties of the Trust.

(5) LIABILITY OF DIRECTORS.—Members of the Board of Directors shall not be considered Federal employees by virtue of their membership on the Board, except for purposes of the Federal Tort Claims Act and the Ethics in Government Act, and the provisions of chapter 11 of title 18, United States Code.

(6) MEETINGS.—The Board shall meet at least three times per year in San Francisco and at least two of those meetings shall be open to the public. Upon a majority vote, the Board may close any other meetings to the public. The Board shall establish procedures for providing public information and opportunities for public comment regarding policy, planning, and design issues. The Board may establish procedures for providing public information and opportunities for public comment regarding policy, planning, and design issues through the Golden Gate National Recreation Area Advisory Commission.

(7) STAFF.—The Trust is authorized to appoint and fix the compensation and duties of an executive director and such other officers and employees as it deems necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may pay them without regard to the provisions of chapter 51, and subchapter III of chapter 53, title 5, United States Code, relating to classification and General Schedule pay rates.

(8) NECESSARY POWERS.—The Trust shall have all necessary and proper powers for the exercise of the authorities vested in it.

(9) TAXES.—The Trust and all properties administered by the Trust shall be exempt from all taxes and special assessments of every kind by the State of California, and its political subdivisions, including the City and County of San Francisco.

(10) GOVERNMENT CORPORATION.—(A) The Trust shall be treated as a wholly owned Government corporation subject to chapter 91 of title 31, United States Code (commonly referred to as the Government Corporation Control Act). Financial statements of the Trust shall be audited annually in accordance with section 9105 of title 31 of the United States Code.

(B) At the end of each calendar year, the Trust shall submit to the Committee on Energy and Natural Resources of the United

States Senate and the Committee on Resources of the House of Representatives a comprehensive and detailed report of its operations, activities, and accomplishments for the prior fiscal year. The report also shall include a section that describes in general terms the Trust's goals for the current fiscal year.

SEC. 104. DUTIES AND AUTHORITIES OF THE TRUST.

(a) OVERALL REQUIREMENTS OF THE TRUST.—The Trust shall manage the leasing, maintenance, rehabilitation, repair and improvement of property within the Presidio under its administrative jurisdiction using the authorities provided in this section, which shall be exercised in accordance with the purposes set forth in section 1 of the Act entitled "An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes", approved October 27, 1972 (Public Law 92-589; 86 Stat. 1299; 16 U.S.C. 460bb), and in accordance with the general objectives of the General Management Plan (hereinafter referred to as the "management plan") approved for the Presidio.

(b) AUTHORITIES.—The Trust may participate in the development of programs and activities at the properties transferred to the Trust, except that the Trust shall have the authority to negotiate and enter into such agreements, leases, contracts and other arrangements with any person, firm, association, organization, corporation or governmental entity, including, without limitation, entities of Federal, State and local governments as are necessary and appropriate to carry out its authorized activities. Any such agreement may be entered into without regard to section 321 of the Act of June 30, 1932 (40 U.S.C. 303b). The Trust shall establish procedures for lease agreements and other agreements for use and occupancy of Presidio facilities, including a requirement that in entering into such agreements the Trust shall obtain reasonable competition. The Trust may not dispose of or convey fee title to any real property transferred to it under this title. Federal laws and regulations governing procurement by Federal agencies shall not apply to the Trust, with the exception of laws and regulations related to Federal government contracts governing working conditions and wage rates, including the provisions of sections 276a-276a-6 of title 40, United States Code (Davis-Bacon Act), and any civil rights provisions otherwise applicable thereto. The Trust, in consultation with the Administrator of Federal Procurement Policy, shall establish and promulgate procedures applicable to the Trust's procurement of goods and services including, but not limited to, the award of contracts on the basis of contractor qualifications, price, commercially reasonable buying practices, and reasonable competition.

(c) MANAGEMENT PROGRAM.—The Trust shall develop a comprehensive program for management of those lands and facilities within the Presidio which are transferred to the administrative jurisdiction of the Trust. Such program shall be designed to reduce expenditures by the National Park Service and increase revenues to the Federal Government to the maximum extent possible. In carrying out this program, the Trust shall be treated as a successor in interest to the National Park Service with respect to compliance with the National Environmental Policy Act and other environmental compliance statutes. Such program shall consist of—

(1) demolition of structures which in the opinion of the Trust, cannot be cost-effectively rehabilitated, and which are identified in the management plan for demolition,

(2) evaluation for possible demolition or replacement those buildings identified as categories 2 through 5 in the Presidio of San Francisco Historic Landmark District Historic American Buildings Survey Report, dated 1985,

(3) new construction limited to replacement of existing structures of similar size in existing areas of development, and

(4) examination of a full range of reasonable options for carrying out routine administrative and facility management programs. The Trust shall consult with the Secretary in the preparation of this program.

(d) FINANCIAL AUTHORITIES.—To augment or encourage the use of non-Federal funds to finance capital improvements on Presidio properties transferred to its jurisdiction, the Trust, in addition to its other authorities, shall have the following authorities subject to the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.):

(1) The authority to guarantee any lender against loss of principal or interest on any loan: *Provided, That*—

(A) the terms of the guarantee are approved by the Secretary of the Treasury;

(B) adequate subsidy budget authority is provided in advance in appropriations Acts; and

(C) such guarantees are structured so as to minimize potential cost to the Federal Government. No loan guarantee under this title shall cover more than 75 percent of the unpaid balance of the loan. The Trust may collect a fee sufficient to cover its costs in connection with each loan guaranteed under this title. The authority to enter into any such loan guarantee agreement shall expire at the end of 15 years after the date of enactment of this title.

(2) The authority, subject to appropriations, to make loans to the occupants of property managed by the Trust for the preservation, restoration, maintenance, or repair of such property.

(3) The authority to issue obligations to the Secretary of the Treasury, but only if the Secretary of the Treasury agrees to purchase such obligations after determining that the projects to be funded from the proceeds thereof are credit worthy and that a repayment schedule is established and only to the extent authorized in advance in appropriations acts. The Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchase of such notes or obligations acquired by the Secretary of the Treasury under this subsection. Obligations issued under this subparagraph shall be in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. No funds appropriated to the Trust may be used for repayment of principal or interest on, or redemption of, obligations issued under this paragraph.

(4) The aggregate amount of obligations issued under this subsection which are outstanding at any one time may not exceed $50,000,000.

(e) DONATIONS.—The Trust may solicit and accept donations of funds, property, supplies, or services from individuals, foundations, corporations, and other private or public entities for the purpose of carrying out its duties. The Trust is encouraged to maintain a liaison with the Golden Gate National Park Association.

(f) PUBLIC AGENCY.—The Trust shall be deemed to be a public agency for purposes of entering into joint exercise of powers agreements pursuant to California government code section 6500 and related provisions of that Code.

(g) PROCEEDS.—Notwithstanding section 1341 of title 31 of the United States Code, all proceeds received by the Trust shall be retained by the Trust, and such proceeds shall be available, without further appropriation, for the administration, preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to Presidio properties under its administrative jurisdiction. The Secretary of the Treasury shall invest excess moneys of the Trust in public debt securities which shall bear interest at rates determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United Stats of comparable maturity.

(h) SUITS.—The Trust may sue and be sued in its own name to the same extent as the Federal Government. Litigation arising out of the activities of the Trust shall be conducted by the Attorney General; except that the Trust may retain private attorneys to provide advice and counsel. The District Court for the Northern District of California shall have exclusive jurisdiction over any suit filed against the Trust.

(i) MEMORANDUM OF AGREEMENT.—The Trust shall enter into a Memorandum of Agreement with the Secretary, acting through the Chief of the United States Park Police, for the conduct of law enforcement activities and services within those portions of the Presidio transferred to the administrative jurisdiction of the Trust.

(j) BYLAWS, RULES, AND REGULATIONS.—The Trust may adopt, amend, repeal, and enforce bylaws, rules and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised. The Trust is authorized, in consultation with the Secretary, to adopt and to enforce those rules and regulations that are applicable to the Golden Gate National Recreation Area and that may be necessary and appropriate to carry out its duties and responsibilities under this title. The Trust shall give notice of the adoption of such rules and regulations by publication in the Federal Register.

(k) DIRECT NEGOTIATIONS.—For the purpose of compliance with applicable laws and regulations concerning properties transferred to the Trust by the Secretary, the Trust shall negotiate directly with regulatory authorities.

(l) INSURANCE.—The Trust shall require that all leaseholders and contractors procure proper insurance against any loss in connection with properties under lease or contract, or the authorized activities granted in such lease or contract, as is reasonable and customary.

(m) BUILDING CODE COMPLIANCE.—The Trust shall bring all properties under its administrative jurisdiction into compliance with Federal building codes and regulations appropriate to use and occupancy within 10 years after the enactment of this title to the extent practicable.

(n) LEASING.—In managing and leasing the properties transferred to it, the Trust shall

consider the extent to which prospective tenants contribute to the implementation of the General Management Plan for the Presidio and to the reduction of cost to the Federal Government. The Trust shall give priority to the following categories of tenants: Tenants that enhance the financial viability of the Presidio and tenants that facilitate the cost-effective preservation of historic buildings through their reuse of such buildings.

(o) REVERSION.—If, at the expiration of 15 years, the Trust has not accomplished the goals and objectives of the plan required in section 105(b) of this title, then all property under the administrative jurisdiction of the Trust pursuant to section 103(b) of this title shall be transferred to the Administrator of the General Services Administration to be disposed of in accordance with the procedures outlined in the Defense Authorization Act of 1990 (104 Stat. 1809), and any real property so transferred shall be deleted from the boundary of the Golden Gate National Recreation Area. In the event of such transfer, the terms and conditions of all agreements and loans regarding such lands and facilities entered into by the Trust shall be binding on any successor in interest.

SEC. 105. LIMITATIONS ON FUNDING.

(a)(1) From amounts made available to the Secretary for the operation of areas within the Golden Gate National Recreation Area, not more than $25,000,000 shall be available to carry out this title in each fiscal year after the enactment of this title until the plan is submitted under subsection (b). Such sums shall remain available until expended.

(2) After the plan required in subsection (b) is submitted, and for each of the 14 fiscal years thereafter, there are authorized to be appropriated to the Trust not more than the amounts specified in such plan. Such sums shall remain available until expended. Of such sums, not more than $3,000,000 annually shall be available through the Trust for law enforcement activities and services to be provided by the United States Park Police at the Presidio in accordance with section 104(h) of this title.

(b) Within 1 year after the first meeting of the Board of Directors of the Trust, the Trust shall submit to Congress a plan which includes a schedule of annual decreasing federally appropriated funding that will achieve, at a minimum, self-sufficiency for the Trust within 15 complete fiscal years after such meeting of the Trust. No further funds shall be authorized for the Trust 15 years after the first meeting of the Board of Directors of the Trust.

(c) The Administrator of the General Services Administration shall provide necessary assistance, including detailees as necessary, to the Trust in the formulation and submission of the annual budget request for the administration, operation, and maintenance of the Presidio.

SEC. 106. GENERAL ACCOUNTING OFFICE STUDY.

(a) Three years after the first meeting of the Board of Directors of the Trust, the General Accounting Office shall conduct an interim study of the activities of the Trust and shall report the results of the study to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, and the Committee on Resources and Committee on Appropriations of the House of Representatives. The study shall include, but shall not be limited to, details of how the Trust is meeting its obligations under this title.

(b) In consultation with the Trust, the General Accounting Office shall develop an interim schedule and plan to reduce and replace the Federal appropriations to the extent practicable for interpretive services conducted by the National Park Service, and law enforcement activities and services, fire and public safety programs conducted by the Trust.

(c) Seven years after the first meeting of the Board of Directors of the Trust, the General Accounting Office shall conduct a comprehensive study of the activities of the Trust, including the Trust's progress in meeting its obligations under this title, taking into consideration the results of the study described in subsection (a) and the implementation of plan and schedule required in subsection (b). The General Accounting Office shall report the results of the study, including any adjustments to the plan and schedule, to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, and the Committee on Resources and Committee on Appropriations of the House of Representatives.

TITLE II—BOUNDARY ADJUSTMENTS AND CONVEYANCES

SEC. 201. YUCCA HOUSE NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

(a) IN GENERAL.—The boundaries of Yucca House National Monument are revised to include the approximately 24.27 acres of land generally depicted on the map entitled "Boundary—Yucca House National Monument, Colorado", numbered 318/80,001-B, and dated February 1990.

(b) MAP.—The map referred to in subsection (a) shall be on file and available for public inspection in appropriate offices of the National Park Service of the Department of the Interior.

(c) ACQUISITION.—

(1) IN GENERAL.—Within the lands described in subsection (a), the Secretary of the Interior may acquire lands and interests in lands by donation.

(2) The Secretary of the Interior may pay administrative costs arising out of any donation described in paragraph (1) with appropriated funds.

SEC. 202. ZION NATIONAL PARK BOUNDARY ADJUSTMENT.

(a) ACQUISITION AND BOUNDARY CHANGE.—The Secretary of the Interior is authorized to acquire by exchange approximately 5.48 acres located in the SW¼ of Section 28, Township 41 South, Range 10 West, Salt Lake Base and Meridian. In exchange therefor the Secretary is authorized to convey all right, title, and interest of the United States in and to approximately 5.51 acres in Lot 2 of Section 5, Township 41 South, Range 11 West, both parcels of land being in Washington County, Utah. Upon completion of such exchange, the Secretary is authorized to revise the boundary of Zion National Park to add the 5.48 acres in section 28 to the park and to exclude the 5.51 acres in section 5 from the park. Land added to the park shall be administered as part of the park in accordance with the laws and regulations applicable thereto.

(b) EXPIRATION.—The authority granted by this section shall expire 2 years after the date of the enactment of this Act.

SEC. 203. PICTURED ROCKS NATIONAL LAKESHORE BOUNDARY ADJUSTMENT.

The boundary of Pictured Rocks National Lakeshore is hereby modified as depicted on the map entitled "Area Proposed for Addition to Pictured Rocks National Lakeshore", numbered 625-80,043A, and dated July 1992.

SEC. 204. INDEPENDENCE NATIONAL HISTORICAL PARK BOUNDARY ADJUSTMENT.

The administrative boundary between Independence National Historical Park and the United States Customs House along the Moravian Street Walkway in Philadelphia, Pennsylvania, is hereby modified as generally depicted on the drawing entitled "Exhibit 1, Independence National Historical Park, Boundary Adjustment", and dated May 1987, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The Secretary of the Interior is authorized to accept and transfer jurisdiction over property in accord with such administrative boundary, as modified by this section.

SEC. 205. CRATERS OF THE MOON NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

(a) BOUNDARY REVISION.—The boundary of Craters of the Moon National Monument, Idaho, is revised to add approximately 210 acres and to delete approximately 315 acres as generally depicted on the map entitled "Craters of the Moon National Monument, Idaho, Proposed 1987 Boundary Adjustment", numbered 131-80,008, and dated October 1987, which map shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior.

(b) ADMINISTRATION AND ACQUISITION.—Federal lands and interests therein deleted from the boundary of the national monument by this section shall be administered by the Secretary of the Interior through the Bureau of Land Management in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and Federal lands and interests therein added to the national monument by this section shall be administered by the Secretary as part of the national monument, subject to the laws and regulations applicable thereto. The Secretary is authorized to acquire private lands and interests therein within the boundary of the national monument by donation, purchase with donated or appropriated funds, or exchange, and when acquired they shall be administered by the Secretary as part of the national monument, subject to the laws and regulations applicable thereto.

SEC. 206. HAGERMAN FOSSIL BEDS NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

Section 302 of the Arizona-Idaho Conservation Act of 1988 (102 Stat. 4576) is amended by adding the following new subsection after subsection (c):

"(d) To further the purposes of the monument, the Secretary is also authorized to acquire from willing sellers only, by donation, purchase with donated or appropriated funds, or exchange not to exceed 65 acres outside the boundary depicted on the map referred to in section 301 and develop and operate thereon research, information, interpretive, and administrative facilities. Lands acquired and facilities developed pursuant to this subsection shall be administered by the Secretary as part of the monument. The boundary of the monument shall be modified to include the lands added under this subsection as a noncontiguous parcel.".

SEC. 207. WUPATKI NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

The boundaries of the Wupatki National Monument, Arizona, are hereby revised to include the lands and interests in lands within the area generally depicted as "Proposed Addition 168.89 Acres" on the map entitled "Boundary—Wupatki and Sunset Crater National Monuments, Arizona", numbered 322-80,021, and dated April 1989. The map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. Subject to valid existing rights, Federal lands and interests

therein within the area added to the monument by this section are hereby transferred without monetary consideration or reimbursement to the administrative jurisdiction of the National Park Service, to be administered as part of the monument in accordance with the laws and regulations applicable thereto.

SEC. 208. WALNUT CANYON NATIONAL MONUMENT BOUNDARY MODIFICATION.

(a) PURPOSE.—The purpose of this section is to modify the boundaries of the Walnut Canyon National Monument (hereafter in this section referred to as the "national monument") to improve management of the national monument and associated resources.

(b) BOUNDARY MODIFICATION.—Effective on the date of enactment of this Act, the boundaries of the national monument shall be modified as depicted on the map entitled "Boundary Proposal—Walnut Canyon National Monument, Coconino County, Arizona", numbered 360/80,010, and dated September 1994. Such map shall be on file and available for public inspection in the offices of the Director of the National Park Service, Department of the Interior. The Secretary of the Interior, in consultation with the Secretary of Agriculture, is authorized to make technical and clerical corrections to such map.

(c) ACQUISITION AND TRANSFER OF PROPERTY.—The Secretary of the Interior is authorized to acquire lands and interest in lands within the national monument, by donation, purchase with donated or appropriated funds, or exchange. Federal property within the boundaries of the national monument (as modified by this section) is hereby transferred to the administrative jurisdiction of the Secretary of the Interior for management as part of the national monument. Federal property excluded from the monument pursuant to the boundary modification under subsection (b) is hereby transferred to the administrative jurisdiction of the Secretary of Agriculture to be managed as a part of the Coconino National Forest.

(d) ADMINISTRATION.—The Secretary of the Interior, acting through the Director of the National Park Service, shall manage the national monument in accordance with this title and the provisions of law generally applicable to units of the National Park Service, including "An Act to establish a National Park Service, and for other purposes" approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 209. BUTTE COUNTY, CALIFORNIA LAND CONVEYANCE.

(a) PURPOSE.—It is the purpose of this section to authorize and direct the Secretary of Agriculture to convey, without consideration, certain lands in Butte County, California, to persons claiming to have been deprived of title to such lands.

(b) DEFINITIONS.—For the purpose of this section:

(1) The term "affected lands" means those Federal lands located in the Plumas National Forest in Butte County, California, in sections 11, 12, 13, and 14, township 21 north, range 5 East, Mount Diablo Meridian, as described by the dependent resurvey by the Bureau of Land Management conducted in 1992, and subsequent Forest Service land line location surveys, including all adjoining parcels where the property line as identified by the 1992 BLM dependent resurvey and National Forest boundary lines before such dependent resurvey are not coincident.

(2) The term "claimant" means an owner of real property in Butte County, California, whose real property adjoins Plumas National Forest lands described in paragraph (1), who claims to have been deprived by the United States of title to property as a result of previous erroneous surveys.

(3) The term "Secretary" means the Secretary of Agriculture.

(c) CONVEYANCE OF LANDS.—Notwithstanding any other provision of law, the Secretary is authorized and directed to convey, without consideration, all right, title, and interest of the United States in and to affected lands as described in subsection (b)(1), to any claimant or claimants, upon proper application from such claimant or claimants, as provided in subsection (d).

(d) NOTIFICATION.—Not later than 2 years after the date of enactment of this Act, claimants shall notify the Secretary, through the Forest Supervisor of the Plumas National Forest, in writing of their claim to affected lands. Such claim shall be accompanied by—

(1) a description of the affected lands claimed;

(2) information relating to the claim of ownership of such lands; and

(3) such other information as the Secretary may require.

(e) ISSUANCE OF DEED.—(1) Upon a determination by the Secretary that issuance of a deed for affected lands is consistent with the purpose and requirements of this section, the Secretary shall issue a quit claim deed to such claimant for the parcel to be conveyed.

(2) Prior to the issuance of any such deed as provided in paragraph (1), the Secretary shall ensure that—

(A) the parcel or parcels to be conveyed have been surveyed in accordance with the Memorandum of Understanding between the Forest Service and the Bureau of Land Management, dated November 11, 1989;

(B) all new property lines established by such surveys have been monumented and marked; and

(C) all terms and conditions necessary to protect third party and Government Rights-of-Way or other interests are included in the deed.

(3) The Federal Government shall be responsible for all surveys and property line markings necessary to implement this subsection.

(f) NOTIFICATION TO BLM.—The Secretary shall submit to the Secretary of the Interior an authenticated copy of each deed issued pursuant to this section no later than 30 days after the date such deed is issued.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary to carry out the purposes of this section.

SEC. 210. TAOS PUEBLO LAND TRANSFER.

(a) TRANSFER.—The parcel of land described in subsection (b) is hereby transferred without consideration to the Secretary of the Interior to be held in trust for the Pueblo de Taos. Such parcel shall be a part of the Pueblo de Taos Reservation and shall be managed in accordance with section 4 of the Act of May 31, 1933 (48 Stat. 108) (as amended, including as amended by Public Law 91–550 (84 Stat. 1437)).

(b) LAND DESCRIPTION.—The parcel of land referred to in subsection (a) is the land that is generally depicted on the map entitled "Lands transferred to the Pueblo of Taos—proposed" and dated September 1994, comprises 764.33 acres, and is situated within sections 25, 26, 35, and 36, Township 27 North, Range 14 East, New Mexico Principal Meridian, within the Wheeler Peak Wilderness, Carson National Forest, Taos County, New Mexico.

(c) CONFORMING BOUNDARY ADJUSTMENTS.—The boundaries of the Carson National Forest and the Wheeler Peak Wilderness are hereby adjusted to reflect the transfer made by subsection (a).

(d) RESOLUTION OF OUTSTANDING CLAIMS.—The Congress finds and declares that, as a result of the enactment of this section, the Taos Pueblo has no unresolved equitable or legal claims against the United States on the lands to be held in trust and to become part of the Pueblo de Taos Reservation under this section.

SEC. 211. COLONIAL NATIONAL HISTORICAL PARK.

(a) TRANSFER AND RIGHTS-OF-WAY.—The Secretary of the Interior (hereinafter in this section referred to as the "Secretary") is authorized to transfer, without reimbursement, to York County, Virginia, that portion of the existing sewage disposal system, including related improvements and structures, owned by the United States and located within the Colonial National Historical Park, together with such rights-of-way as are determined by the Secretary to be necessary to maintain and operate such system.

(b) REPAIR AND REHABILITATION OF SYSTEM.—The Secretary is authorized to enter into a cooperative agreement with York County, Virginia, under which the Secretary will pay a portion, not to exceed $110,000, of the costs of repair and rehabilitation of the sewage disposal system referred to in subsection (a).

(c) FEES AND CHARGES.—In consideration for the rights-of-way granted under subsection (a), and in recognition of the National Park Service's contribution authorized under subsection (b), the cooperative agreement under subsection (b) shall provide for a reduction in, or the elimination of, the amounts charged to the National Park Service for its sewage disposal. The cooperative agreement shall also provide for minimizing the impact of the sewage disposal system on the park and its resources. Such system may not be enlarged or substantially altered without National Park Service concurrence.

(d) INCLUSION OF LAND IN COLONIAL NATIONAL HISTORICAL PARK.—Notwithstanding the provisions of the Act of June 28, 1938 (52 Stat. 1208; 16 U.S.C. 81b et seq.), limiting the average width of the Colonial Parkway, the Secretary of the Interior is authorized to include within the boundaries of Colonial National Historical Park and to acquire by donation, exchange, or purchase with donated or appropriated funds the lands or interests in lands (with or without improvements) within the areas depicted on the map dated August 1993, numbered 333/80031A, and entitled "Page Landing Addition to Colonial National Historical Park". Such map shall be on file and available for inspection in the offices of the National Park Service at Colonial National Historical Park and in Washington, District of Columbia.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 212. CUPRUM, IDAHO RELIEF.

(a) FINDINGS.—The Congress finds and declares that:

(1) In 1899, the citizens of Cuprum, Idaho, commissioned E.S. Hesse to conduct a survey describing these lands occupied by their community. The purpose of this survey was

to provide a basis for the application for a townsite patent.

(2) In 1909, the Cuprum Townsite patent (Number 52817) was granted, based on an aliquot parts description which was intended to circumscribe the Hesse survey.

(3) Since the day of the patent, the Hesse survey has been used continuously by the community of Cuprum and by Adams Country, Idaho, as the official townsite plat and basis for conveyance of title within the townsite.

(4) Recent boundary surveys conducted by the United States Department of Agriculture, Forest Service, and the United States Department of the Interior, Bureau of Land Management, discovered inconsistencies between the official aliquot parts description of the patented Cuprum Townsite and the Hesse survey. Many lots along the south and east boundaries of the townsite are now known to extend onto National Forest System lands outside the townsite.

(5) It is the determination of Congress that the original intent of the Cuprum Townsite application was to include all the lands described by the Hesse survey.

(b) PURPOSE.—It is the purpose of this section to amend the 1909 Cuprum Townsite patent to include those additional lands described by the Hesse survey in addition to other lands necessary to provide an administratively acceptable boundary to the National Forest System.

(c) AMENDMENT OF PATENT.—The 1909 Cuprum Townsite patent is hereby amended to include parcels 1 and 2, identified on the plat, marked as "Township 20 North, Range 3 West, Boise Meridian, Idaho, Section 10: Proposed Patent Adjustment Cuprum Townsite, Idaho" prepared by Payette N.F.—Land Survey Unit, drawn and approved by Tom Betzold, Forest Land Surveyor, on April 25, 1995. Such additional lands are hereby conveyed to the original patentee, Pitts Ellis, trustee, and Probate Judge of Washington County, Idaho, or any successors or assigns in interest in accordance with State law. The Secretary of Agriculture may correct clerical and typographical errors in such plat.

(d) SURVEY.—The Federal Government shall survey the Federal property lines and mark and post the boundaries necessary to implement this section.

SEC. 214. RELINQUISHMENT OF INTEREST.

(a) IN GENERAL.—The United States relinquishes all right, title, and interest that the United States may have in land that—

(1) was subject to a right-of-way that was granted to the predecessor of the Chicago and Northwestern Transportation Company under the Act entitled "An Act granting to railroads the right of way through the public lands of the United States", approved March 3, 1875 (43 U.S.C. 934 et seq.), which right-of-way the Company has conveyed to the city of Douglas, Wyoming; and

(2) is located within the boundaries of the city limits of the city of Douglas, Wyoming, or between the right-of-way of Interstate 25 and the city limits of the city of Douglas, Wyoming,

as determined by the Secretary of the Interior in consultation with the appropriate officials of the city of Douglas, Wyoming.

(b) CONVEYANCE.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall file for recordation in the real property records of Converse County, Wyoming, a deed or other appropriate form of instrument conveying to the city of Douglas, Wyoming, all right, title, and interest in the land described in subsection (a).

(c) CONVEYANCE OF CERTAIN PROPERTY TO THE BIG HORN COUNTY SCHOOL DISTRICT NUMBER 1, WYOMING.—The Secretary of the Interior shall convey, by quit claim deed, to the Big Horn County School District Number 1, Wyoming, all right, title, and interest of the United States in and to the following described lands in Big Horn County, Wyoming: Lots 19–24 of Block 22, all within the town of Frannie, Wyoming, in the S½NW¼NW¼ and N½SW¼NW¼ of section 31 of T. 58N., R. 97 W., Big Horn County.

SEC. 215. MODOC NATIONAL FOREST.

(a) IN GENERAL.—The boundary of the Modoc National Forest is hereby modified to include and encompass 760 acres, more or less, on the following described lands: Mount Diablo Meridian, Lassen County, California, T. 38 N., R. 10 E., sec. 5, SE¼NW¼, E½SW¼; sec. 8, E½NE¼, NE¼NW¼, NE¼SE¼; sec. 16, W½; sec. 25, Lots 13, 14 and 15 (S½SW¼, SW¼SE¼); T. 37 N., R. 11 E., sec. 20, NW¼SE¼.

(b) RULE FOR LAND AND WATER CONSERVATION FUND.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–9), the boundary of the Modoc National Forest, as modified by this title, shall be considered to be the boundary of that National Forest as of January 1, 1965.

SEC. 216. CONVEYANCE TO CITY OF SUMPTER, OREGON.

(a) CONVEYANCE REQUIRED.—The Secretary of Agriculture shall convey, without consideration, to the city of Sumpter, Oregon (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property of approximately 1.43 acres consisting of all of block 8 of the REVISED PLAN OF SUMPTER TOWNSITE in the City, as shown in plat recorded March 6, 1897, in Plat Book 3, page 26; including the alley running through such block, vacated by Ordinance No. 1966–3, recorded December 14, 1966, in Deed 66–50–014.

(b) ADDITIONAL DESCRIPTION OF PROPERTY.—The real property to be conveyed under subsection (a) consists of the same property that was deeded to the United States in the following deeds:

(1) Warranty Deed from Sumpter Power & Water Company to the United States of America dated October 12, 1949, and recorded in Vol. 152, page 170 of Baker County records on December 22, 1949.

(2) Warranty Deed from Mrs. Alice Windle to the United States of America dated October 11, 1949, and recorded in Vol. 152, page 168 of Baker County records on December 22, 1949.

(3) Warranty Deed from Alice L. Windle Charles and James M. Charles to the United States of America dated August 8, 1962, and recorded in Book 172, page 1331 on August 27, 1962.

(c) CONDITION OF CONVEYANCE.—The conveyance under subsection (a) shall be subject to the condition that the City use the conveyed property only for public purposes, such as a city park, information center, or interpretive area.

(d) RELEASE.—Upon making the conveyance required by subsection (a), the United States is relieved from liability for any and all claims arising from the presence of materials on the conveyed property.

(e) REVERSIONARY INTEREST.—If the Secretary of Agriculture determines that the real property conveyed under subsection (a) is not being used in accordance with the condition specified in subsection (c) or that the City has initiated proceedings to sell, lease, exchange, or otherwise dispose of all or a portion of the property, then, at the option of the Secretary, the United States shall have a right of reentry with regard to the property, with title thereto revesting in the United States.

(f) AUTHORIZED SALE OF PROPERTY.—Notwithstanding subsections (c) and (e), the Secretary of Agriculture may authorize the City to dispose of the real property conveyed under subsection (a) if the proceeds from such disposal are at least equal to the fair market value of the property and are paid to the United States. The Secretary shall deposit amounts received under this subsection into the special fund in the Treasury into which funds are deposited pursuant to the Act of December 4, 1967 (16 U.S.C. 484a), commonly known as the Sisk Act. The disposal of the conveyed property under this subsection shall be subject to such terms and conditions as the Secretary may prescribe.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of Agriculture may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 217. CUMBERLAND GAP NATIONAL HISTORICAL PARK.

(a) AUTHORITY.—Notwithstanding the Act of June 11, 1940 (16 U.S.C. 261 et seq.), the Secretary of the Interior is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange not to exceed 10 acres of land or interests in land, which shall consist of those necessary lands for the establishment of trailheads to be located at White Rocks and Chadwell Gap.

(b) ADMINISTRATION.—Lands and interests in lands acquired pursuant to subsection (a) shall be added to and administered as part of Cumberland Gap National Historical Park.

SEC. 220. ALPINE SCHOOL DISTRICT.

(a) CONVEYANCE REQUIRED.—(1) The Secretary of Agriculture shall convey, without consideration, to the Alpine Elementary School District 7 of the State of Arizona (in this section referred to as the "School District"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 30 acres located in the Apache National Forest, Apache County, Arizona, and further delineated as follows: North ½ of Northeast ¼ of Southeast ¼ of section 14, Township 5 North, Range 30 East, Gila and Salt River meridian, and North ½ of South ½ of Northeast ¼ of Southeast ¼ of such section.

(2) The exact acreage and legal description of the real property to be conveyed under paragraph (1) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the School District.

(b) CONDITION OF CONVEYANCE.—The conveyance made under subsection (a) shall be subject to the condition that the School District use the conveyed property for public school facilities and related public school recreational purposes.

(c) RIGHT OF REENTRY.—The United States shall retain a right of reentry in the property to be conveyed. If the Secretary determines that the conveyed property is not being used in accordance with the condition in subsection (b), the United States shall have the right to reenter the conveyed property without consideration.

(d) ENCUMBRANCES.—The conveyance made under subsection (a) shall be subject to all encumbrances on the property existing as of the date of the enactment of this Act.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional

terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 221. MERCED IRRIGATION DISTRICT LAND EXCHANGE.

(a) CONVEYANCE.—(1) The Secretary of the Interior may convey the Federal lands described in subsection (d)(1) in exchange for the non-Federal lands described in subsection (d)(2), in accordance with the provisions of this Act.

(b) APPLICABILITY OF OTHER PROVISIONS OF LAW.—The land exchange required in this section shall be carried out in accordance with section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716) and in accordance with other applicable laws.

(c) ACCEPTABILITY OF TITLE AND MANNER OF CONVEYANCE.—The Secretary of the Interior shall not carry out an exchange described in subsection (a) unless the title to the non-Federal lands to be conveyed to the United States, and the form and procedures of conveyance, are acceptable to the Secretary.

(d) LANDS TO BE EXCHANGED.—

(1) FEDERAL LANDS TO BE EXCHANGED.—The Federal lands referred to in this section to be exchanged consist of approximately 179.4 acres in Mariposa County, California as generally depicted on the map entitled "Merced Irrigation District Exchange—Proposed, Federal Land", dated March 15, 1995, more particularly described as follows:

T. 3 S., R. 15 E., MDM (Mount Diablo Meridian): sec. 35, SW¼SE¼, containing approximately 40 acres.

T. 4 S., R. 15 E., MDM (Mount Diablo Meridian):

Sec. 14: E½SE¼SE¼, containing approximately 20 acres.

Sec. 23: NE¼SE¼, containing approximately 40 acres.

T. 5 S., R. 15 E., MDM (Mount Diablo Meridian):

Sec. 2: Lot 1, containing approximately 57.9 acres.

Sec. 3: Lots 7 thru 15, containing approximately 21.5 acres.

(2) NON-FEDERAL LANDS TO BE EXCHANGED.—The non-Federal lands referred to in this section to be exchanged consist of approximately 160 acres in Mariposa County, California as generally depicted on the map entitled "Merced Irrigation District Exchange—Proposed, Non-Federal Land", dated March 15, 1995, more particularly described as T. 4 S., R17E MDM (Mount Diablo Meridian): sec. 2, SE¼.

(3) MAPS.—The maps referred to in this subsection shall be on file and available for inspection in the office of the Director of the Bureau of Land Management.

(4) PARTIAL REVOCATION OF WITHDRAWALS.—The Executive order of December 31, 1912, creating Powersite Reserve No. 328, and the withdrawal of Federal lands for Power Project No. 2179, filed February 21, 1963, in accordance with section 24 of the Federal Power Act are hereby revoked insofar as they affect the Federal lands described in paragraph (1). Any patent issued on such Federal lands shall not be subject to section 24 of said Act.

SEC. 222. FATHER AULL SITE TRANSFER.

(a) SHORT TITLE.—This section may be cited as the "Father Aull Site Transfer Act of 1996".

(b) CONVEYANCE OF PROPERTY.—Subject to valid existing rights, all right, title and interest of the United States in and to the land (including improvements on the land), consisting of approximately 43.06 acres, located approximately 10 miles east of Silver City, New Mexico, and described as follows: T. 17 S., R. 12 W., Section 30: Lot 13, and Section 31: Lot 27 (as generally depicted on the map dated July 1995) is hereby conveyed by operation of law to St. Vincent DePaul Parish in Silver City, New Mexico, without consideration.

(c) RELEASE.—Upon the conveyance of any land or interest in land identified in this section to St. Vincent DePaul Parish, St. Vincent DePaul Parish shall assume any liability for any claim relating to the land or interest in the land arising after the date of the conveyance.

(d) MAP.—The map referred to in this section shall be on file and available for public inspection in—

(1) the State of New Mexico Office of the Bureau of Land Management, Santa Fe, New Mexico; and

(2) the Las Cruces District Office of the Bureau of Land Management, Las Cruces, New Mexico.

SEC. 223. COASTAL BARRIER RESOURCES SYSTEM.

(a) IN GENERAL.—The Secretary of the Interior shall, before the end of the 30-day period beginning on the date of the enactment of this Act, make such corrections to the maps described in subsection (b) as are necessary to ensure that depictions of areas on those maps are consistent with the depictions of areas appearing on the maps entitled "Amendments to Coastal Barrier Resources System", dated November 1, 1995, and June 1, 1996, and on file with the Secretary.

(b) MAPS DESCRIBED.—The maps described in this subsection are maps that—

(1) are included in a set of maps entitled "Coastal Barrier Resources System", dated October 24, 1990; and

(2) relate to the following units of the Coastal Barrier Resources System: P05, P05A, P10, P11, P11A, P18, P25, P32, and P32P.

SEC. 224. CONVEYANCE TO DEL NORTE COUNTY UNIFIED SCHOOL DISTRICT.

(a) CONVEYANCE.—As soon as practicable after the date of the enactment of this Act, the Secretary of Agriculture shall convey to the Del Norte County Unified School District of Del Norte County, California, in accordance with this section, all right, title, and interest of the United States in and to the property described in subsection (b).

(b) PROPERTY DESCRIPTION.—The property referred to in subsection (a) is that portion of Township 17 North, Range 2 East, Humboldt Meridian in Del Norte County, California, which is further described as follows:

Beginning at Angle Point No. 3 of Tract 41 as resurveyed by the Bureau of Land Management under survey Group No. 1013, approved August 13, 1990, and shown on the official plat thereof;

thence on the line between Angle Points No. 3 and No. 4 of Tract 41, North 89 degrees, 24 minutes, 20 seconds East, a distance of 345.44 feet to Angle Point No. 4 of Tract 41;

thence on the line between Angle Points No. 4 and No. 5 of Tract 41, South 00 degrees, 01 minutes, 20 seconds East, a distance of 517.15 feet;

thence West, a distance of 135.79 feet;

thence North 88 degrees, 23 minutes, 01 seconds West, a distance of 61.00 feet;

thence North 39 degrees, 58 minutes, 18 seconds West, a distance of 231.37 feet to the East line of Section 21, Township 17 North, Range 2 East;

thence along the East line of Section 21, North 00 degrees, 02 minutes, 20 seconds West, a distance of 334.53 feet to the point of beginning.

(c) CONSIDERATION.—The conveyance provided for in subsection (a) shall be without consideration except as required by this section.

(d) CONDITIONS OF CONVEYANCE.—The conveyance provided for in subsection (a) shall be subject to the following conditions:

(1) Del Norte County shall be provided, for no consideration, an easement for County Road No. 318 which crosses the Northeast corner of the property conveyed.

(2) The Pacific Power and Light Company shall be provided, for no consideration, an easement for utility equipment as necessary to maintain the level of service provided by the utility equipment on the property as of the date of the conveyance.

(3) The United States shall be provided, for no consideration, an easement to provide access to the United States property that is south of the property conveyed.

(e) LIMITATIONS ON CONVEYANCE.—The conveyance authorized by subsection (a) is subject to the following limitations:

(1) ENCUMBRANCES.—Such conveyance shall be subject to all encumbrances on the land existing as of the date of enactment of this Act.

(2) RE-ENTRY RIGHT.—The United States shall retain a right of re-entry in the land described for conveyance in subsection (b). If the Secretary determines that the conveyed property is not being used for public educational or related recreational purposes, the United States shall have a right to re-renter the property conveyed therein without consideration.

(f) ADDITIONAL TERMS AND CONDITIONS.—The conveyance provided for in subsection (a) shall be subject to such additional terms and conditions as the Secretary of Agriculture and the Del Norte County Unified School District agree are necessary to protect the interests of the United States.

TITLE III—EXCHANGES

SEC. 301. TARGHEE NATIONAL FOREST LAND EXCHANGE.

(a) CONVEYANCE.—Notwithstanding the requirements in the Act entitled "An Act to Consolidate National Forest Lands", approved March 20, 1922 (16 U.S.C. 485), and section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)) that Federal and non-Federal lands exchanged for each other must be located within the same State, the Secretary of Agriculture may convey the Federal lands described in subsection (d) in exchange for the non-Federal lands described in subsection (e) in accordance with the provisions of this section.

(b) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Except as otherwise provided in this section, the land exchange authorized by this section shall be made under the existing authorities of the Secretary.

(c) ACCEPTABILITY OF TITLE AND MANNER OF CONVEYANCE.—The Secretary shall not carry out the exchange described in subsection (a) unless the title to the non-Federal lands to be conveyed to the United States, and the form and procedures of conveyance, are acceptable to the Secretary.

(d) FEDERAL LANDS.—The Federal lands referred to in this section are located in the Targhee National Forest in Idaho, are generally depicted on the map entitled "Targhee Exchange, Idaho-Wyoming—Proposed, Federal Land", dated September 1994, and are known as the North Fork Tract.

(e) NON-FEDERAL LANDS.—The non-Federal lands referred to in this section are located in the Targhee National Forest in Wyoming, are generally depicted on the map entitled

"Non-Federal land, Targhee Exchange, Idaho-Wyoming—Proposed", dated September 1994, and are known as the Squirrel Meadows Tract.

(f) MAPS.—The maps referred to in subsections (d) and (e) shall be on file and available for inspection in the office of the Targhee National Forest in Idaho and in the office of the Chief of the Forest Service.

(g) EQUALIZATION OF VALUES.—Prior to the exchange authorized by this section, the values of the Federal and non-Federal lands to be so exchanged shall be established by appraisals of fair market value that shall be subject to approval by the Secretary. The values either shall be equal or shall be equalized using the following methods:

(1) ADJUSTMENT OF LANDS.—

(A) PORTION OF FEDERAL LANDS.—If the Federal lands are greater in value than the non-Federal lands, the Secretary shall reduce the acreage of the Federal lands until the values of the Federal lands closely approximate the values of the non-Federal lands.

(B) ADDITIONAL FEDERALLY OWNED LANDS.—If the non-Federal lands are greater in value than the Federal lands, the Secretary may convey additional federally owned lands within the Targhee National Forest up to an amount necessary to equalize the values of the non-Federal lands and the lands to be transferred out of Federal ownership. However, such additional federally owned lands shall be limited to those meeting the criteria for land exchanges specified in the Targhee National Forest Land and Resource Management Plan.

(2) PAYMENT OF MONEY.—The values may be equalized by the payment of money as provided in section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716 (b)).

(h) DEFINITIONS.—For purpose of this section:

(1) The term "Federal lands" means the Federal lands described in subsection (d).

(2) The term "non-Federal lands" means the non-Federal lands described in subsection (e).

(3) The term "Secretary" means the Secretary of Agriculture.

SEC. 302. ANAKTUVUK PASS LAND EXCHANGE.

(a) FINDINGS.—The Congress makes the following findings:

(1) The Alaska National Interest Lands Conservation Act (94 Stat. 2371), enacted on December 2, 1980, established Gates of the Arctic National Park and Preserve and Gates of the Arctic Wilderness. The village of Anaktuvuk Pass, located in the highlands of the central Brooks Range, is virtually surrounded by these national park and wilderness lands and is the only Native village located within the boundary of a National Park System unit in Alaska.

(2) Unlike most other Alaskan Native communities, the village of Anaktuvuk Pass is not located on a major river, lake, or coastline that can be used as a means of access. The residents of Anaktuvuk Pass have relied increasingly on snow machines in winter and all-terrain vehicles in summer as their primary means of access to pursue caribou and other subsistence resources.

(3) In a 1983 land exchange agreement, linear easements were reserved by the Inupiat Eskimo people for use of all-terrain vehicles across certain national park lands, mostly along stream and river banks. These linear easements proved unsatisfactory, because they provided inadequate access to subsistence resources while causing excessive environmental impact from concentrated use.

(4) The National Park Service and the Nunamiut Corporation initiated discussions in 1985 to address concerns over the use of all-terrain vehicles on park and wilderness land. These discussions resulted in an agreement, originally executed in 1992 and thereafter amended in 1993 and 1994, among the National Park Service, Nunamiut Corporation, the City of Anaktuvuk Pass, and Arctic Slope Regional Corporation. Full effectuation of this agreement, as amended, by its terms requires ratification by the Congress.

(b) RATIFICATION OF AGREEMENT.—

(1) RATIFICATION.—

(A) IN GENERAL.—The terms, conditions, procedures, covenants, reservations, and other provisions set forth in the document entitled "Donation, Exchange of Lands and Interests in Lands and Wilderness Redesignation Agreement Among Arctic Slope Regional Corporation, Nunamiut Corporation, City of Anaktuvuk Pass and the United States of America" (hereinafter referred to in this section as "the Agreement"), executed by the parties on December 17, 1992, as amended, are hereby incorporated in this title, are ratified and confirmed, and set forth the obligations and commitments of the United States, Arctic Slope Regional Corporation, Nunamiut Corporation and the City of Anaktuvuk Pass, as a matter of Federal law.

(B) LAND ACQUISITION.—Lands acquired by the United States pursuant to the Agreement shall be administered by the Secretary of the Interior (hereinafter referred to as the "Secretary") as part of Gates of the Arctic National Park and Preserve, subject to the laws and regulations applicable thereto.

(2) MAPS.—The maps set forth as Exhibits C1, C2, and D through I to the Agreement depict the lands subject to the conveyances, retention of surface access rights, access easements and all-terrain vehicle easements. These lands are depicted in greater detail on a map entitled "Land Exchange Actions, Proposed Anaktuvuk Pass Land Exchange and Wilderness Redesignation, Gates of the Arctic National Park and Preserve", Map No. 185/80,039, dated April 1994, and on file at the Alaska Regional Office of the National Park Service and the offices of Gates of the Arctic National Park and Preserve in Fairbanks, Alaska. Written legal descriptions of these lands shall be prepared and made available in the above offices. In case of any discrepancies, Map No. 185/80,039 shall be controlling.

(c) NATIONAL PARK SYSTEM WILDERNESS.—

(1) GATES OF THE ARCTIC WILDERNESS.—

(A) REDESIGNATION.—Section 701(2) of the Alaska National Interest Lands Conservation Act (94 Stat. 2371, 2417) establishing the Gates of the Arctic Wilderness is hereby amended with the addition of approximately 56,825 acres as wilderness and the rescission of approximately 73,993 acres as wilderness, thus revising the Gates of the Arctic Wilderness to approximately 7,034,832 acres.

(B) MAP.—The lands redesignated by subparagraph (A) are depicted on a map entitled "Wilderness Actions, Proposed Anaktuvuk Pass Land Exchange and Wilderness Redesignation, Gates of the Arctic National Park and Preserve", Map No. 185/80,040, dated April 1994, and on file at the Alaska Regional Office of the National Park Service and the office of Gates of the Arctic National Park and Preserve in Fairbanks, Alaska.

(2) NOATAK NATIONAL PRESERVE.—Section 201(8)(a) of the Alaska National Interest Land Conservation Act (94 Stat. 2380) is amended by—

(A) striking "approximately six million four hundred and sixty thousand acres" and inserting in lieu thereof "approximately 6,477,168 acres"; and

(B) inserting "and the map entitled "Noatak National Preserve and Noatak Wilderness Addition" dated September 1994" after "July 1980".

(3) NOATAK WILDERNESS.—Section 701(7) of the Alaska National Interest Lands Conservation Act (94 Stat. 2417) is amended by striking "approximately five million eight hundred thousand acres" and inserting in lieu thereof "approximately 5,817,168 acres".

(d) CONFORMANCE WITH OTHER LAW.—

(1) ALASKA NATIVE CLAIMS SETTLEMENT ACT.—All of the lands, or interests therein, conveyed to and received by Arctic Slope Regional Corporation or Nunamiut Corporation pursuant to the Agreement shall be deemed conveyed and received pursuant to exchanges under section 22(f) of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, 1621(f)). All of the lands or interests in lands conveyed pursuant to the Agreement shall be conveyed subject to valid existing rights.

(2) ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT.—Except to the extent specifically set forth in this section or the Agreement, nothing in this section or in the Agreement shall be construed to enlarge or diminish the rights, privileges, or obligations of any person, including specifically the preference for subsistence uses and access to subsistence resources provided under the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

SEC. 303. ALASKA PENINSULA SUBSURFACE CONSOLIDATION.

(a) DEFINITIONS.—As used in this section:

(1) AGENCY.—The term agency—

(A) means any instrumentality of the United States, and any Government corporation (as defined in section 9101(1) of title 31, United States Code); and

(B) includes any element of an agency.

(2) ALASKA NATIVE CORPORATION.—The term "Alaska Native Corporation" has the same meaning as is provided for "Native Corporation" in section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)).

(3) FEDERAL LANDS OR INTEREST THEREIN.—The term "Federal lands or interests therein" means any lands or properties owned by the United States (A) which are administered by the Secretary, or (B) which are subject to a lease to third parties, or (C) which have been made available to the Secretary for exchange under this section through the concurrence of the director of the agency administering such lands or properties: *Provided however*, That excluded from such lands shall be those lands which are within an existing conservation system unit as defined in section 102(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(4)), and those lands the mineral interest for which are currently under mineral lease.

(4) KONIAG.—The term "Koniag" means Koniag, Incorporated, which is a regional Corporation.

(5) REGIONAL CORPORATION.—The term "Regional Corporation" has the same meaning as is provided in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(6) SECRETARY.—Except as otherwise provided, the term "Secretary" means the Secretary of the Interior.

(7) SELECTION RIGHTS.—The term "selection rights" means those rights granted to

Koniag, and confirmed as valid selections (within Koniag's entitlement) pursuant to subsections (a) and (b) of section 12, and section 14(h)(8), of the Alaska Native Claims Settlement Act (43 U.S.C. 1611 and 1613(h)(8)), to receive title to the oil and gas rights and other interests in the subsurface estate of the approximately 275,000 acres of public lands in the State of Alaska identified as "Koniag Selections" on the map entitled "Koniag Interest Lands, Alaska Peninsula", dated May 1989.

(b) VALUATION OF KONIAG SELECTION RIGHTS.—

(1) IN GENERAL.—Pursuant to paragraph (2) of this subsection, the Secretary shall value the Selection Rights which Koniag possesses within the boundaries of Aniakchak National Monument and Preserve, Alaska Peninsula National Wildlife Refuge, and Becharof National Wildlife Refuge.

(2) VALUE.—

(A) IN GENERAL.—The value of the selection rights shall be equal to the fair market value of—

(i) the oil and gas interests in the lands or interests in lands that are the subject of the selection rights; and

(ii) in the case of the lands or interests in lands for which Koniag is to receive the entire subsurface estate, the subsurface estate of the lands or interests in lands that are the subject of the selection rights.

(B) APPRAISAL.—

(i) SELECTION OF APPRAISER.—

(I) IN GENERAL.—Not later than 90 days after the date of enactment of this section the Secretary and Koniag shall meet to select a qualified appraiser to conduct an appraisal of the selection rights. Subject to subclause (II), the appraiser shall be selected by the mutual agreement of the Secretary and Koniag.

(II) FAILURE TO AGREE.—If the Secretary and Koniag fail to agree on an appraiser by the date that is 60 days after the date of the initial meeting referred to in subclause (I), the Secretary and Koniag shall, by the date that is not later than 90 days after the date of the initial meeting, each designate an appraiser who is qualified to perform the appraisal. The 2 appraisers so identified shall select a third qualified appraiser who shall perform the appraisal.

(ii) STANDARDS AND METHODOLOGY.—The appraisal shall be conducted in conformity with the standards of the Appraisal Foundation (as defined in section 1121(9) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(9)).

(iii) SUBMISSION OF APPRAISAL REPORT.—Not later than 180 days after the selection of an appraiser pursuant to clause (i), the appraiser shall submit to the Secretary and to Koniag a written appraisal report specifying the value of the selection rights and the methodology used to arrive at the value.

(C) DETERMINATION OF VALUE.—

(i) DETERMINATION BY THE SECRETARY.—Not later than 60 days after the date of the receipt of the appraisal report under subparagraph (B)(iii), the Secretary shall determine the value of the selection rights and shall notify Koniag of the determination.

(ii) ALTERNATIVE DETERMINATION OF VALUE.—

(I) IN GENERAL.—Subject to subclause (II), if Koniag does not agree with the value determined by the Secretary under clause (i), the procedures specified in section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716 (d)) shall be used to establish the value.

(II) AVERAGE VALUE LIMITATION.—The average value per acre of the selection rights shall not be less than the value utilizing the risk adjusted discount cash flow methodology, but in no event may exceed $300.

(c) KONIAG ACCOUNT.—

(1) IN GENERAL.—(A) The Secretary shall enter into negotiations for an agreement or agreements to exchange Federal lands or interests therein which are in the State of Alaska for the Selection Rights.

(B) If the value of the Federal property to be exchanged is less than the value of the Selection Rights established in subsection (b), and if such Federal property to be exchanged is not generating receipts to the Federal Government in excess of $1,000,000 per year, then the Secretary may exchange the Federal property for that portion of the Selection Rights having a value equal to that of the Federal property. The remaining selection rights shall remain available for additional exchanges.

(C) For the purposes of any exchange to be consummated under this section, if less than all the selection rights are being exchanged, then the value of the selection rights being exchanged shall be equal to the number of acres of selection rights being exchanged multiplied by a fraction, the numerator of which is the value of all the selection rights as determined pursuant to subsection (b) hereof and the denominator of which is the total number of acres of selection rights.

(2) ADDITIONAL EXCHANGES.—If, after 10 years from the date of the enactment of this section, the Secretary was unable to conclude such exchanges as may be required to acquire all of the selection rights, he shall conclude exchanges for the remaining selection rights for such Federal property as may be identified by Koniag, which property is available for transfer to the administrative jurisdiction of the Secretary under any provision of law and which property, at the time of the proposed transfer to Koniag is not generating receipts to the Federal Government in excess of $1,000,000 per year. The Secretary shall keep Koniag advised in a timely manner as to which properties may be available for such transfer. Upon receipt of such identification by Koniag, the Secretary shall request in a timely manner the transfer of such identified property to the administrative jurisdiction of the Department of the Interior. Such property shall not be subject to the geographic limitations of section 206(b) of the Federal Land Policy and Management Act and may be retained by the Secretary solely for purposes of transferring it to Koniag to complete the exchange. Should the value of the property so identified by Koniag be in excess of the value of the remaining selection rights, then Koniag shall have the option of (A) declining to proceed with the exchange and identifying other property, or (B) paying the difference in value between the property rights.

(3) REVENUES.—Any property received by Koniag in an exchange entered into pursuant to paragraph (1) or (2) shall be deemed to be an interest in the subsurface for purposes of section 7(i) of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.): *Provided however*, That should Koniag make a payment to equalize the value in any such exchange, then Koniag will be deemed to hold an undivided interest in the property equal in value to such payment which interest shall not be subject to the provisions of section 7(i) of that Act.

(d) AUTHORITY TO APPOINT AND REMOVE TRUSTEE.—In establishing a Settlement Trust under section 39 of the Alaska Native Claims Settlement Act (43 U.S.C. 1629c), Koniag may delegate, in whole or in part, the authority granted to Koniag under subsection (b)(2) of such section to any entity that Koniag may select without affecting the status of the trust as a Settlement Trust under such section.

SEC. 304. SNOWBASIN LAND EXCHANGE ACT.

(a) PURPOSE AND INTENT.—The purpose of this section is to authorize and direct the Secretary to exchange 1,320 acres of federally-owned land within the Cache National Forest in the State of Utah for lands of approximately equal value owned by the Sun Valley Company. It is the intent of Congress that this exchange be completed without delay within the period specified by subsection (d).

(b) DEFINITIONS.—As used in this section:

(1) The term "Sun Valley Company" means the Sun Valley Company, a division of Sinclair Oil Corporation, a Wyoming Corporation, or its successors or assigns.

(2) The term "Secretary" means the Secretary of Agriculture.

(c) EXCHANGE.—

(1) FEDERAL SELECTED LANDS.—(A) Not later than 45 days after the final determination of value of the Federal selected lands, the Secretary shall, subject to this section, transfer all right, title, and interest of the United States in and to the lands referred to in subparagraph (B) to the Sun Valley Company.

(B) The lands referred to in subparagraph (A) are certain lands within the Cache National Forest in the State of Utah comprising 1,320 acres, more or less, as generally depicted on the map entitled "Snowbasin Land Exchange—Proposed" and dated October 1995.

(2) NON-FEDERAL OFFERED LANDS.—Upon transfer of the Federal selected lands under paragraph (1), and in exchange for those lands, the Sun Valley Company shall simultaneously convey to the Secretary all right, title and interest of the Sun Valley Company in and to so much of the following offered lands which have been previously identified by the United States Forest Service as desirable by the United States, or which are identified pursuant to subparagraph (E) prior to the transfer of lands under paragraph (1), as are of approximate equal value to the Federal selected lands:

(A) Certain lands located within the exterior boundaries of the Cache National Forest in Weber County, Utah, which comprise approximately 640 acres and are generally depicted on a map entitled "Lightning Ridge Offered Lands", dated October 1995.

(B) Certain lands located within the Cache National Forest in Weber County, Utah, which comprise approximately 635 acres and are generally depicted on a map entitled "Wheeler Creek Watershed Offered Lands—Section 2" dated October 1995.

(C) Certain lands located within the exterior boundaries of the Cache National Forest in Weber County, Utah, and lying immediately adjacent to the outskirts of the City of Ogden, Utah, which comprise approximately 800 acres and are generally depicted on a map entitled "Taylor Canyon Offered Lands", dated October 1995.

(D) Certain lands located within the exterior boundaries of the Cache National Forest in Weber County, Utah, which comprise approximately 2,040 acres and are generally depicted on a map entitled "North Fork Ogden River—Devil's Gate Valley", dated October 1995.

(E) Such additional offered lands in the State of Utah as may be necessary to make

the values of the lands exchanged pursuant to this section approximately equal, and which are acceptable to the Secretary.

(3) SUBSTITUTION OF OFFERED LANDS.—If one or more of the precise offered land parcels identified in subparagraphs (A) through (D) of paragraph (2) is unable to be conveyed to the United States due to appraisal or other reasons, or if the Secretary and the Sun Valley Company mutually agree and the Secretary determines that an alternative offered land package would better serve long term public needs and objectives, the Sun Valley Company may simultaneously convey to the United States alternative offered lands in the State of Utah acceptable to the Secretary in lieu of any or all of the lands identified in subparagraphs (A) through (D) of paragraph (2).

(4) VALUATION AND APPRAISALS.—(A) Values of the lands to be exchanged pursuant to this section shall be equal as determined by the Secretary utilizing nationally recognized appraisal standards and in accordance with section 206 of the Federal Land Policy and Management Act of 1976. The appraisal reports shall be written to Federal standards as defined in the Uniform Appraisal Standards for Federal Land Acquisitions. If, due to size, location, or use of lands exchanged under this section, the values are not exactly equal, they shall be equalized by the payment of cash equalization money to the Secretary or the Sun Valley Company as appropriate in accordance with section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)). In order to expedite the consummation of the exchange directed by this section, the Sun Valley Company shall arrange and pay for appraisals of the offered and selected lands by a qualified appraiser with experience in appraising similar properties and who is mutually acceptable to the Sun Valley Company and the Secretary. The appraisal of the Federal selected lands shall be completed and submitted to the Secretary for technical review and approval no later than 120 days after the date of enactment of this Act, and the Secretary shall make a determination of value not later than 30 days after receipt of the appraisal. In the event the Secretary and the Sun Valley Company are unable to agree to the appraised value of a certain tract or tracts of land, the appraisal, appraisals, or appraisal issues in dispute and a final determination of value shall be resolved through a process of bargaining or submission to arbitration in accordance with section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)).

(B) In order to expedite the appraisal of the Federal selected lands, such appraisal shall—

(i) value the land in its unimproved state, as a single entity for its highest and best use as if in private ownership and as of the date of enactment of this Act;

(ii) consider the Federal lands as an independent property as though in the private marketplace and suitable for development to its highest and best use;

(iii) consider in the appraisal any encumbrance on the title anticipated to be in the conveyance to Sun Valley Company and reflect its effect on the fair market value of the property; and

(iv) not reflect any enhancement in value to the Federal selected lands based on the existence of private lands owned by the Sun Valley Company in the vicinity of the Snowbasin Ski Resort, and shall assume that private lands owned by the Sun Valley Company are not available for use in conjunction with the Federal selected lands.

(d) GENERAL PROVISIONS RELATING TO THE EXCHANGE.—

(1) IN GENERAL.—The exchange authorized by this section shall be subject to the following terms and conditions:

(A) RESERVED RIGHTS-OF-WAY.—In any deed issued pursuant to subsection (c)(1), the Secretary shall reserve in the United States a right of reasonable access across the conveyed property for public access and for administrative purposes of the United States necessary to manage adjacent federally-owned lands. The terms of such reservation shall be prescribed by the Secretary within 30 days after the date of the enactment of this Act.

(B) RIGHT OF RESCISSION.—This section shall not be binding on either the United States or the Sun Valley Company if, within 30 days after the final determination of value of the Federal selected lands, the Sun Valley Company submits to the Secretary a duly authorized and executed resolution of the Company stating its intention not to enter into the exchange authorized by this section.

(2) WITHDRAWAL.—Subject to valid existing rights, effective on the date of enactment of this Act, the Federal selected lands described in subsection (c)(1) and all National Forest System lands currently under special use permit to the Sun Valley Company at the Snowbasin Ski Resort are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws) and from disposition under all laws pertaining to mineral and geothermal leasing.

(3) DEED.—The conveyance of the offered lands to the United States under this section shall be by general warranty or other deed acceptable to the Secretary and in conformity with applicable title standards of the Attorney General of the United States.

(4) STATUS OF LANDS.—Upon acceptance of title by the Secretary, the land conveyed to the United States pursuant to this section shall become part of the Wasatch or Cache National Forests as appropriate, and the boundaries of such National Forests shall be adjusted to encompass such lands. Once conveyed, such lands shall be managed in accordance with the Act of March 1, 1911, as amended (commonly known as the "Weeks Act"), and in accordance with the other laws, rules and regulations applicable to National Forest System lands. This paragraph does not limit the Secretary's authority to adjust the boundaries pursuant to section 11 of the Act of March 1, 1911 ("Weeks Act"). For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundaries of the Wasatch and Cache National Forests, as adjusted by this section, shall be considered to be boundaries of the forests as of January 1, 1965.

(e) PHASE FACILITY CONSTRUCTION AND OPERATION.—

(1) PHASE I FACILITY FINDING AND REVIEW.—(A) The Congress has reviewed the Snowbasin Ski Area Master Development Plan dated October 1995 (hereinafter in this subsection referred to as the "Master Plan"). On the basis of such review, and review of previously completed environmental and other resource studies for the Snowbasin Ski Area, Congress hereby finds that the "Phase I" facilities referred to in the Master Plan to be located on National Forest System land after consummation of the land exchange directed by this section are limited in size and scope, are reasonable and necessary to accommodate the 2002 Olympics, and in some cases are required to provide for the safety of skiing competitors and spectators.

(B) Within 60 days after the date of enactment of this Act, the Secretary and the Sun Valley Company shall review the Master Plan insofar as such plan pertains to Phase I facilities which are to be constructed and operated wholly or partially on National Forest System lands retained by the Secretary after consummation of the land exchange directed by this section. The Secretary may modify such Phase I facilities upon mutual agreement with the Sun Valley Company or by imposing conditions pursuant to paragraph (2) of this subsection.

(C) Within 90 days after the date of enactment of this Act, the Secretary shall submit the reviewed Master Plan on the Phase I facilities, including any modifications made thereto pursuant to subparagraph (B), to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives for a 30-day review period. At the end of the 30-day period, unless otherwise directed by Act of Congress, the Secretary may issue all necessary authorizations for construction and operation of such facilities or modifications thereof in accordance with the procedures and provisions of paragraph (2) of this subsection.

(2) PHASE I FACILITY APPROVAL, CONDITIONS, AND TIMETABLE.—Within 120 days of receipt of an application by the Sun Valley Company to authorize construction and operation of any particular Phase I facility, facilities, or group of facilities, the Secretary, in consultation with the Sun Valley Company, shall authorize construction and operation of such facility, facilities, or group of facilities, subject to the general policies of the Forest Service pertaining to the construction and operation of ski area facilities on National Forest System lands and subject to reasonable conditions to protect National Forest System resources. In providing authorization to construct and operate a facility, facilities, or group of facilities, the Secretary may not impose any condition that would significantly change the location, size, or scope of the applied for Phase I facility unless—

(A) the modification is mutually agreed to by the Secretary and the Sun Valley Company; or

(B) the modification is necessary to protect health and safety.

Nothing in this subsection shall be construed to affect the Secretary's responsibility to monitor and assure compliance with the conditions set forth in the construction and operation authorization.

(3) CONGRESSIONAL DIRECTIONS.—Notwithstanding any other provision of law, Congress finds that consummation of the land exchange directed by this section and all determinations, authorizations, and actions taken by the Secretary pursuant to this section pertaining to Phase I facilities on National Forest System lands, or any modifications thereof, to be nondiscretionary actions authorized and directed by Congress and hence to comply with all procedural and other requirements of the laws of the United States. Such determinations, authorizations, and actions shall not be subject to administrative or judicial review.

(f) NO PRECEDENT.—Nothing in subsection (c)(4)(B) of this section relating to conditions or limitations on the appraisal of the Federal lands, or any provision of subsection (e), relating to the approval by the Congress or the Forest Service of facilities on National Forest System lands, shall be construed as a precedent for subsequent legislation.

SEC. 305. ARKANSAS AND OKLAHOMA LAND EXCHANGE.

(a) FINDINGS.—Congress finds that:

(1) the Weyerhaeuser Company has offered to the United States Government an exchange of lands under which Weyerhaeuser would receive approximately 48,000 acres of Federal land in Arkansas and Oklahoma and all mineral interests and oil and gas interests pertaining to these exchanged lands in which the United States Government has an interest in return for conveying to the United States lands owned by Weyerhaeuser consisting of approximately 181,000 acres of forested wetlands and other forest land of public interest in Arkansas and Oklahoma and all mineral interests and all oil and gas interests pertaining to 48,000 acres of these 181,000 acres of exchanged lands in which Weyerhaeuser has an interest, consisting of—

(A) certain lands in Arkansas (Arkansas Ouachita lands) located near Poteau Mountain, Caney Creek Wilderness, Lake Ouachita, Little Missouri Wild and Scenic River, Flatside Wilderness and the Ouachita National Forest;

(B) certain lands in Oklahoma (Oklahoma lands) located near the McCurtain County Wilderness, the Broken Bow Reservoir, the Glover River, and the Ouachita National Forest; and

(C) certain lands in Arkansas (Arkansas Cossatot lands) located on the Little and Cossatot Rivers and identified as the "Pond Creek Bottoms" in the Lower Mississippi River Delta section of the North American Waterfowl Management Plan;

(2) acquisition of the Arkansas Cossatot lands by the United States will remove the lands in the heart of a critical wetland ecosystem from sustained timber production and other development;

(3) the acquisition of the Arkansas Ouachita lands and the Oklahoma lands by the United States for administration by the Forest Service will provide an opportunity for enhancement of ecosystem management of the National Forest System lands and resources;

(4) the Arkansas Ouachita lands and the Oklahoma lands have outstanding wildlife habitat and important recreational values and should continue to be made available for activities such as public hunting, fishing, trapping, nature observation, enjoyment, education, and timber management whenever these activities are consistent with applicable Federal laws and land and resource management plans; these lands, especially in the riparian zones, also harbor endangered, threatened and sensitive plants and animals and the conservation and restoration of these areas are important to the recreational and educational public uses and will represent a valuable ecological resource which should be conserved;

(5) the private use of the lands the United States will convey to Weyerhaeuser will not conflict with established management objectives on adjacent Federal lands;

(6) the lands the United States will convey to Weyerhaeuser as part of the exchange described in paragraph (1) do not contain comparable fish, wildlife, or wetland values;

(7) the values of all lands, mineral interests, and oil and gas interests to be exchanged between the United States and Weyerhaeuser are approximately equal in value; and

(8) the exchange of lands, mineral interests, and oil and gas interests between Weyerhaeuser and the United States is in the public interest.

(b) PURPOSE.—The purpose of this section is to authorize and direct the Secretary of the Interior and the Secretary of Agriculture, subject to the terms of this title, to complete, as expeditiously as possible, an exchange of lands, mineral interests, and oil and gas interests with Weyerhaeuser that will provide environmental, land management, recreational, and economic benefits to the States of Arkansas and Oklahoma and to the United States.

(c) DEFINITIONS.—As used in this section:

(1) LAND.—The terms "land" or "lands" mean the surface estate and any other interests therein except for mineral interests and oil and gas interests.

(2) MINERAL INTERESTS.—The term "mineral interests" means geothermal steam and heat and all metals, ores, and minerals of any nature whatsoever, except oil and gas interests, in or upon lands subject to this title including, but not limited to, coal, lignite, peat, rock, sand, gravel, and quartz.

(3) OIL AND GAS INTERESTS.—The term "oil and gas interests" means all oil and gas of any nature, including carbon dioxide, helium, and gas taken from coal seams (collectively "oil and gas").

(4) SECRETARIES.—The term "Secretaries" means the Secretary of the Interior and the Secretary of Agriculture.

(5) WEYERHAEUSER.—The term "Weyerhaeuser" means Weyerhaeuser Company, a company incorporated in the State of Washington.

(d) EXCHANGE OF LANDS AND MINERAL INTERESTS.—

(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any other provision of law, within 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall convey to Weyerhaeuser, subject to any valid existing rights, approximately 20,000 acres of Federal lands and mineral interests in the State of Arkansas and approximately 28,000 acres of Federal lands and mineral interests in the State of Oklahoma as depicted on maps entitled "Arkansas-Oklahoma Land Exchange—Federal Arkansas and Oklahoma Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries.

(2) OFFER AND ACCEPTANCE OF LANDS.—The Secretary of Agriculture shall make the conveyance to Weyerhaeuser if Weyerhaeuser conveys deeds of title to the United States, subject to limitations and the reservation described in subsection (e) and which are acceptable to and approved by the Secretary of Agriculture to the following—

(A) approximately 115,000 acres of lands and mineral interests in the State of Oklahoma, as depicted on a map entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Oklahoma Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries;

(B) approximately 41,000 acres of lands and mineral interests in the State of Arkansas, as depicted on a map entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Arkansas Ouachita Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries; and

(C) approximately 25,000 acres of lands and mineral interests in the State of Arkansas, as depicted on a map entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Arkansas Cossatot Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries.

(e) EXCHANGE OF OIL AND GAS INTERESTS.—

(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any other provision of law, at the same time as the exchange for land and mineral interests is carried out pursuant to this section, the Secretary of Agriculture shall exchange all Federal oil and gas interests, including existing leases and other agreements, in the lands described in subsection (d)(1) for equivalent oil and gas interests, including existing leases and other agreements, owned by Weyerhaeuser in the lands described in subsection (d)(2).

(2) RESERVATION.—In addition to the exchange of oil and gas interests pursuant to paragraph (1), Weyerhaeuser shall reserve oil and gas interests in and under the lands depicted for reservation upon a map entitled Arkansas-Oklahoma Land Exchange—Weyerhaeuser Oil and Gas Interest Reservation Lands , dated February 1996 and available for public inspection in appropriate offices of the Secretaries. Such reservation shall be subject to the provisions of this title and the form of such reservation shall comply with the jointly agreed to Memorandum of Understanding between the Forest Service and Weyerhaeuser dated March 27, 1996 and on file with the Office of the Chief of the Forest Service in Washington, D.C. and with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives.

(f) GENERAL PROVISIONS.—

(1) MAPS CONTROLLING.—The acreage cited in this section is approximate. In the case of a discrepancy between the description of lands, mineral interests, or oil and gas interests to be exchanged pursuant to subsections (d) and (e) and the lands, mineral interests, or oil and gas interests depicted on a map referred to in such subsection, the map shall control. The maps referenced in this section shall be subject to such minor corrections as may be agreed upon by the Secretaries and Weyerhaeuser so long as the Secretary of Agriculture notifies the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives of any such minor corrections.

(2) FINAL MAPS.—Not later than 180 days after the conclusion of the exchange required by subsections (d) and (e), the Secretaries shall transmit maps accurately depicting the lands, mineral interests, and oil and gas interests conveyed and transferred pursuant to this section and the acreage and boundary descriptions of such lands, mineral interests, and oil and gas interests to the Committees on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(3) CANCELLATION.—If, before the exchange has been carried out pursuant to subsections (d) and (e), Weyerhaeuser provides written notification to the Secretaries that Weyerhaeuser no longer intends to complete the exchange, with respect to the lands, mineral interests, and oil and gas interests that would otherwise be subject to the exchange, the status of such lands, mineral interests, and oil and gas interests shall revert to the status of such lands, mineral interests, and oil and gas interests as of the day before the date of enactment of this Act and shall be managed in accordance with applicable law and management plans.

(4) WITHDRAWAL.—Subject to valid existing rights, the lands and interests therein depicted for conveyance to Weyerhaeuser on the maps referenced in subsections (d) and (e) are withdrawn from all forms of entry and appropriation under the public land laws (including the mining laws) and from the operation of mineral leasing and geothermal

steam leasing laws effective upon the date of the enactment of this title. Such withdrawal shall terminate 45 days after completion of the exchange provided for in subsections (d) and (e) or on the date of notification by Weyerhaeuser of a decision not to complete the exchange.

(g) NATIONAL FOREST SYSTEM.—

(1) ADDITION TO THE SYSTEM.—Upon approval and acceptance of title by the Secretary of Agriculture, the 156,000 acres of land conveyed to the United States pursuant to subsection (d)(2)(A) and (B) of this section shall be subject to the Act of March 1, 1911 (commonly known as the Weeks Law) (36 Stat. 961, as amended), and shall be administered by the Secretary of Agriculture in accordance with the laws and regulations pertaining to the National Forest System.

(2) PLAN AMENDMENTS.—No later than 12 months after the completion of the exchange required by this section, the Secretary of Agriculture shall begin the process to amend applicable land and resource management plans with public involvement pursuant to section 6 of the Forest and Rangeland Renewable Resource Planning Act of 1974, as amended by the National Forest Management Act of 1976 (16 U.S.C. 1604); Provided, that no amendment or revision of applicable land and resource management plans shall be required prior to completion of the amendment process required by this paragraph for the Secretary of Agriculture to authorize or undertake activities consistent with forest wide standards and guidelines and all other applicable laws and regulations on lands conveyed to the United States pursuant to subsection (d)(2)(A) and (B).

(h) OTHER.—

(1) ADDITION TO THE NATIONAL WILDLIFE REFUGE SYSTEM.—Once acquired by the United States, the 25,000 acres of land identified in subsection (d)(2)(C), the Arkansas Cossatot lands, shall be managed by the Secretary of the Interior as a component of the Cossatot National Wildlife Refuge in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee).

(2) PLAN PREPARATION.—Within 24 months after the completion of the exchange required by this section, the Secretary of the Interior shall prepare and implement a single refuge management plan for the Cossatot National Wildlife Refuge, as expanded by this title. Such plans shall recognize the important public purposes served by the nonconsumptive activities, other recreational activities, and wildlife-related public use, including hunting, fishing, and trapping. The plan shall permit, to the maximum extent practicable, compatible uses to the extent that they are consistent with sound wildlife management and in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) and other applicable laws. Any regulations promulgated by the Secretary of the Interior with respect to hunting, fishing, and trapping on those lands shall, to the extent practicable, be consistent with State fish and wildlife laws and regulations. In preparing the management plan and regulations, the Secretary of the Interior shall consult with the Arkansas Game and Fish Commission.

(3) INTERIM USE OF LANDS.—

(A) IN GENERAL.—Except as provided in paragraph (2), during the period beginning on the date of the completion of the exchange of lands required by this section and ending on the first date of the implementation of the plan prepared under paragraph (2), the Secretary of the Interior shall administer all lands added to the Cossatot National Wildlife Refuge pursuant to this title in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) and other applicable laws.

(B) HUNTING SEASONS.—During the period described in subparagraph (A), the duration of any hunting season on the lands described in paragraph (1) shall comport with the applicable State law.

(i) OUACHITA NATIONAL FOREST BOUNDARY ADJUSTMENT.—Upon acceptance of title by the Secretary of Agriculture of the lands conveyed to the United States pursuant to subsection (d)(2)(A) and (B), the boundaries of the Ouachita National Forest shall be adjusted to encompass those lands conveyed to the United States generally depicted on the appropriate maps referred to in subsection (d). Nothing in this subsection shall limit the authority of the Secretary of Agriculture to adjust the boundary pursuant to section 11 of the Weeks Law of March 1, 1911. For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9), the boundaries of the Ouachita National Forest, as adjusted by this section, shall be considered to be the boundaries of the Forest as of January 1, 1965.

(j) MAPS AND BOUNDARY DESCRIPTIONS.—Not later than 180 days after the date of enactment of this title, the Secretary of Agriculture shall prepare a boundary description of the lands depicted on the map(s) referred to in subsection (d)(2)(A) and (B). Such map(s) and boundary description shall have the same force and effect as if included in this Act, except that the Secretary of Agriculture may correct clerical and typographical errors.

SEC. 306. BIG THICKET NATIONAL PRESERVE.

(a) EXTENSION.—The last sentence of subsection (d) of the first section of the Act entitled "An Act to authorize the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes", approved October 11, 1974 (16 U.S.C. 698(d)), is amended by striking out "two years after date of enactment" and inserting "five years after the date of enactment".

(b) INDEPENDENT APPRAISAL.—Subsection (d) of the first section of such Act (16 U.S.C. 698(d)) is further amended by adding at the end the following: "The Secretary, in considering the values of the private lands to be exchanged under this subsection, shall consider independent appraisals submitted by the owners of the private lands.".

(c) LIMITATION.—Subsection (d) of the first section of such Act (16 U.S.C. 698(d)), as amended by subsection (b), is further amended by adding at the end the following: "The authority to exchange lands under this subsection shall expire on July 1, 1998.".

(d) REPORTING REQUIREMENT.—Not later than 6 months after the date of the enactment of this Act and every 6 months thereafter until the earlier of the consummation of the exchange or July 1, 1998, the Secretary of the Interior and the Secretary of Agriculture shall each submit a report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate concerning the progress in consummating the land exchange authorized by the amendments made by Big Thicket National Preserve Addition Act of 1993 (Public Law 103–46).

(e) LAND EXCHANGE IN LIBERTY COUNTY, TEXAS.—If, within one year after the date of the enactment of this Act—

(1) the owners of the private lands described in subsection (f)(1) offer to transfer all their right, title, and interest in and to such lands to the Secretary of the Interior, and

(2) Liberty County, Texas, agrees to accept the transfer of the Federal lands described in subsection (f)(2),

the Secretary shall accept such offer of private lands and, in exchange and without additional consideration, transfer to Liberty County, Texas, all right, title, and interest of the United States in and to the Federal lands described in subsection (f)(2).

(f) LANDS DESCRIBED.—

(1) PRIVATE LANDS.—The private lands described in this paragraph are approximately 3.76 acres of lands located in Liberty County, Texas, as generally depicted on the map entitled "Big Thicket Lake Estates Access—Proposed".

(2) FEDERAL LANDS.—The Federal lands described in this paragraph are approximately 2.38 acres of lands located in Menard Creek Corridor Unit of the Big Thicket National Preserve, as generally depicted on the map referred to in paragraph (1).

(g) ADMINISTRATION OF LANDS ACQUIRED BY THE UNITED STATES.—The lands acquired by the Secretary under subsection (e) shall be added to and administered as part of the Menard Creek Corridor Unit of the Big Thicket National Preserve.

SEC. 307. LOST CREEK LAND EXCHANGE.

(a) LAND EXCHANGE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Agriculture (referred to in this section as the "Secretary") shall—

(A) acquire by exchange certain land and interests in land owned by R-Y Timber, Inc., and its affiliates, successors, and assigns (referred to in this section as the "Corporation"), located in the Lost Creek and Twin Lakes areas of the Beaverhead-Deerlodge National Forest, Montana; and

(B)(i) convey certain land and interests in land owned by the United States and located in the Beaverhead-Deerlodge National Forest and the Gallatin National Forest, Montana, to the Corporation; and

(ii) grant the right to harvest timber on land in the Beaverhead-Deerlodge National Forest and the Gallatin National Forest as specified in the document under paragraph (4).

(2) OFFER AND ACCEPTANCE OF LAND.—

(A) NON-FEDERAL LAND.—If the Corporation offers to convey to the United States fee title that is acceptable to the Secretary to approximately 17,567 acres of land owned by the Corporation and available for exchange, as depicted on the map entitled "R-Y/Forest Service Land Exchange Proposal", dated June, 1996, and described in the document under paragraph (4), the Secretary shall accept a warranty deed to the land.

(B) FEDERAL LAND.—

(i) CONVEYANCE.—On acceptance of title to the Corporation's land under subparagraph (A) and on the effective date of the document under paragraph (4), the Secretary shall—

(I) convey to the Corporation, subject to valid existing rights, by exchange deed, fee title to approximately 7,185 acres in the Beaverhead-Deerlodge National Forest; and

(II) grant to the Corporation the right to harvest approximately 6,200,000 board feet of timber on certain land in the Beaverhead-Deerlodge National Forest and approximately 4,000,000 board feet of timber on certain land in the Gallatin National Forest, collectively referred to as the harvest volume, as depicted on the map described in subparagraph (A) and subject to the terms and conditions stated in the document under paragraph (4).

(3) TIMBER HARVESTING.—

(A) IN GENERAL.—The timber harvest volume described in paragraph (2)(B)(i)(II) is in addition to, and is not intended as an offset against, the present or future planned timber sale program for the Beaverhead-Deerlodge National Forest or the Gallatin National Forest, so long as the allowable sale quantity for each national forest, respectively, is not exceeded for the planning period.

(B) SBA SHARE.—The Forest Service shall not reduce its Small Business Administration share of timber sale set-aside offerings in the Beaverhead-Deerlodge National Forest or the Gallatin National Forest by reason of the land exchange under this subsection.

(C) MINIMUM AND MAXIMUM ANNUAL HARVESTS.—

(i) IN GENERAL.—Subject to clause (ii)—

(I) not less than 20 nor more than 30 percent of the timber described in paragraph (2)(B)(i)(II) shall be made available by the end of each fiscal year over a 4- or 5-year period beginning with the first fiscal year that begins after the date of enactment of this Act; and

(II) the Corporation shall be allowed at least 3 years after the end of each fiscal year in which to complete the harvest of timber made available for that fiscal year.

(ii) EXCEPTIONAL CIRCUMSTANCES.—The timber harvest volumes specified in clause (i) shall not be required in the case of the occurrence of exceptional circumstances identified in the agreement under paragraph (4). In the case of such an occurrence that results in the making available of less than 20 percent of the timber for any fiscal year, the Secretary shall provide compensation of equal value to the Corporation in a form provided for in the agreement under paragraph (4).

(4) LAND EXCHANGE SPECIFICATION AGREEMENT.—

(A) IN GENERAL.—Notwithstanding any other provision of law, a document entitled 'R-Y/Forest Service Land Exchange Specifications' shall be jointly developed and agreed to by the Corporation and the Secretary.

(B) DESCRIPTIONS OF LANDS TO BE EXCHANGED.—The document under subparagraph (A) shall define the non-Federal and Federal lands and interests in land to be exchanged and include legal descriptions of the lands and interests in land and an agreement to harvest timber on National Forest System land in accordance with the standard timber contract specifications, section 251.14 of title 36, Code of Federal Regulations (as in effect on the date of enactment of this Act), and any other pertinent conditions.

(C) SUBMISSION TO CONGRESS.—The document under subparagraph (A)—

(i) upon its completion shall be submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives; and

(ii) shall not take effect until 45 days after the date of submission to both committees.

(D) DESIGN AND LAYOUT.—

(i) IN GENERAL.—The Forest Service shall determine the timber sale design and layout in consultation with the Corporation.

(ii) HARVEST VOLUME.—Identification of the timber harvest volume shall be determined in accordance with Department of Agriculture standards.

(iii) MONITORING.—The Forest Service shall monitor harvest and post-harvest activities to ensure compliance with the terms and conditions of the document under subparagraph (A).

(5) CONFLICT.—In case of conflict between the map described in paragraph (2)(A) and the document under paragraph (4), the map shall control.

(b) TITLE.—

(1) REVIEW OF TITLE.—Not later than 60 days after receipt of title documents from the Corporation, the Secretary shall review the title for the non-Federal land described in subsection (a)(2)(A) and determine whether—

(A) title standards of the Department of Justice applicable to Federal land acquisition have been satisfied or the quality of title is otherwise acceptable to the Secretary;

(B) all draft conveyances and closing documents have been received and approved;

(C) a current title commitment verifying compliance with applicable title standards has been issued to the Secretary; and

(D) the Corporation has complied with the conditions imposed by this section.

(2) UNACCEPTABLE QUALITY OF TITLE.—If the quality of title does not meet Federal standards and is not otherwise acceptable to the Secretary, the Secretary shall advise the Corporation regarding corrective actions necessary to make an affirmative determination.

(3) CONVEYANCE OF TITLE.—The Secretary shall accept the conveyance of land described in subsection (a)(2)(A) not later than 60 days after the Secretary has made an affirmative determination of quality of title.

(c) GENERAL PROVISIONS.—

(1) MAPS AND DOCUMENTS.—

(A) IN GENERAL.—The map described in subsection (a)(2)(A) and the document under subsection (a)(4) shall be subject to such minor corrections as may be agreed upon by the Secretary and the Corporation.

(B) PUBLIC AVAILABILITY.—The map described in subsection (a)(2)(A) and the document under subsection (a)(4) shall be on file and available for public inspection in the appropriate offices of the Forest Service.

(2) NATIONAL FOREST SYSTEM LAND.—

(A) IN GENERAL.—All land conveyed to the United States under this section shall be added to and administered as part of the Beaverhead-Deerlodge National Forest and shall be administered by the Secretary in accordance with the laws (including regulations) pertaining to the National Forest System.

(B) WILDERNESS STUDY AREA ACQUISITIONS.—Land acquired under this section that is located within the boundary of a wilderness area in existence on the date of enactment of this Act shall be included within the National Wilderness Preservation System.

(3) VALUATION.—The values of the lands and interests in land to be exchanged under this section are deemed to be equal.

(4) LIABILITY FOR HAZARDOUS SUBSTANCES.—The United States (including the departments, agencies, and employees of the United States) shall not be liable under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), or any other Federal, State, or local law solely as a result of the acquisition of an interest in the land described in subsection (a)(2)(A) or because of circumstances or events occurring before the acquisition, including any release or threat of release of a hazardous substance.

(5) RELEASE FROM STUDY.—The land comprising approximately 1,320 acres in the Beaverhead-Deerlodge National Forest, as generally depicted on the map entitled "West Pioneer Study Deletion—Proposed", dated 1994, is released from study under section 2(a)(1) of the Montana Wilderness Study Act of 1977 (91 Stat. 1243).

SEC. 308. CLEVELAND NATIONAL FOREST LAND EXCHANGE.

(a) CONVEYANCE BY THE SECRETARY OF AGRICULTURE.—

(1) CONVEYANCE.—In exchange for the conveyance described in subsection (b), the Secretary of Agriculture (hereinafter referred to as the "Secretary") shall convey to the Orange County Council of the Boy Scouts of America all right, title, and interest of the United States in and to the parcel of land described in paragraph (2) located in the Cleveland National Forest. The parcel conveyed by the Secretary shall be subject to valid existing rights and to any easements that the Secretary considers necessary for public and administrative access.

(2) DESCRIPTION OF PARCEL.—The parcel of land referred to in paragraph (1) consists of not more than 60 acres of land in Section 28, Township 9 South, Range 4 East, San Bernardino Meridian, in the unincorporated territory of San Diego County, California.

(b) CONVEYANCE BY THE BOY SCOUTS OF AMERICA.—

(1) CONVEYANCE.—In exchange for the conveyance described in subsection (a), the Orange County Council of the Boy Scouts of America shall convey to the United States all right, title, and interest to the parcel of land described in paragraph (2). The parcel conveyed under this subsection shall be subject to such valid existing rights of record as may be acceptable to the Secretary, and the title to the parcel shall conform with the title approval standards applicable to Federal land acquisitions.

(2) DESCRIPTION OF PARCEL.—The parcel of land referred to in paragraph (1) shall be approximately equal in value to the lands described in subsection (a)(2) and shall be at least the Southerly 94 acres of the Westerly ½ of Section 34, Township 9 South, Range 4 East, San Bernardino Meridian, in the unincorporated territory of San Diego County, California.

(c) BOUNDARY ADJUSTMENT.—Upon the completion of the land exchange authorized under this section, the Secretary shall adjust the boundaries of the Cleveland National Forest to exclude the parcel conveyed by the Secretary under subsection (a) and to include the parcel obtained by the Secretary under subsection (b). For purposes of section 7 of the Land and Water Conservation Fund Act of 1964 (16 U.S.C. 4601-9), the boundary of the Cleveland National Forest, as modified by this title, shall be considered the boundary of the forest as of January 1, 1965.

(d) INCORPORATION INTO CLEVELAND NATIONAL FOREST.—Upon acceptance of title by the Secretary, the parcel obtained by the Secretary under subsection (b) shall become part of the Cleveland National Forest and shall be subject to all laws applicable to such national forest.

SEC. 309. SAND HOLLOW LAND EXCHANGE.

(a) DEFINITIONS.—As used in this section:

(1) DISTRICT.—The term "District" means the Water Conservancy District of Washington County, Utah.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) BULLOCH SITE.—The term "Bulloch Site" means the lands located in Kane County, Utah, adjacent to Zion National Park, comprised of approximately 550 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated May 30, 1996.

(4) SAND HOLLOW SITE.—The term "Sand Hollow Site" means the lands located in Washington County, Utah, comprised of approximately 3,000 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated May 30, 1996.

(5) QUAIL CREEK PIPELINE.—The term "Quail Creek Pipeline" means the lands located in Washington County, Utah, comprised of approximately 40 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated May 30, 1996.

(6) QUAIL CREEK RESERVOIR.—The term "Quail Creek Reservoir" means the lands located in Washington County, Utah, comprised of approximately 480.5 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated May 30, 1996.

(7) SMITH PROPERTY.—The term "Smith Property" means the lands located in Washington County, Utah, comprised of approximately 1,550 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated May 30, 1996.

(b) EXCHANGE.—

(1) IN GENERAL.—Subject to the provisions of this section, if within 18 months after the date of the enactment of this Act, the Water Conservancy District of Washington County, Utah, offers to transfer to the United States all right, title, and interest of the District in and to the Bulloch Site, the Secretary of the Interior shall, in exchange, transfer to the District all right, title, and interest of the United States in and to the San Hollow Site, the Quail Creek Pipeline and Quail Creek Reservoir, subject to valid existing rights.

(2) WATER RIGHTS ASSOCIATED WITH THE BULLOCH SITE.—The water rights associated with the Bulloch Site shall be transferred to the United States pursuant to Utah State law.

(3) WITHDRAWAL OF MINERAL INTERESTS.—Subject to valid existing rights, the mineral interests underlying the Sand Hollow Site, the Quail Creek Reservoir, and the Quail Creek Pipeline are hereby withdrawn from disposition under the public land laws and from location, entry, and patent under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, from the operation of the Geothermal Steam Act of 1970, and from the operation of the Act of July 31, 1947, commonly known as the "Materials Act of 1947" (30 U.S.C. 601 et seq.).

(4) GRAZING.—The exchange of lands under paragraph (1) shall be subject to agreement by the District to continue to permit the grazing of domestic livestock on the Sand Hollow Site under the terms and conditions of existing Federal grazing leases or permits, except that the District, upon terminating any such lease or permit, shall fully compensate the holder of the terminated lease or permit.

(c) EQUALIZATION OF VALUES.—The value of the lands transferred out of Federal ownership under subsection (b) either shall be equal to the value of the lands received by the Secretary under that section or, if not, shall be equalized by—

(1) to the extent possible, transfer of all right, title, and interest of the District in and to lands in Washington County, Utah, and water rights of the District associated thereto, which are within the area providing habitat for the desert tortoise, as determined by the Director of the Bureau of Land Management;

(2) transfer of all right, title, and interest of the District in and to lands in the Smith Site and water rights of the District associated thereto; and

(3) the payment of money to the Secretary, to the extent that lands and rights transferred under paragraphs (1) and (2) are not sufficient to equalize the values of the lands exchanged under subsection (b)(1).

(d) MANAGEMENT OF LANDS ACQUIRED BY THE UNITED STATES.—Lands acquired by the Secretary under this section shall be administered by the Secretary, acting through the Director of the Bureau of Land Management, in accordance with the provisions of law generally applicable to the public lands, including the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(e) NATIONAL ENVIRONMENTAL POLICY ACT OF 1976.—The exchange of lands under this section is not subject to section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4322).

(f) VALUATION OF LANDS TO BE ACQUIRED BY THE UNITED STATES IN WASHINGTON COUNTY, UTAH.—In acquiring any lands and any interests in lands in Washington County, Utah, by purchase, exchange, donation or other transfers of interest, the Secretary of the Interior shall appraise, value, and offer to acquire such lands and interests without regard to the presence of a species listed as threatened or endangered or any proposed or actual designation of such property as critical habitat for a species listed as threatened or endangered pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 310. BUREAU OF LAND MANAGEMENT AUTHORIZATION FOR FISCAL YEARS 1997 THROUGH 2002.

Section 318(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1748(a)) is amended by striking out "October 1, 1978" and by inserting in lieu thereof "October 1, 2002".

SEC. 311. KENAI NATIVES ASSOCIATION EQUITY.

(a) SHORT TITLE.—This section may be cited as the "Kenai Natives Association Equity Act Amendments of 1996".

(b) FINDINGS AND PURPOSE.—

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

(A) The United States Fish and Wildlife Service and Kenai Natives Association, Inc., have agreed to transfers of certain land rights, in and near the Kenai National Wildlife Refuge, negotiated as directed by Public Law 102–458.

(B) The lands to be acquired by the Service are within the area impacted by the Exxon Valdez oil spill of 1989, and these lands included important habitat for various species of fish and wildlife for which significant injury resulting from the spill has been documented through the EVOS Trustee Council restoration process. This analysis has indicated that these lands generally have value for the restoration of such injured natural resources as pink salmon, dolly varden, bald eagles, river otters, and cultural and archaeological resources. This analysis has also indicated that these lands generally have high value for the restoration of injured species that rely on these natural resources, including wilderness quality, recreation, tourism, and subsistence.

(C) Restoration of the injured species will benefit from acquisition and the prevention of disturbances which may adversely affect their recovery.

(D) It is in the public interest to complete the conveyances provided for in this section.

(2) PURPOSE.—The purpose of this section is to authorize and direct the Secretary, at the election of KNA, to complete the conveyances provided for in this section.

(c) DEFINITIONS.—For purposes of this section, the term—

(1) "ANCSA" means the Alaska Native Claims Settlement Act of 1971 (43 U.S.C. 1601 et seq.);

(2) "ANILCA" means the Alaska National Interest Lands Conservation Act (Public Law 96–487; 94 Stat. 2371 et seq.);

(3) "conservation system unit" has the same meaning as in section 102(4) of ANILCA (16 U.S.C. 3102(4));

(4) "CIRI" means the Cook Inlet Region, Inc., a Native Regional Corporation incorporated in the State of Alaska pursuant to the terms of ANCSA;

(5) "EVOS" means the Exxon Valdez oil spill;

(6) "KNA" means the Kenai Natives Association, Inc., an urban corporation incorporated in the State of Alaska pursuant to the terms of ANCSA;

(7) "lands" means any lands, waters, or interests therein;

(8) "Refuge" means the Kenai National Wildlife Refuge;

(9) "Secretary" means the Secretary of the Interior;

(10) "Service" means the United States Fish and Wildlife Service; and

(11) "Terms and Conditions" means the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area, as clarified on August 31, 1976, ratified by section 12 of Public Law 94–204 (43 U.S.C. 1611 note).

(d) ACQUISITION OF LANDS.—

(1) OFFER TO KNA.—

(A) IN GENERAL.—Subject to the availability of the funds identified in paragraph (2)(C), no later than 90 days after the date of enactment of this section, the Secretary shall offer to convey to KNA the interests in land and rights set forth in paragraph (2)(B), subject to valid existing rights, in return for the conveyance by KNA to the United States of the interests in land or relinquishment of ANCSA selections set forth in paragraph (2)(A). Payment for the lands conveyed to the United States by KNA is contingent upon KNA's acceptance of the entire conveyance outlined herein.

(B) LIMITATION.—The Secretary may not convey any lands or make payment to KNA under this section unless title to the lands to be conveyed by KNA under this section has been found by the United States to be sufficient in accordance with the provisions of section 355 of the Revised Statutes (40 U.S.C. 255).

(2) ACQUISITION LANDS.—

(A) LANDS TO BE CONVEYED TO THE UNITED STATES.—The lands to be conveyed by KNA to the United States, or the valid selection rights under ANCSA to be relinquished, all situated within the boundary of the Refuge, are the following:

(i) The conveyance of approximately 803 acres located along and on islands within the Kenai River, known as the Stephanka Tract.

(ii) The conveyance of approximately 1,243 acres located along the Moose River, known as the Moose River Patented Lands Tract.

(iii) The relinquishment of KNA's selection known as the Moose River Selected Tract, containing approximately 753 acres located along the Moose River.

(iv) The relinquishment of KNA's remaining ANCSA entitlement of approximately 454 acres.

(v) The relinquishment of all KNA's remaining overselections. Upon completion of all relinquishments outlined above, all

KNA's entitlement shall be deemed to be extinguished and the completion of this acquisition will satisfy all of KNA's ANCSA entitlement.

(vi) The conveyance of an access easement providing the United States and its assigns access across KNA's surface estate in the SW¼ of section 21, T. 6 N., R. 9 W., Seward Meridian, Alaska.

(vii) The conveyance of approximately 100 acres within the Beaver Creek Patented Tract, which is contiguous to lands being retained by the United States contiguous to the Beaver Creek Patented Tract, in exchange for 280 acres of Service lands currently situated within the Beaver Creek Selected Tract.

(B) LANDS TO BE CONVEYED TO KNA.—The rights provided or lands to be conveyed by the United States to KNA, are the following:

(i) The surface and subsurface estate to approximately 5 acres, subject to reservations of easements for existing roads and utilities, located within the city of Kenai, Alaska, identified as United States Survey 1435, withdrawn by Executive Order 2934, and known as the old Fish and Wildlife Service Headquarters site.

(ii) The remaining subsurface estate held by the United States to approximately 13,651 acres, including portions of the Beaver Creek Patented Tract, the Beaver Creek Selected Tract, and portions of the Swanson River Road West Tract and the Swanson River Road East Tract, where the surface was previously or will be conveyed to KNA pursuant to this Act but excluding the SW ¼ of section 21, T.6N., R.9W, Seward Meridian, Alaska, which will be retained by the United States. The conveyance of these subsurface interests will be subject to the rights of CIRI to the coal, oil, and gas, and to all rights CIRI, its successors, and assigns would have under paragraph 1(B) of the Terms and Conditions, including the right to sand and gravel, to construct facilities, to have rights-of-way, and to otherwise develop its subsurface interests.

(iii)(I) The nonexclusive right to use sand and gravel which is reasonably necessary for on-site development without compensation or permit on those portions of the Swanson River Road East Tract, comprising approximately 1,738.04 acres; where the entire subsurface of the land is presently owned by the United States. The United States shall retain the ownership of all other sand and gravel located within the subsurface and KNA shall not sell or dispose of such sand and gravel.

(II) The right to excavate within the subsurface estate as reasonably necessary for structures, utilities, transportation systems, and other development of the surface estate.

(iv) The nonexclusive right to excavate within the subsurface estate as reasonably necessary for structures, utilities, transportation systems, and other development of the surface estate on the SW¼, section 21, T. 6 N., R. 9 W., Seward Meridian, Alaska, where the entire subsurface of the land is owned by the United States and which public lands shall continue to be withdrawn from mining following their removal from the Refuge boundary under paragraph (3)(A)(ii). The United States shall retain the ownership of all other sand and gravel located within the subsurface of this parcel.

(v) The surface estate of approximately 280 acres known as the Beaver Creek Selected Tract. This tract shall be conveyed to KNA in exchange for lands conveyed to the United States as described in paragraph (2)(A)(ii).

(C) PAYMENT.—The United States shall make a total cash payment to KNA for the above-described lands of $4,443,000, contingent upon the appropriate approvals of the Federal or State of Alaska EVOS Trustees (or both) necessary for any expenditure of the EVOS settlement funds.

(D) NATIONAL REGISTER OF HISTORIC PLACES.—Upon completion of the acquisition authorized in paragraph (1), the Secretary shall, at no cost to KNA, in coordination with KNA, promptly undertake to nominate the Stephanka Tract to the National Register of Historic Places, in recognition of the archaeological artifacts from the original Dena'ina Settlement. If the Department of the Interior establishes a historical, cultural, or archaeological interpretive site, KNA shall have the exclusive right to operate a Dena'ina interpretive site on the Stephanka Tract under the regulations and policies of the department. If KNA declines to operate such a site, the department may do so under its existing authorities. Prior to the department undertaking any archaeological activities whatsoever on the Stephanka Tract, KNA shall be consulted.

(3) GENERAL PROVISIONS.—

(A) REMOVAL OF KNA LANDS FROM THE NATIONAL WILDLIFE REFUGE SYSTEM.—

(i) Effective on the date of closing for the Acquisition Lands identified in paragraph (2)(B), all lands retained by or conveyed to KNA pursuant to this section, and the subsurface interests of CIRI underlying such lands shall be automatically removed from the National Wildlife Refuge System and shall neither be considered as part of the Refuge nor subject to any laws pertaining solely to lands within the boundaries of the Refuge. The conveyance restrictions imposed by section 22(g) of ANCSA (i) shall then be ineffective and cease to apply to such interests of KNA and CIRI, and (ii) shall not be applicable to the interests received by KNA in accordance with paragraph (2)(B) or to the CIRI interests underlying them. The Secretary shall adjust the boundaries of the Refuge so as to exclude all interests in lands retained or received in exchange by KNA in accordance with this section, including both surface and subsurface, and shall also exclude all interests currently held by CIRI. On lands within the Swanson River Road East Tract, the boundary adjustment shall only include the surface estate where the subsurface estate is retained by the United States.

(ii)(I) The Secretary, KNA, and CIRI shall execute an agreement within 45 days of the date of enactment of this section which preserves CIRI's rights under paragraph 1(B)(1) of the Terms and Conditions, addresses CIRI's obligations under such paragraph, and adequately addresses management issues associated with the boundary adjustment set forth in this section and with the differing interests in land resulting from enactment of this section.

(II) In the event that no agreement is executed as provided for in subclause (I), solely for the purposes of administering CIRI's rights under paragraph 1(B)(1) of the Terms and Conditions, the Secretary and CIRI shall be deemed to have retained their respective rights and obligations with respect to CIRI's subsurface interests under the requirements of the Terms and Conditions in effect on June 18, 1996. Notwithstanding the boundary adjustments made pursuant to this section, conveyances to KNA shall be deemed to remain subject to the Secretary's and CIRI's rights and obligations under paragraph 1(B)(1) of the Terms and Conditions.

(iii) The Secretary is authorized to acquire by purchase or exchange, on a willing seller basis only, any lands retained by or conveyed to KNA. In the event that any lands owned by KNA are subsequently acquired by the United States, they shall be automatically included in the Refuge System. The laws and regulations applicable to Refuge lands shall then apply to these lands and the Secretary shall then adjust the boundaries accordingly.

(iv) Nothing in this section is intended to enlarge or diminish the authorities, rights, duties, obligations, or the property rights held by CIRI under the Terms and Conditions, or otherwise except as set forth in this section. In the event of the purchase by the United States of any lands from KNA in accordance with subparagraph (A)(ii), the United States shall reassume from KNA the rights it previously held under the Terms and Conditions and the provisions in any patent implementing section 22(g) of ANCSA will again apply.

(v) By virtue of implementation of this section, CIRI is deemed entitled to 1,207 acres of in-lieu subsurface entitlement under section 12(a)(1) of ANCSA. Such entitlement shall be fulfilled in accordance with paragraph 1(B)(2)(A) of the Terms and Conditions.

(B) MAPS AND LEGAL DESCRIPTIONS.—Maps and a legal description of the lands described above shall be on file and available for public inspection in the appropriate offices of the United States Department of the Interior, and the Secretary shall, no later than 90 days after enactment of this section, prepare a legal description of the lands described in paragraph (2)(A)(vii). Such maps and legal description shall have the same force and effect as if included in the section, except that the Secretary may correct clerical and typographical errors.

(C) ACCEPTANCE.—KNA may accept the offer made in this section by notifying the Secretary in writing of its decision within 180 days of receipt of the offer. In the event the offer is rejected, the Secretary shall notify the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the Senate.

(D) FINAL MAPS.—Not later than 120 days after the conclusion of the acquisition authorized by paragraph (1), the Secretary shall transmit a final report and maps accurately depicting the lands transferred and conveyed pursuant to this section and the acreage and legal descriptions of such lands to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the Senate.

(e) ADJUSTMENTS TO NATIONAL WILDERNESS SYSTEM.—Upon acquisition of lands by the United States pursuant to subsection (d)(2)(A), that portion of the Stephanka Tract lying south and west of the Kenai River, consisting of approximately 592 acres, shall be included in and managed as part of the Kenai Wilderness and such lands shall be managed in accordance with the applicable provisions of the Wilderness Act and ANILCA.

(f) DESIGNATION OF LAKE TODATONTEN SPECIAL MANAGEMENT AREA.—

(1) PURPOSE.—To balance the potential effects on fish, wildlife, and habitat of the removal of KNA lands from the Refuge System, the Secretary is hereby directed to withdraw, subject to valid existing rights, from location, entry, and patent under the mining laws and to create as a special management unit for the protection of fish, wildlife, and habitat, certain unappropriated and

unreserved public lands, totaling approximately 37,000 acres adjacent to the west boundary of the Kanuti National Wildlife Refuge to be known as the "Lake Todatonten Special Management Area", as depicted on the map entitled Proposed: Lake Todatonten Special Management Area, dated June 13, 1996, and to be managed by the Bureau of Land Management.

(2) MANAGEMENT.—

(A) Such designation is subject to all valid existing rights as well as the subsistence preferences provided under title VIII of ANILCA. Any lands conveyed to the State of Alaska shall be removed from the Lake Todatonten Special Management Area.

(B) The Secretary may permit any additional uses of the area, or grant easements, only to the extent that such use, including leasing under the mineral leasing laws, is determined to not detract from nor materially interfere with the purposes for which the Special Management Area is established.

(C)(i) The BLM shall establish the Lake Todatonten Special Management Area Committee. The membership of the Committee shall consist of 11 members as follows:

(I) Two residents each from the villages of Alatna, Allakaket, Hughes, and Tanana.

(II) One representative from each of Doyon Corporation, the Tanana Chiefs Conference, and the State of Alaska.

(ii) Members of the Committee shall serve without pay.

(iii) The BLM shall hold meetings of the Lake Todatonten Special Management Area Committee at least once per year to discuss management issues within Special Management Area. The BLM shall not allow any new type of activity in the Special Management Area without first conferring with the Committee in a timely manner.

(3) ACCESS.—The Secretary shall allow the following:

(A) Private access for any purpose, including economic development, to lands within the boundaries of the Special Management Area which are owned by third parties or are held in trust by the Secretary for third parties pursuant to the Alaska Native Allotment Act (25 U.S.C. 336). Such rights may be subject to restrictions issued by the BLM to protect subsistence uses of the Special Management Area.

(B) Existing public access across the Special Management Area. Section 1110(a) of ANILCA shall apply to the Special Management Area.

(4) SECRETARIAL ORDER AND MAPS.—The Secretary shall file with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the Senate, the Secretarial Order and maps setting forth the boundaries of the Area within 90 days of the completion of the acquisition authorized by this section. Once established, this Order may only be amended or revoked by Act of Congress.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

TITLE IV—RIVERS AND TRAILS

SEC. 402. RIO PUERCO WATERSHED.

(a) MANAGEMENT PROGRAM.—

(1) IN GENERAL.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management shall—

(A) in consultation with the Rio Puerco Management Committee established by subsection (b)—

(i) establish a clearinghouse for research and information on management within the area identified as the Rio Puerco Drainage Basin, as depicted on the map entitled "the Rio Puerco Watershed" dated June 1994, including—

(I) current and historical natural resource conditions; and

(II) data concerning the extent and causes of watershed impairment; and

(ii) establish an inventory of best management practices and related monitoring activities that have been or may be implemented within the area identified as the Rio Puerco Watershed Project, as depicted on the map entitled "the Rio Puerco Watershed" dated June 1994; and

(B) provide support to the Rio Puerco Management Committee to identify objectives, monitor results of ongoing projects, and develop alternative watershed management plans for the Rio Puerco Drainage Basin, based on best management practices.

(2) RIO PUERCO MANAGEMENT REPORT.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior, in consultation with the Rio Puerco Management Committee, shall prepare a report for the improvement of watershed conditions in the Rio Puerco Drainage Basin described in paragraph (1)(A).

(B) CONTENTS.—The report under subparagraph (A) shall—

(i) identify reasonable and appropriate goals and objectives for landowners and managers in the Rio Puerco watershed;

(ii) describe potential alternative actions to meet the goals and objectives, including proven best management practices and costs associated with implementing the actions;

(iii) recommend voluntary implementation of appropriate best management practices on public and private lands;

(iv) provide for cooperative development of management guidelines for maintaining and improving the ecological, cultural, and economic conditions on public and private lands;

(v) provide for the development of public participation and community outreach programs that would include proposals for—

(I) cooperative efforts with private landowners to encourage implementation of best management practices within the watershed; and

(II) Involvement of private citizens in restoring the watershed;

(vi) provide for the development of proposals for voluntary cooperative programs among the members of the Rio Puerco Management Committee to implement best management practices in a coordinated, consistent, and cost-effective manner;

(vii) provide for the encouragement of, and support implementation of, best management practices on private lands; and

(viii) provide for the development of proposals for a monitoring system that—

(I) builds on existing data available from private, Federal, and State sources;

(II) provides for the coordinated collection, evaluation, and interpretation of additional data as needed or collected; and

(III) will provide information to assess existing resource and socioeconomic conditions; identify priority implementation actions; and assess the effectiveness of actions taken.

(b) RIO PUERCO MANAGEMENT COMMITTEE.—

(1) ESTABLISHMENT.—There is established the Rio Puerco Management Committee (referred to in this section as the "Committee").

(2) MEMBERSHIP.—The Committee shall be convened by a representative of the Bureau of Land Management and shall include representatives from—

(A) the Rio Puerco Watershed Committee;

(B) affected tribes and pueblos;

(C) the National Forest Service of the Department of Agriculture;

(D) the Bureau of Reclamation;

(E) the United States Geological Survey;

(F) the Bureau of Indian Affairs;

(G) the United States Fish and Wildlife Service;

(H) the Army Corps of Engineers;

(I) the Natural Resources Conservation Service of the Department of Agriculture;

(J) the State of New Mexico, including the New Mexico Environment Department of the State Engineer;

(K) affected local soil and water conservation districts;

(L) the Elephant Butte Irrigation District;

(M) private landowners; and

(N) other interested citizens.

(3) DUTIES.—The Rio Puerco Management Committee shall—

(A) advise the Secretary of the Interior, acting through the Director of the Bureau of Land Management, on the development and implementation of the Rio Puerco Management Program described in subsection (a); and

(B) serve as a forum for information about activities that may affect or further the development and implementation of the best management practices described in subsection (a)

(4) TERMINATION.—The Committee shall terminate on the date that is 10 years after the date of enactment of this Act.

(c) REPORT.—Not later than the date that is 2 years after the date of enactment of this Act, and biennially thereafter, the Secretary of the Interior, in consultation with the Rio Puerco Management Committee, shall transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Resources of the House of Representatives a report containing—

(1) a summary of activities of the management program under subsection (a); and

(2) proposals for joint implementation efforts, including funding recommendations.

(d) LOWER RIO GRANDE HABITAT STUDY.—

(1) IN GENERAL.—The Secretary of the Interior, in cooperation with appropriate State agencies, shall conduct a study of the Rio Grande that—

(A) shall cover the distance from Caballo Lake to Sunland Park, New Mexico; and

(B) may cover a greater distance.

(2) CONTENTS.—The study under paragraph (1) shall include—

(A) a survey of the current habitat conditions of the river and its riparian environment;

(B) identification of the changes in vegetation and habitat over the past 400 years and the effect of the changes on the river and riparian area; and

(C) an assessment of the feasibility, benefits, and problems associated with activities to prevent further habitat loss and to restore habitat through reintroduction or establishment of appropriate native plant species.

(3) TRANSMITTAL.—Not later than 3 years after the date on which funds are made available to carry out this section, the Secretary of the Interior shall transmit the study under paragraph (1) to the Committee on Energy and Natural Resources of the Senate and to the Committee on Resources of the House of Representatives.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to

carry out this section a total of $7,500,000 for the 10 fiscal years beginning after the date of enactment of this Act.

SEC. 403. OLD SPANISH TRAIL.

Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is amended by adding at the end the following new paragraph:

"( ) The Old Spanish Trail, beginning in Santa Fe, New Mexico, proceeding through Colorado and Utah, and ending in Los Angeles, California, and the Northern Branch of the Old Spanish Trail, beginning near Espanola, New Mexico, proceeding through Colorado, and ending near Crescent Junction, Utah.".

SEC. 404. GREAT WESTERN SCENIC TRAIL.

Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is amended by adding at the end the following new paragraph:

"( ) The Great Western Scenic Trail, a system of trails to accommodate a variety of travel users in a corridor of approximately 3,100 miles in length extending from the Arizona-Mexico border to the Idaho-Montana-Canada border, following the approximate route depicted on the map identified as 'Great Western Trail Corridor, 1988', which shall be on file and available for public inspection in the Office of the Chief of the Forest Service, United States Department of Agriculture. The trail study shall be conducted by the Secretary of Agriculture, in consultation with the Secretary of the Interior, in accordance with subsection (b) and shall include—

"(A) the current status of land ownership and current and potential use along the designated route;

"(B) the estimated cost of acquisition of lands or interests in lands, if any; and

"(C) an examination of the appropriateness of motorized trial use along the trail.".

SEC. 405. HANFORD REACH PRESERVATION.

Section 2 of Public Law 100-605 is amended as follows:

(1) By striking "interim" in the section heading.

(2) By striking "For a period of eight years after" and inserting "After" in subsection (a).

(3) By striking in subsection (b) "During the eight year interim protection period, provided by this section, all" and inserting "All".

SEC. 406. LAMPREY WILD AND SCENIC RIVER.

(a) DESIGNATION.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end thereof:

"(157) LAMPREY RIVER, NEW HAMPSHIRE.—The 11.5-mile segment extending from the southern Lee town line to the confluence with the Piscassic River in the vicinity of the Durham-Newmarket town line (hereinafter in this paragraph referred to as the 'segment') as a recreational river. The segment shall be administered by the Secretary of the Interior through cooperative agreements between the Secretary and the State of New Hampshire and its relevant political subdivisions, namely the towns of Durham, Lee, and Newmarket, pursuant to section 10(e) of this Act. The segment shall be managed in accordance with the Lamprey River Management Plan dated January 10, 1995, and such amendments thereto as the Secretary of the Interior determines are consistent with this Act. Such plan shall be deemed to satisfy the requirements for a comprehensive management plan pursuant to section 3(d) of this Act.".

(b) MANAGEMENT.—

(1) COMMITTEE.—The Secretary of the Interior shall coordinate his management responsibilities under this Act with respect to the segment designated by subsection (a) with the Lamprey River Advisory Committee established pursuant to New Hampshire RSA 483.

(2) LAND MANAGEMENT.—The zoning ordinances duly adopted by the towns of Durham, Lee, and Newmarket, New Hampshire, including provisions for conservation of shorelands, floodplains, and wetlands associated with the segment, shall be deemed to satisfy the standards and requirements of section 6(c) of the Wild and Scenic Rivers Act, and the provisions of that section, which prohibit Federal acquisition of lands by condemnation, shall apply to the segment designated by subsection (a). The authority of the Secretary to acquire lands for the purposes of this paragraph shall be limited to acquisition by donation or acquisition with the consent of the owner thereof, and shall be subject to the additional criteria set forth in the Lamprey River Management Plan.

(c) UPSTREAM SEGMENT.—Upon request by the town of Epping, which abuts an additional 12 miles of river found eligible for designation as a recreational river, the Secretary of the Interior shall offer assistance regarding continued involvement of the town of Epping in the implementation of the Lamprey River Management Plan and in consideration of potential future addition of that portion of the river within Epping as a component of the Wild and Scenic Rivers System.

SEC. 407. WEST VIRGINIA NATIONAL RIVERS AMENDMENTS OF 1996.

(a) AMENDMENTS PERTAINING TO THE NEW RIVER GORGE NATIONAL RIVER.—

(1) BOUNDARIES.—Section 1101 of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m-15) is amended by striking out "NERI-80,023, dated January 1987" and inserting "NERI-80,028A, dated March 1996".

(2) FISH AND WILDLIFE MANAGEMENT.—Section 1106 of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m-20) is amended by adding the following at the end thereof: "The Secretary shall permit the State of West Virginia to undertake fish stocking activities carried out by the State, in consultation with the Secretary, on waters within the boundaries of the national river. Nothing in this Act shall be construed as affecting the jurisdiction of the State of West Virginia with respect to fish and wildlife.".

(3) CONFORMING AMENDMENTS.—Title XI of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m-15 and following) is amended by adding the following new section at the end thereof:

"SEC. 1117. APPLICABLE PROVISIONS OF OTHER LAW.

"(a) COOPERATIVE AGREEMENTS.—The provisions of section 202(e)(1) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww-1(e)(1)) shall apply to the New River Gorge National River in the same manner and to the same extent as such provisions apply to the Gauley River National Recreation Area.

"(b) REMNANT LANDS.—The provisions of the second sentence of section 203(a) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww-2(a)) shall apply to tracts of land partially within the boundaries of the New River Gorge National River in the same manner and to the same extent as such provisions apply to tracts of land only partially within the Gauley River National Recreation Area.".

(b) VISITOR CENTER.—The Secretary of the Interior is authorized to construct a visitor center and such other related facilities as may be deemed necessary to facilitate visitor understanding and enjoyment of the New River Gorge National River and the Gauley River National Recreation Area in the vicinity of the confluence of the New and Gauley Rivers. Such center and related facilities are authorized to be constructed at a site outside of the boundary of the New River Gorge National River or Gauley River National Recreation Area unless a suitable site is available within the boundaries of either unit.

(c) AMENDMENTS PERTAINING TO THE GAULEY RIVER NATIONAL RECREATION AREA.—

(1) TECHNICAL AMENDMENT.—Section 205(c) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww-4(c)) is amended by adding the following at the end thereof: "If project construction is not commenced within the time required in such license, or if such license is surrendered at any time, such boundary modification shall cease to have any force and effect.".

(2) GAULEY ACCESS.—Section 202(e) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww-1(e)) is amended by adding the following new paragraph at the end thereof:

"(4) ACCESS TO RIVER.—(A) In order to facilitate public safety, use, and enjoyment of the recreation area, and to protect, to the maximum extent feasible, the scenic and natural resources of the area, the Secretary is authorized and directed to acquire such lands or interests in lands and to take such actions as are necessary to provide access by noncommercial entities on the north side of the Gauley River at the area known as Woods Ferry utilizing existing roads and rights-of-way. Such actions by the Secretary shall include the construction of parking and related facilities in the vicinity of Woods Ferry for noncommercial use on lands acquired pursuant to paragraph (3) or on lands acquired with the consent of the owner thereof within the boundaries of the recreation area.

"(B) If necessary, in the discretion of the Secretary, in order to minimize environmental impacts, including visual impacts, within portions of the recreation area immediately adjacent to the river, the Secretary may, by contract or otherwise, provide transportation services for noncommercial visitors, at reasonable cost, between such parking facilities and the river.

"(C) Nothing in subparagraph (A) shall affect the rights of any person to continue to utilize, pursuant to a lease in effect on April 1, 1993, any right of way acquired pursuant to such lease which authorizes such person to use an existing road referred to in subparagraph (A). Except as provided under paragraph (2) relating to access immediately downstream of the Summersville project, until there is compliance with this paragraph the Secretary is prohibited from acquiring or developing any other river access points within the recreation area.".

(d) AMENDMENTS PERTAINING TO THE BLUESTONE NATIONAL SCENIC RIVER.—

(1) BOUNDARIES.—Section 3(a)(65) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(65)) is amended by striking out "WSR-BLU/20,000, and dated January 1987" and inserting "BLUE-80,005, dated May 1996".

(2) PUBLIC ACCESS.—Section 3(a)(65) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(65)) is amended by adding the following at the end thereof: "In order to provide reasonable public access and vehicle parking for public use and enjoyment of the river

designated by this paragraph, consistent with the preservation and enhancement of the natural and scenic values of such river, the Secretary may, with the consent of the owner thereof, negotiate a memorandum of understanding or cooperative agreement, or acquire not more than 10 acres of lands or interests in such lands, or both, as may be necessary to allow public access to the Bluestone River and to provide, outside the boundary of the scenic river, parking and related facilities in the vicinity of the area known as Eads Mill.".

SEC. 408. TECHNICAL AMENDMENT TO THE WILD AND SCENIC RIVERS ACT.

(a) NUMBERING OF PARAGRAPHS.—The unnumbered paragraphs in section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)), relating to each of the following river segments, are each amended by numbering such paragraphs as follows:

River:	Paragraph Number
East Fork of Jemez, New Mexico	(109)
Pecos River, New Mexico	(110)
Smith River, California	(111)
Middle Fork Smith River, California	(112)
North Fork Smith River, California	(113)
Siskiyou Fork Smith River, California	(114)
South Fork Smith River, California	(115)
Clarks Fork, Wyoming	(116)
Niobrara, Nebraska	(117)
Missouri River, Nebraska and South Dakota	(118)
Bear Creek, Michigan	(119)
Black, Michigan	(120)
Carp, Michigan	(121)
Indian, Michigan	(122)
Manistee, Michigan	(123)
Ontonagon, Michigan	(124)
Paint, Michigan	(125)
Pine, Michigan	(126)
Presque Isle, Michigan	(127)
Sturgeon, Hiawatha National Forest, Michigan	(128)
Sturgeon, Ottawa National Forest, Michigan	(129)
East Branch of the Tahquamenon, Michigan	(130)
Whitefish, Michigan	(131)
Yellow Dog, Michigan	(132)
Allegheny, Pennsylvania	(133)
Big Piney Creek, Arkansas	(134)
Buffalo River, Arkansas	(135)
Cossatot River, Arkansas	(136)
Hurricane Creek, Arkansas	(137)
Little Missouri River, Arkansas	(138)
Mulberry River, Arkansas	(139)
North Sylamore Creek, Arkansas	(140)
Richland Creek, Arkansas	(141)
Sespe Creek, California	(142)
Sisquoc River, California	(143)
Big Sur River, California	(144)
Great Egg Harbor River, New Jersey	(145)
The Maurice River, Middle Segment	(146)
The Maurice River, Middle Segment	(147)
The Maurice River, Upper Segment	(148)
The Menantico Creek, Lower Segment	(149)
The Menantico Creek, Upper Segment	(150)
Manumuskin River, Lower Segment	(151)
Manumuskin River, Upper Segment	(152)
Muskee Creek, New Jersey	(153)
Red River, Kentucky	(154)
Rio Grande, New Mexico	(155)
Farmington River, Connecticut	(156)

(b) STUDY RIVERS.—Section 5(a) of such Act is amended as follows:

(1) Paragraph (106), relating to St. Mary's, Florida, is renumbered as paragraph (108).

(2) Paragraph (112), relating to White Clay Creek, Delaware and Pennsylvania, is renumbered as paragraph (113).

(3) The unnumbered paragraphs, relating to each of the following rivers, are amended by numbering such paragraphs as follows:

River:	Paragraph Number
Mills River, North Carolina	(109)
Sudbury, Assabet, and Concord, Massachusetts	(110)
Niobrara, Nebraska	(111)
Lamprey, New Hampshire	(112)
Brule, Michigan and Wisconsin	(114)
Carp, Michigan	(115)
Little Manistee, Michigan	(116)
White, Michigan	(117)
Ontonagon, Michigan	(118)
Paint, Michigan	(119)
Presque Isle, Michigan	(120)
Sturgeon, Ottawa National Forest, Michigan	(121)
Sturgeon, Hiawatha National Forest, Michigan	(122)
Tahquamenon, Michigan	(123)
Whitefish, Michigan	(124)
Clarion, Pennsylvania	(125)
Mill Creek, Jefferson and Clarion Counties, Pennsylvania	(126)
Piru Creek, California	(127)
Little Sur River, California	(128)
Matilija Creek, California	(129)
Lopez Creek, California	(130)
Sespe Creek, California	(131)
North Fork Merced, California	(132)
Delaware River, Pennsylvania and New Jersey	(133)
New River, West Virginia and Virginia	(134)
Rio Grande, New Mexico	(135)

SEC. 409. PROTECTION OF NORTH ST. VRAIN CREEK, COLORADO.

(a) NORTH ST. VRAIN CREEK AND ADJACENT LANDS.—The Act of January 26, 1915, establishing Rocky Mountain National Park (38 Stat. 798; 16 U.S.C. 191 and following), is amended by adding the following new section at the end thereof:

"SEC. 5. NORTH ST. VRAIN CREEK AND ADJACENT LANDS.

"Neither the Secretary of the Interior nor any other Federal agency or officer may approve or issue any permit for, or provide any assistance for, the construction of any new dam, reservoir, or impoundment on any segment of North St. Vrain Creek or its tributaries within the boundaries of Rocky Mountain National Park or on the main stem of North St. Vrain Creek downstream to the point at which the creek crosses the elevation 6,550 feet above mean sea level. Nothing in this section shall be construed to prevent the issuance of any permit for the construction of a new water gaging station on North St. Vrain Creek at the point of its confluence with Coulson Gulch.".

(b) ENCOURAGEMENT OF EXCHANGES.—

(1) LANDS INSIDE ROCKY MOUNTAIN NATIONAL PARK.—Promptly following enactment of this Act, the Secretary of the Interior shall seek to acquire by donation or exchange those lands within the boundaries of Rocky Mountain National Park owned by the city of Longmont, Colorado, that are referred to in section 111(d) of the Act commonly referred to as the "Colorado Wilderness Act of 1980" (Public Law 96-560; 94 Stat. 3272; 16 U.S.C. 192b-9(d)).

(2) OTHER LANDS.—The Secretary of Agriculture shall immediately and actively pursue negotiations with the city of Longmont, Colorado, concerning the city's proposed exchange of lands owned by the city and located in and near Coulson Gulch for other lands owned by the United States. The Secretary shall report to Congress 2 calendar years after the date of enactment of this Act, and every 2 years thereafter on the progress of such negotiations until negotiations are complete.

TITLE V—HISTORIC AREAS AND CIVIL RIGHTS

SEC. 501. THE SELMA TO MONTGOMERY NATIONAL HISTORIC TRAIL.

Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding at the end thereof the following new paragraph:

"( ) The Selma to Montgomery National Historic Trail, consisting of 54 miles of city streets and United States Highway 80 from Brown Chapel A.M.E. Church in Selma to the State Capitol Building in Montgomery, Alabama, traveled by voting rights advocates during March 1965 to dramatize the need for voting rights legislation, as generally described in the report of the Secretary of the Interior prepared pursuant to subsection (b) of this section entitled "Selma to Montgomery" and dated April 1993. Maps depicting the route shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The trail shall be administered in accordance with this Act, including section 7(h). The Secretary of the Interior, acting through the National Park Service, which shall be the lead Federal agency, shall cooperate with other Federal, State and local authorities to preserve historic sites along the route, including (but not limited to) the Edmund Pettus Bridge and the Brown Chapel A.M.E. Church.".

SEC. 502. VANCOUVER NATIONAL HISTORIC RESERVE.

(a) ESTABLISHMENT.—There is established the Vancouver National Historic Reserve in the State of Washington (referred to in this section as the "Reserve"), consisting of the area described in the report entitled "Vancouver National Historic Reserve Feasibility Study and Environmental Assessment" published by the Vancouver Historical Study Commission and dated April 1993 as authorized by Public Law 101-523 (referred to in this section as the "Vancouver Historic Reserve Report").

(b) ADMINISTRATION.—(1) The Reserve shall be administered through a general management plan developed in accordance with this section, and approved by the Secretary of the Interior and the Secretary of the Army.

(2) Not later than three years after the date of enactment of this Act, the National Park Service shall submit to the Secretaries a general management plan for the administration of the Reserve.

(3) The general management plan shall be developed by a Partnership comprised of a representative from the National Park Service, a representative of the Historic Preservation Office of the State of Washington, a representative of the Department of the Army, and a representative of the City of Vancouver, Washington.

(4) The general management plan shall be developed in accordance with the specific findings and recommendations of the Vancouver Historic Reserve Report, along with any other considerations not otherwise in conflict with the Report, and shall include at a minimum a statement of purpose, an interpretive plan, and a economic plan for Pearson Field.

(5) The Reserve shall not be deemed to be a new unit of the National Park System.

(c) NO LIMITATION ON FAA AUTHORITY.—The establishment of the Reserve shall not limit—

(1) the authority of the Federal Aviation Administration over air traffic control, or aviation activities at Pearson Airpark; or

(2) limit operations and airspace in the vicinity of Portland International Airport.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $400,000 per year for operational costs for each fiscal year following enactment of this Act and $5,000,000 for development costs.

SEC. 503. EXTENSION OF KALOKO-HONOKOHAU ADVISORY COMMISSION.

(a) KALOKO-HONOKOHAU NATIONAL HISTORICAL PARK.—Notwithstanding section 505(f)(7) of Public Law 95–625 (16 U.S.C. 396d(f)(7)), the Na Hoa Pili O Kaloko-Honokohau, the Advisory Commission for Kaloko-Honokohau National Historical Park, is hereby re-established in accordance with section 505(f), as amended by paragraph (2) of this subsection.

(b) CONFORMING AMENDMENT.—Section 505(f)(7) of Public Law 95–625 (16 U.S.C. 396d(7)), is amended by striking "this Act" and inserting in lieu thereof, "the Na Hoa Pili Kaloko-Honokohau Re-establishment Act of 1996".

SEC. 504. AMENDMENT TO BOSTON NATIONAL HISTORIC PARK ACT.

Section 3(b) of the Boston National Historical Park Act of 1974 (16 U.S.C. 410z–1(b)) is amended by inserting "(1)" before the first sentence thereof and by adding the following at the end thereof:

"(2) The Secretary of the Interior is authorized to enter into a cooperative agreement with the Boston Public Library to provide for the distribution of informational and interpretive materials relating to the park and to the Freedom Trail.".

SEC. 505. WOMEN'S RIGHTS NATIONAL HISTORICAL PARK.

(a) INCLUSION OF OTHER PROPERTIES.—Section 1601(c) of Public Law 96–607 (16 U.S.C. 410ll) is amended to read as follows:

"(c) ESTABLISHMENT.—To carry out the purposes of this section there is hereby established the Women's Rights National Historical Park (hereinafter in this section referred to as the "park"). The park shall consist of the following designated sites in Seneca Falls and Waterloo, New York:

"(1) Stanton House, 32 Washington Street, Seneca Falls;

"(2) dwelling, 30 Washington Street, Seneca Falls;

"(3) dwelling, 34 Washington Street, Seneca Falls;

"(4) lot, 26–28 Washington Street, Seneca Falls;

"(5) former Wesleyan Chapel, 126 Fall Street, Seneca Falls;

"(6) theater, 128 Fall Street, Seneca Falls;

"(7) McClintock House, 16 East Williams Street, Waterloo;

"(8) Hunt House, 401 East Williams Street, Waterloo;

"(9) not to exceed 1 acre, plus improvements, as determined by the Secretary, in Seneca Falls for development of a maintenance facility;

"(10) dwelling, 1 Seneca Street, Seneca Falls;

"(11) dwelling, 10 Seneca Street, Seneca Falls;

"(12) parcels adjacent to Wesleyan Chapel Block, including Clinton Street, Fall Street, and Mynderse Street, Seneca Falls; and

"(13) dwelling, 12 East Williams Street, Waterloo.".

(b) MISCELLANEOUS AMENDMENTS.—Section 1601 of Public Law 96–607 (16 U.S.C. 410ll) is amended by redesignating subsection (i) as "(i)(1)" and inserting at the end thereof the following new paragraph:

"(2) In addition to those sums appropriated prior to the date of enactment of this paragraph for land acquisition and development, there is hereby authorized to be appropriated an additional $2,000,000.".

SEC. 506. BLACK PATRIOTS MEMORIAL EXTENSION.

The legislative authority for the Black Revolutionary War Patriots Foundation to establish a commemorative work (as defined by the Commemorative Works Act (40 U.S.C. 1001 et seq.)) shall expire October 27, 1998, notwithstanding the time period limitation specified in section 10(b) of that Act (40 U.S.C. 1010(b)).

SEC. 507. HISTORICALLY BLACK COLLEGES AND UNIVERSITIES HISTORIC BUILDING RESTORATION AND PRESERVATION.

(a) AUTHORITY TO MAKE GRANTS.—From the amounts made available to carry out the National Historic Preservation Act, the Secretary of the Interior shall make grants in accordance with this section to eligible historically black colleges and universities for the preservation and restoration of historic buildings and structures on the campus of these institutions.

(b) GRANT CONDITIONS.—Grants made under subsection (a) shall be subject to the condition that the grantee covenants, for the period of time specified by the Secretary, that—

(1) no alteration will be made in the property with respect to which the grant is made without the concurrence of the Secretary; and

(2) reasonable public access to the property with respect to which the grant is made will be permitted by the grantee for interpretive and educational purposes.

(c) MATCHING REQUIREMENT FOR BUILDINGS AND STRUCTURES LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES.—(1) Except as provided by paragraph (2), the Secretary may obligate funds made available under this section for a grant with respect to a building or structure listed on, or eligible for listing on, the National Register of Historic Places only if the grantee agrees to match, from funds derived from non-Federal sources, the amount of the grant with an amount that is equal or greater than the grant.

(2) The Secretary may waive paragraph (1) with respect to a grant if the Secretary determines from circumstances that an extreme emergency exists or that such a waiver is in the public interest to assure the preservation of historically significant resources.

(d) FUNDING PROVISION.—Pursuant to section 108 of the National Historic Preservation Act, $29,000,000 shall be made available to carry out the purposes of this section. Of amounts made available pursuant to this section, $5,000,000 shall be available for grants to Fisk University, $2,500,000 shall be available for grants to Knoxville College, $2,000,000 shall be available for grants to Miles College, Alabama, $1,500,000 shall be available for grants to Talladega College, Alabama, $1,550,000 shall be available for grants to Selma University, Alabama, $250,000 shall be available for grants to Stillman College, Alabama, $200,000 shall be available for grants to Concordia College, Alabama $2,900,000 shall be available for grants to Allen University, South Carolina, $1,000,000 shall be available for grants to Claflin College, South Carolina, $2,000,000 shall be available for grants to Voorhees College, South Carolina, $1,000,000 shall be available for grants to Rust College, Mississippi, and $3,000,000 shall be available for grants to Tougaloo College, Mississippi.

(e) REGULATIONS.—The Secretary shall develop such guidelines as may be necessary to carry out this section.

(f) DEFINITIONS.—For the purposes of this section:

(1) HISTORICALLY BLACK COLLEGES.—The term "historically black colleges and universities" has the same meaning given the term "part B institution" by section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

(2) HISTORIC BUILDING AND STRUCTURES.—The term "historic building and structures" means a building or structure listed on, or eligible for listing on, the National Register of Historic Places or designated a National Historic Landmark.

SEC. 508. MEMORIAL TO MARTIN LUTHER KING, JR.

(a) IN GENERAL.—The Secretary of the Interior is authorized to permit the Alpha Phi Alpha Fraternity to establish a memorial on lands under the administrative jurisdiction of the Secretary in the District of Columbia or its environs to honor Martin Luther King, Jr., pursuant to the Commemorative Works Act of 1986.

(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes" approved November 14, 1986 (40 U.S.C. 1001, et seq.).

(c) PAYMENT OF EXPENSES.—The Alpha Phi Alpha Fraternity shall be solely responsible for acceptance of contributions for, and payment of the expenses of, the establishment of the memorial. No Federal funds may be used to pay any expense of the establishment of the memorial.

(d) DEPOSIT OF EXCESS FUNDS.—If, upon payment of all expenses of the establishment of the memorial (including the maintenance and preservation amount provided for in section 8(b) of the Act referred to in section 4401(b)), or upon expiration of the authority for the memorial under section 10(b) of that Act, there remains a balance of funds received for the establishment of the memorial, the Alpha Phi Alpha Fraternity shall transmit the amount of the balance to the Secretary of the Treasury for deposit in the account provided for in section 8(b)(1) of that Act.

SEC. 509. ADVISORY COUNCIL ON HISTORIC PRESERVATION REAUTHORIZATION.

(a) REAUTHORIZATION.—The last sentence of section 212(a) of the National Historic Preservation Act (16 U.S.C. 470 and following) is amended to read as follows: "There are authorized to be appropriated for the purposes of this title not to exceed $4,000,000 in each fiscal year 1997 through 2000.".

(b) REPORTING REQUIREMENTS.—Within 18 months after the date of enactment of this Act, the Advisory Council on Historic Preservation shall submit a report to the appropriate congressional committees containing an analysis of alternatives for modifying the regulatory process for addressing impacts of Federal actions on nationally significant historic properties, as well as alternatives for future promulgation and oversight of regulations for implementation of section 106 of the National Historic Preservation Act.

(c) TECHNICAL AMENDMENTS.—Title II of the National Historic Preservation Act (16 U.S.C. 470 and following) is amended as follows:

(1) By striking "appointed" in section 201(a)(4) and inserting "designated".

(2) By striking "and 10" in section 201(c) and inserting "through (11)".

(3) By adding the following new section after section 214:

"SEC. 215. Subject to applicable conflict of interest laws, the Council may receive reimbursements from State and local agencies and others pursuant to agreements executed in furtherance of the purposes of this Act.".

(4) By amending subsection (g) of section 205 to read as follows:

"(g) Any Federal agency may provide the Council, with or without reimbursement as may be agreed upon by the Chairman and the agency, with such funds, personnel, facilities, and services under its jurisdiction and control as may be needed by the Council to carry out its duties, to the extent that such funds, personnel, facilities, and services are requested by the Council and are otherwise available for that purpose. Any funds provided to the Council pursuant to this subsection must be expended by the end of the fiscal year following the fiscal year in which the funds are received by the Council. To the extent of available appropriations, the Council may obtain by purchase, rental, donation, or otherwise, such additional property, facilities, and services as may be needed to carry out its duties and may also receive donations of moneys for such purpose, and the Executive Director is authorized, in his discretion, to accept, hold, use, expend, and administer the same for the purposes of this Act.".

SEC. 510. GREAT FALLS HISTORIC DISTRICT, NEW JERSEY.

(a) PURPOSES.—The purposes of this section are—

(1) to preserve and interpret, for the educational and inspirational benefit of the public, the contribution to our national heritage of certain historic and cultural lands and edifices of the Great Falls Historic District, with emphasis on harnessing this unique urban environment for its educational and recreational value; and

(2) to enhance economic and cultural redevelopment within the District.

(b) DEFINITIONS.—In this section:

(1) DISTRICT.—The term "District" means the Great Falls Historic District established by subsection (c).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) HISTORIC INFRASTRUCTURE.—The term "historic infrastructure" means the District's historic raceway system, all four stories of the original Colt Gun Mill, including belltower, and any other structure that the Secretary determines to be eligible for the National Register of Historic Places.

(c) GREAT FALLS HISTORIC DISTRICT.—

(1) ESTABLISHMENT.—There is established the Great Falls Historic District in the city of Paterson, in Passaic County, New Jersey.

(2) BOUNDARIES.—The boundaries of the District shall be the boundaries specified for the Great Falls Historic District listed on the National Register of Historic Places.

(d) DEVELOPMENT PLAN.—The Secretary may make grants and enter into cooperative agreements with the State of New Jersey, local governments, and private nonprofit entities under which the Secretary agrees to pay not more than 50 percent of the costs of—

(1) preparation of a plan for the development of historic, architectural, natural, cultural, and interpretive resources within the District;

(2) implementation of projects approved by the Secretary under the development plan; and

(3) a market analysis assessing the economic development potential of the District and recommending steps to be taken to encourage economic development and revitalization in a manner consistent with the District's historic character.

(e) RESTORATION, PRESERVATION, AND INTERPRETATION OF PROPERTIES.—

(1) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the State of New Jersey, local governments and non-profit entities owning property within the District under which the Secretary may—

(A) pay not more than 50 percent of the cost of restoring, repairing, rehabilitating, and improving historic infrastructure within the District;

(B) provide technical assistance with respect to the preservation and interpretation of properties within the District; and

(C) mark and provide interpretation of properties within the District.

(2) PROVISIONS.—A cooperative agreement under paragraph (1) shall provide that—

(A) the Secretary shall have the right of access at reasonable times to public portions of the property for interpretive and other purposes;

(B) no change or alteration may be made in the property except with the agreement of the property owner, the Secretary, and any Federal agency that may have regulatory jurisdiction over the property; and

(C) any construction grant made under this section shall be subject to an agreement that provides that conversion, use, or disposal of the project so assisted for purposes contrary to the purposes of this section shall result in a right of the United States to compensation from the beneficiary of the grant, and that provides for a schedule for such compensation based on the level of Federal investment and the anticipated useful life of the project.

(3) APPLICATIONS.—

(A) IN GENERAL.—A property owner that desires to enter into a cooperative agreement under paragraph (1) shall submit to the Secretary an application describing how the project proposed to be funded will further the purposes of the District.

(B) CONSIDERATION.—In making such funds available under this subsection, the Secretary shall give consideration to projects that provide a greater leverage of Federal funds.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Historic Preservation Fund authorized under the National Historic Preservation Act to the Secretary to carry out this section—

(1) $250,000 for grants and cooperative agreements for the development plan under subsection (d); and

(2) $50,000 for the provision of technical assistance and $3,000,000 for the provision of other assistance under cooperative agreements under subsection (e).

SEC. 511. NEW BEDFORD NATIONAL HISTORIC LANDMARK DISTRICT.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) the New Bedford National Historic Landmark District and associated historic sites as described in subsection (c)(2), including the Schooner Ernestina, are National Historic Landmarks and are listed on the National Register of Historic Places as historic sites associated with the history of whaling in the United States;

(B) the city of New Bedford was the 19th century capital of the world's whaling industry and retains significant architectural features, archival materials, and museum collections illustrative of this period;

(C) New Bedford's historic resources provide unique opportunities for illustrating and interpreting the whaling industry's contribution to the economic, social, and environmental history of the United States and provide opportunities for public use and enjoyment; and

(D) during the nineteenth century, over two thousand whaling voyages sailed out of New Bedford to the Arctic region of Alaska, and joined Alaska Natives from Barrow, Alaska and other areas in the Arctic region in subsistence whaling activities; and

(E) the National Park System presently contains no sites commemorating whaling and its contribution to American history.

(2) PURPOSES.—The purposes of this section are—

(A) to help preserve, protect, and interpret the resources within the areas described in subsection (c)(2), including architecture, setting, and associated archival and museum collections;

(B) to collaborate with the city of New Bedford and with associated historical, cultural, and preservation organizations to further the purposes of the park established under this section; and

(C) to provide opportunities for the inspirational benefit and education of the American people.

(b) DEFINITIONS.—For the purposes of this section—

(1) the term "park" means the New Bedford Whaling National Historical Park established by subsection (c); and

(2) the term "Secretary" means the Secretary of the Interior.

(c) NEW BEDFORD WHALING NATIONAL HISTORICAL PARK.—

(1) ESTABLISHMENT.—In order to preserve for the benefit and inspiration of the people of the United States as a national historical park certain districts structures, and relics located in New Bedford, Massachusetts, and associated with the history of whaling and related social and economic themes in America, there is established the New Bedford Whaling National Historical Park.

(2) BOUNDARIES.—(A) The boundaries of the park shall be those generally depicted on the map numbered NAR–P49–80000–4 and dated June 1994. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service. In case of any conflict between the descriptions set forth in clauses (i) through (iv) and such map, such map shall govern. The park shall include the following:

(i) The area included within the New Bedford National Historic Landmark District, known as the Bedford Landing Waterfront Historic District, as listed within the National Register of Historic Places and in the Massachusetts State Register of Historic Places.

(ii) The National Historic Landmark Schooner Ernestina, with its home port in New Bedford.

(iii) The land along the eastern boundary of the New Bedford National Historic Landmark District over to the east side of MacArthur Drive from the Route 6 overpass on the north to an extension of School Street on the south.

(iv) The land north of Elm Street in New Bedford, bounded by Acushnet Avenue on the west, Route 6 (ramps) on the north, MacArthur Drive on the east, and Elm Street on the south.

(B) In addition to the sites, areas and relics referred to in subparagraph (A), the Secretary may assist in the interpretation and preservation of each of the following:

(i) The southwest corner of the State Pier.

(ii) Waterfront Park, immediately south of land adjacent to the State Pier.

(iii) The Rotch-Jones-Duff House and Garden Museum, located at 396 County Street.

(iv) The Wharfinger Building, located on Piers 3 and 4.

(v) The Bourne Counting House, located on Merrill's Wharf.

(d) RELATED FACILITIES.—To ensure that the contribution of Alaska Natives to the history of whaling in the United States is fully recognized, the Secretary shall provide—

(1) financial and other assistance to establish links between the New Bedford Whaling National Historical Park and the North Slope Borough Cultural Center, located in Barrow, Alaska; and

(2) to provide other appropriate assistance and funding for the North Slope Borough Cultural Center.

(e) ADMINISTRATION OF PARK.—

(1) IN GENERAL.—The park shall be administered by the Secretary in accordance with this section and the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

(2) COOPERATIVE AGREEMENTS.—(A) The Secretary may consult and enter into cooperative agreements with interested entities and individuals to provide for the preservation, development, interpretation, and use of the park.

(B) Any payment made by the Secretary pursuant to a cooperative agreement under this paragraph shall be subject to an agreement that conversion, use, or disposal of the project so assisted for purposes contrary to the purposes of this section, as determined by the Secretary, shall result in a right of the United States to reimbursement of all funds made available to such project or the proportion of the increased value of the project attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

(3) NON-FEDERAL MATCHING REQUIREMENTS.—(A) Funds authorized to be appropriated to the Secretary for the purposes of—

(i) cooperative agreements under paragraph (2) shall be expended in the ratio of one dollar of Federal funds for each four dollars of funds contributed by non-Federal sources; and

(ii) construction, restoration, and rehabilitation of visitor and interpretive facilities (other than annual operation and maintenance costs) shall be expended in the ratio of one dollar of Federal funds for each one dollar of funds contributed by non-Federal sources.

(B) For the purposes of this paragraph, the Secretary is authorized to accept from non-Federal sources, and to utilize for purposes of this section, any money so contributed. With the approval of the Secretary, any donation of property, services, or goods from a non-Federal source may be considered as a contribution of funds from a non-Federal source for the purposes of this paragraph.

(4) ACQUISITION OF REAL PROPERTY.—For the purposes of the park, the Secretary may acquire only by donation such lands, interests in lands, and improvements thereon within the park as are needed for essential visitor contact and interpretive facilities.

(5) OTHER PROPERTY, FUNDS, AND SERVICES.—The Secretary may accept donated funds, property, and services to carry out this section.

(e) GENERAL MANAGEMENT PLAN.—Not later than the end of the second fiscal year beginning after the date of enactment of this Act, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a general management plan for the park and shall implement such plan as soon as practically possible. The plan shall be prepared in accordance with section 12(b) of the Act of August 18, 1970 (16 U.S.C. 1a–7(b)) and other applicable law.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), there are authorized to be appropriated such sums as may be necessary to carry out annual operations and maintenance with respect to the park and to carry out the activities under section 3(D).

(2) EXCEPTIONS.—In carrying out this section—

(A) not more than $2,000,000 may be appropriated for construction, restoration, and rehabilitation of visitor and interpretive facilities, and directional and visitor orientation signage;

(B) none of the funds authorized to be appropriated by this section may be used for the operation or maintenance of the Schooner Ernestina; and

(C) not more than $50,000 annually of Federal funds may be used for interpretive and educational programs for the Schooner Ernestina pursuant to cooperative grants under subsection (d)(2).

SEC. 512. NICODEMUS NATIONAL HISTORIC SITE.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) the Town of Nicodemus, in Kansas, has national significance as the only remaining western town established by African-Americans during the Reconstruction period following the Civil War;

(B) the town of Nicodemus is symbolic of the pioneer spirit of African-Americans who dared to leave the only region they had been familiar with to seek personal freedom and the opportunity to develop their talents and capabilities; and

(C) the town of Nicodemus continues to be a valuable African-American community.

(2) PURPOSES.—The purposes of this section are—

(A) to preserve, protect, and interpret for the benefit and enjoyment of present and future generations, the remaining structures and locations that represent the history (including the settlement and growth) of the town of Nicodemus, Kansas; and

(B) to interpret the historical role of the town of Nicodemus in the Reconstruction period in the context of the experience of westward expansion in the United States.

(b) DEFINITIONS.—In this section:

(1) HISTORIC SITE.—The term "historic site" means the Nicodemus National Historic Site established by subsection (c).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(c) ESTABLISHMENT OF NICODEMUS NATIONAL HISTORIC SITE.—

(1) ESTABLISHMENT.—There is established the Nicodemus National Historic Site in Nicodemus, Kansas.

(2) DESCRIPTION.—

(A) IN GENERAL.—The historic site shall consist of the First Baptist Church, the St. Francis Hotel, the Nicodemus School District Number 1, the African Methodist Episcopal Church, and the Township Hall located within the approximately 161.35 acres designated as the Nicodemus National Landmark in the Township of Nicodemus, Graham County, Kansas, as registered on the National Register of Historic Places pursuant to section 101 of the National Historic Preservation Act (16 U.S.C. 470a), and depicted on a map entitled "Nicodemus National Historic Site", numbered 80,000 and dated August 1994.

(B) MAP AND BOUNDARY DESCRIPTION.—The map referred to in subparagraph (A) and an accompanying boundary description shall be on file and available for public inspection in the office of the Director of the National Park Service and any other office of the National Park Service that the Secretary determines to be an appropriate location for filing the map and boundary description.

(d) ADMINISTRATION OF THE HISTORIC SITE.—

(1) IN GENERAL.—The Secretary shall administer the historic site in accordance with this section and the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (49 Stat. 666, Chapter 593; 16 U.S.C. 461 et seq.).

(2) COOPERATIVE AGREEMENTS.—To further the purposes of this section, the Secretary may enter into a cooperative agreement with any interested individual, public or private agency, organization, or institution.

(3) TECHNICAL AND PRESERVATION ASSISTANCE.—

(A) IN GENERAL.—The Secretary may provide to any eligible person described in subparagraph (B) technical assistance for the preservation of historic structures of, the maintenance of the cultural landscape of, and local preservation planning for, the historic site.

(B) ELIGIBLE PERSONS.—The eligible persons described in this subparagraph are—

(i) an owner of real property within the boundary of the historic site, as described in subsection (c)(2); and

(ii) any interested individual, agency, organization, or institution that has entered into an agreement with the Secretary pursuant to paragraph (2).

(e) ACQUISITION OF REAL PROPERTY.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary is authorized to acquire by donation, exchange, or purchase with funds made available by donation or appropriation, such lands or interests in lands as may be necessary to allow for the interpretation, preservation, or restoration of the First Baptist Church, the St. Francis Hotel, the Nicodemus School District Number 1, the African Methodist Episcopal Church, or the Township Hall, as described in subsection (c)(2)(A), or any combination thereof.

(2) LIMITATIONS.—

(A) ACQUISITION OF PROPERTY OWNED BY THE STATE OF KANSAS.—Real property that is owned by the State of Kansas or a political subdivision of the State of Kansas that is acquired pursuant to paragraph (1) may only be acquired by donation.

(B) CONSENT OF OWNER REQUIRED.—No real property may be acquired under this subsection without the consent of the owner of the real property.

(f) GENERAL MANAGEMENT PLAN.—

(1) IN GENERAL.—Not Later than the last day of the third full fiscal year beginning after the date of enactment of this Act, the

Secretary shall, in consultation with the officials described in paragraph (2), prepare a general management plan for the historic site.

(2) CONSULTATION.—In preparing the general management plan, the Secretary shall consult with an appropriate official of each of the following:

(A) The Nicodemus Historical Society.

(B) The Kansas Historical Society.

(C) Appropriate political subdivisions of the State of Kansas that have jurisdiction over all or a portion of the historic site.

(3) SUBMISSION OF PLAN TO CONGRESS.—Upon the completion of the general management plan, the Secretary shall submit a copy of the plan to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of the Interior such sums as are necessary to carry out this section.

SEC. 513. UNALASKA.

(a) SHORT TITLE.—This section may be cited as the "Aleutian World War II National Historic Areas Act of 1996".

(b) PURPOSE.—The purpose of this section is to designate and preserve the Aleutian World War II National Historic Area within lands owned by the Ounalaska Corporation on the island of Amaknak, Alaska and to provide for the interpretation, for the educational and inspirational benefit of present and future generations, of the unique and significant circumstances involving the history of the Aleut people, and the role of the Aleut people and the Aleutian Islands in the defense of the United States in World War II.

(c) BOUNDARIES.—The Aleutian World War II National Historic Area shall be comprised of areas on Amaknak Island depicted on the map entitled "Aleutian World War II National Historic Area".

(d) TERMS AND CONDITIONS.—Nothing in this section shall—

(1) authorize the conveyance of lands between the Ounalaska Corporation and the United States Department of the Interior, nor remove land or structures appurtenant to the land from the exclusive control of the Ounalaska Corporation; or

(2) provide authority for the Department of the Interior to assume the duties associated with the daily operation of the historic area or any of its facilities or structures.

(e) TECHNICAL ASSISTANCE.—The Secretary of the Interior may award grants and provide technical assistance to the Ounalaska Corporation and the City of Unalaska to assist with the planning, development, and historic preservation from any program funds authorized by law for technical assistance, land use planning or historic preservation.

SEC. 514. JAPANESE AMERICAN PATRIOTISM MEMORIAL.

(a) PURPOSE.—It is the purpose of this section—

(1) to assist in the effort to timely establish within the District of Columbia a national memorial to Japanese American patriotism in World War II; and

(2) to improve management of certain parcels of Federal real property located within the District of Columbia,

by transferring jurisdiction over such parcels to the Architect of the Capitol, the Secretary of the Interior, and the Government of the District of Columbia.

(b) TRANSFERS OF JURISDICTION.—

(1) IN GENERAL.—Effective on the date of the enactment of this Act and notwithstanding any other provision of law, jurisdiction over the parcels of Federal real property described in paragraph (2) is transferred without additional consideration as provided by paragraph (2).

(2) SPECIFIC TRANSFERS.—

(A) TRANSFERS TO SECRETARY OF THE INTERIOR.—

(i) IN GENERAL.—Jurisdiction over the following parcels is transferred to the Secretary of the Interior:

(I) That triangle of Federal land, including any contiguous sidewalks and tree space, that is part of the United States Capitol Grounds under the jurisdiction of the Architect of the Capitol bound by D Street, N.W., New Jersey Avenue, N.W., and Louisiana Avenue, N.W., in Square W632 in the District of Columbia, as shown on the Map Showing Properties Under Jurisdiction of the Architect of the Capitol, dated November 8, 1994.

(II) That triangle of Federal land, including any contiguous sidewalks and tree space, that is part of the United States Capitol Grounds under the jurisdiction of the Architect of the Capitol bound by C Street, N.W., First Street, N.W., and Louisiana Avenue, N.W., in the District of Columbia, as shown on the Map Showing Properties Under Jurisdiction of the Architect of the Capitol, dated November 8, 1994.

(ii) LIMITATION.—The parcels transferred by clause (i) shall not include those contiguous sidewalks abutting Louisiana Avenue, N.W., which shall remain part of the United States Capitol Grounds under the jurisdiction of the Architect of the Capitol.

(iii) CONSIDERATION AS MEMORIAL SITE.—The parcels transferred by sibclause (I) of clause (i) may be considered as a site for a national memorial to Japanese American patriotism in World War II.

(B) TRANSFERS TO ARCHITECT OF THE CAPITOL.—Jurisdiction over the following parcels is transferred to the Architect of the Capitol:

(i) That portion of the triangle of Federal land in Reservation No. 204 in the District of Columbia under the jurisdiction of the Secretary of the Interior, including any contiguous sidewalks, bound by Constitution Avenue, N.E., on the north, the branch of Maryland Avenue, N.E., running in a northeast direction on the west, the major portion of Maryland Avenue, N.E., on the south, and 2nd Street, N.E., on the east, including the contiguous sidewalks.

(ii) That irregular area of Federal land in Reservation No. 204 in the District of Columbia under the jurisdiction of the Secretary of the Interior, including any contiguous sidewalks, northeast of the real property described in clause (i) bound by Constitution Avenue, N.E., on the north, the branch of Maryland Avenue, N.E., running to the northeast on the south, and the private property on the west known as lot 7 in square 726.

(iii) The two irregularly shaped medians lying north and east of the property described in clause (i), located between the north and south curbs of Constitution Avenue, N.E., west of its intersection with Second Street, N.E., all as shown in Land Record No. 268, dated November 22, 1957, in the Office of the Surveyor, District of Columbia, in Book 138, Page 58.

(iv) All sidewalks under the jurisdiction of the District of Columbia abutting on and contiguous to the land described in clauses (i), (ii), and (iii).

(C) TRANSFERS TO DISTRICT OF COLUMBIA.—Jurisdiction over the following parcels is transferred to the Government of the District of Columbia:

(i) That portion of New Jersey Avenue, N.W., between the northernmost point of the intersection of New Jersey Avenue, N.W., and D Street, N.W., and the northernmost point of the intersection of New Jersey Avenue, N.W., and Louisiana Avenue, N.W., between squares 631 and W632, which remains Federal property.

(ii) That portion of D Street, N.W., between its intersection with New Jersey Avenue, N.W., and its intersection with Louisiana Avenue, N.W., between Squares 630 and W632, which remains Federal property.

(c) MISCELLANEOUS.—

(1) COMPLIANCE WITH OTHER LAWS.—Compliance with this section shall be deemed to satisfy the requirements of all laws otherwise applicable to transfers of jurisdiction over parcels of Federal real property.

(2) LAW ENFORCEMENT RESPONSIBILITY.—Law enforcement responsibility for the parcels of Federal real property for which jurisdiction is transferred by subsection (b) shall be assumed by the person acquiring such jurisdiction.

(3) UNITED STATES CAPITOL GROUNDS.—

(A) DEFINITION.—The first section of the Act entitled "An Act to define the United States Capitol Grounds, to regulate the use thereof, and for other purposes", approved July 31, 1946 (40 U.S.C. 193a), is amended to include within the definition of the United States Capitol Grounds the parcels of Federal real property described in subsection (b)(2)(B).

(B) JURISDICTION OF CAPITOL POLICE.—The United States Capitol Police shall have jurisdiction over the parcels of Federal real property described in subsection (b)(2)(B) in accordance with section 9 of such Act of July 31, 1946 (40 U.S.C. 212a).

(4) EFFECT OF TRANSFERS.—A person relinquishing jurisdiction over a parcel of Federal real property transferred by subsection (b) shall not retain any interest in the parcel except as specifically provided by this section.

SEC. 515. MANZANAR NATIONAL HISTORIC SITE.

(a) TERMINATION OF WITHDRAWALS.—

(1) UNAVAILABILITY OF CERTAIN LANDS.—The Congress, by enacting the Act entitled "An Act to establish the Manzanar National Historic Site in the State of California, and for other purposes", approved March 3, 1992 (106 Stat. 40; Public Law 102-248), (1) provided for the protection and interpretation of the historical, cultural, and natural resources associated with the relocation of Japanese-Americans during World War II and established the Manzanar National Historic Site in the State of California, and (2) authorized the Secretary of the Interior to acquire lands or interests therein within the boundary of the Historic Site by donation, purchase with donated or appropriated funds, or by exchange. The public lands identified for disposal in the Bureau of Land Management's Bishop Resource Area Resource Management Plan that could be made available for exchange in support of acquiring lands within the boundary of the Historic Site are currently unavailable for this purpose because they are withdrawn by an Act of Congress.

(2) TERMINATION OF WITHDRAWAL.—To provide a land base with which to allow land exchanges in support of acquiring lands within the boundary of the Manzanar National Historic Site, the withdrawal of the following described lands is terminated and such lands shall not be subject to the Act of March 4, 1931 (chap. 517; 46 Stat. 1530):

MOUNT DIABLO MERIDIAN

Township 2 North, Range 26 East

Section 7:

North half south half of lot 1 of southwest quarter, north half south half of lot 2 of

southwest quarter, north half south half southeast quarter.

Township 4 South, Range 33 East

Section 31:

Lot 1 of southwest quarter, northwest quarter northeast quarter, southeast quarter;

Section 32:

Southeast quarter northwest quarter, northeast quarter southwest quarter, southwest quarter southeast quarter.

Township 5 South, Range 33 East

Section 4:

West half of lot 1 of northwest quarter, west half of lot 2 of northwest quarter.

Section 5:

East half of lot 1 of northeast quarter, east half of lot 2 of northeast quarter.

Section 9:

Northwest quarter southwest quarter northeast quarter.

Section 17:

Southeast quarter northwest quarter, northwest quarter southeast quarter.

Section 22:

Lot 1 and 2.

Section 27:

Lot 2, west half northeast quarter, southeast quarter northwest quarter, northeast quarter southwest quarter, northwest quarter southeast quarter.

Section 34:

Northeast quarter, northwest quarter, southeast quarter.

Township 6 South, Range 31 East

Section 19:

East half northeast quarter southeast quarter.

Township 6 South, Range 33 East

Section 10:

East half southeast quarter.

Section 11:

Lot 1 and 2, west half northeast quarter, northwest quarter, west half southwest quarter, northeast quarter southwest quarter.

Section 14:

Lots 1 through 4, west half northeast quarter, southeast quarter northwest quarter, northeast quarter southwest quarter, northwest quarter southeast quarter.

Township 7 South, Range 32 East

Section 23:

South half southwest quarter.

Section 25:

Lot 2, northeast quarter northwest quarter.

Township 7 South, Range 33 East

Section 30:

South half of lot 2 of northwest quarter, lot 1 and 2 of southwest quarter.

Section 31:

North half of lot 2 of northwest quarter, southeast quarter northeast quarter, northeast quarter southeast quarter.

Township 8 South, Range 33 East

Section 5:

Northwest quarter southwest quarter.

Township 13 South, Range 34 East

Section 1:

Lots 43, 46, and 49 thru 51.

Section 2:

North half northwest quarter southeast quarter southeast quarter.

Township 11 South, Range 35 East

Section 30:

Lots 1 and 2, east half northwest quarter, east half southwest quarter, and west half southwest quarter southeast quarter.

Section 31:

Lot 8, west half west half northeast quarter, east half northwest quarter, and west half southeast quarter.

Township 13, South, Range 35 East

Section 18:

South half of lot 2 of northwest quarter, lot 1 and 2 of southwest quarter, southwest quarter northeast quarter, northwest quarter southeast quarter.

Section 29:

Southeast quarter northeast quarter, northeast quarter southeast quarter.

Township 13 South, Range 36 East

Section 17:

Southwest quarter northwest quarter, southwest quarter.

Section 18:

South half of lot 1 of northwest quarter, lot 1 of southwest quarter, northeast quarter, southeast quarter.

Section 19:

North half of lot 1 of northwest quarter, east half northeast quarter, northwest quarter northeast quarter.

Section 20:

Southwest quarter northeast quarter, northwest quarter, northeast quarter southwest quarter, southeast quarter.

Section 28:

Southwest quarter southwest quarter.

Section 29:

East half northeast quarter.

Section 33:

Northwest quarter northwest quarter, southeast quarter northwest quarter.

Township 14 South, Range 36 East

Section 31:

Lot 1 and 2 of southwest quarter, southwest quarter southeast quarter.

aggregating 5,630 acres, more or less.

(b) AVAILABILITY OF LANDS.—Upon enactment of this Act, the lands specified in subsection (a) shall be open to operation of the public land laws, including the mining and mineral leasing laws, only after the Secretary of the Interior has published a notice in the Federal Register opening such lands.

(c) ADDITIONAL AREA.—Section 101 of Public Law 102-248 is amended by inserting in subsection (b) after the second sentence "The site shall also include an additional area of approximately 300 acres as demarcated as the new proposed boundaries in the map dated March 8, 1996, entitled 'Manzanar National Historic Site Archaeological Base Map'."

SEC. 516. RECOGNITION AND DESIGNATION OF THE AIDS MEMORIAL GROVE AS NATIONAL MEMORIAL.

(a) RECOGNITION OF SIGNIFICANCE OF THE AIDS MEMORIAL GROVE.—The Congress hereby recognizes the significance of the AIDS Memorial Grove, located in Golden Gate Park in San Francisco, California, as a memorial—

(1) dedicated to individuals who have died as a result of acquired immune deficiency syndrome; and

(2) in support of individuals who are living with acquired immune deficiency syndrome and their loved ones and caregivers.

(b) DESIGNATION AS NATIONAL MEMORIAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior shall designate the AIDS Memorial Grove as a national memorial.

TITLE VI—CIVIL AND REVOLUTIONARY WAR SITES

SEC. 601. UNITED STATES CIVIL WAR CENTER.

(a) DESIGNATION.—The Civil War Center, located on Raphael Semmes Drive at Louisiana State University in Baton Rouge, Louisiana (hereinafter in this section referred to as the "center") shall be known and designated as the "United States Civil War Center".

(b) LEGAL REFERENCES.—Any reference in any law, regulation, paper, record, map, or any other document of the United States to the center referred to in subsection (b) shall be deemed to be a reference to the "United States Civil War Center".

(c) FLAGSHIP INSTITUTIONS.—The center and the Civil War Institute of Gettysburg College, located at 233 North Washington Street in Gettysburg, Pennsylvania, shall be the flagship institutions for planning the sesquicentennial commemoration of the Civil War.

SEC. 602. CORINTH, MISSISSIPPI, BATTLEFIELD ACT.

(a) PURPOSE.—The purpose of this section is to provide for a center for the interpretation of the Siege and Battle of Corinth and other Civil War actions in the Region and to enhance public understanding of the significance of the Corinth Campaign in the Civil War relative to the Western theater of operations, in cooperation with State or local governmental entities and private organizations and individuals.

(b) ACQUISITION OF PROPERTY AT CORINTH, MISSISSIPPI.—The Secretary of the Interior (referred to in this title as the "Secretary") shall acquire by donation, purchase with donated or appropriated funds, or exchange, such land and interests in land in the vicinity of the Corinth Battlefield, in the State of Mississippi, as the Secretary determines to be necessary for the construction of an interpretive center to commemorate and interpret the 1862 Civil War Siege and Battle of Corinth.

(c) PUBLICLY OWNED LAND.—Land and interests in land owned by the State of Mississippi or a political subdivision of the State of Mississippi may be acquired only by donation.

(d) INTERPRETIVE CENTER AND MARKING.—

(1) INTERPRETIVE CENTER.— The Secretary shall construct, operate, and maintain on the property acquired under subsection (b) a center for the interpretation of the Siege and Battle of Corinth and associated historical events for the benefit of the public.

(2) MARKING.—The Secretary may mark sites associated with the Siege and Battle of Corinth National Historic Landmark, as designated on May 6, 1991, if the sites are determined by the Secretary to be protected by State or local governmental agencies.

(3) ADMINISTRATION.—The land and interests in land acquired, and the facilities constructed and maintained pursuant to this section, shall be administered by the Secretary as a part of Shiloh National Military Park, subject to the appropriate laws (including regulations) applicable to the Park, the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.), and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461 et seq.).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $6,000,000 for development to carry out this section.

SEC. 604. REVOLUTIONARY WAR AND WAR OF 1812 HISTORIC PRESERVATION STUDY.

(a) SHORT TITLE.—This section may be cited as the "Revolutionary War and War of 1812 Historic Preservation Study Act of 1996".

(b) FINDINGS.—The Congress finds that—

(1) Revolutionary War sites and War of 1812 sites provide a means for Americans to understand and interpret the periods in American history during which the Revolutionary War and War of 1812 were fought;

(2) the historical integrity of many Revolutionary War sites and War of 1812 sites is at risk because many of the sites are located in regions that are undergoing rapid urban or suburban development; and

(3) it is important, for the benefit of the United States, to obtain current information on the significance of, threats to the integrity of, and alternatives for the preservation and interpretation of Revolutionary War sites and War of 1812 sites.

(c) DEFINITIONS.—In this section:

(1) DIRECTOR.—The term "Director" means the Director of the National Park Service.

(2) REVOLUTIONARY WAR SITE.—The term "Revolutionary War site" means a site or structure situated in the United States that is thematically tied with the nationally significant events that occurred during the Revolutionary War.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) WAR OF 1812 SITE.—The term "War of 1812 site" means a site or structure situated in the United States that is thematically tied with the nationally significant events that occurred during the War of 1812.

(d) STUDY.—

(1) PREPARATION.—The Secretary, acting through the Director, shall prepare a study of Revolutionary War sites and War of 1812 sites.

(2) MATTERS TO BE ADDRESSED.—The study under subsection (b) shall—

(A) identify Revolutionary War sites and War of 1812 sites, including sites within units of the National Park System in existence on the date of enactment of this Act;

(B) determine the relative significance of the sites;

(C) assess short- and long-term threats to the integrity of the sites;

(D) provide alternatives for the preservation and interpretation of the sites by Federal, State, and local governments, or other public or private entities, including designation of the sites as units of the National Park System; and

(E) research and propose land preservation techniques.

(3) CONSULTATION.—During the preparation of the study under paragraph (1), the Director shall consult with—

(A) the Governor of each affected States;

(B) each affected unit of local government;

(C) State and local historic preservation organizations;

(D) scholarly organizations; and

(E) such other interested parties as the Secretary considers advisable.

(4) TRANSMITTAL TO CONGRESS.—Not later than 2 years after the date on which funds are made available to carry out the study under paragraph (1), the Director shall transmit a report describing the results of the study to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the State.

(5) REPORT.—If the Director submits a report on the study to the Director of the Office of Management and Budget, the Secretary shall concurrently transmit copies of the report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $750,000, to remain available until expended.

SEC. 605. AMERICAN BATTLEFIELD PROTECTION PROGRAM.

(a) SHORT TITLE.—This section may be cited as the "American Battlefield Protection Act of 1996".

(b) PURPOSE.—The purpose of this section is to assist citizens, public and private institutions, and governments at all levels in planning, interpreting, and protecting sites where historic battles were fought on American soil during the armed conflicts that shaped the growth and development of the United States, in order that present and future generations may learn and gain inspiration from the ground where Americans made their ultimate sacrifice.

(c) PRESERVATION ASSISTANCE.—

(1) IN GENERAL.—Using the established national historic preservation program to the extent practicable, the Secretary of the Interior, acting through the American Battlefield Protection Program, shall encourage, support, assist, recognize, and work in partnership with citizens, Federal, State, local, and tribal governments, other public entities, educational institutions, and private nonprofit organizations in identifying, researching, evaluating, interpreting, and protecting historic battlefields and associated sites on a National, State, and local level.

(2) FINANCIAL ASSISTANCE.—To carry out paragraph (1), the Secretary may use a cooperative agreement, grant, contract, or other generally adopted means of providing financial assistance.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,000,000 annually to carry out this section, to remain available until expended.

(e) REPEAL.—

(1) IN GENERAL.—This section is repealed as of the date that is 10 years after the date of enactment of this section.

(2) NO EFFECT ON GENERAL AUTHORITY.—The Secretary may continue to conduct battlefield studies in accordance with other authorities available to the Secretary.

(3) UNOBLIGATED FUNDS.—Any funds made available under this section that remain unobligated shall be credited to the general fund of the Treasury.

SEC. 606. CHICKAMAUGA AND CHATTANOOGA NATIONAL MILITARY PARKS.

Section 1(c) of the Act entitled "An Act to authorize and direct the National Park Service to assist the State of Georgia in relocating a highway affecting the Chickamauga and Chattanooga National Military Park in Georgia", approved December 24, 1987 (101 Stat. 1442), is amended by striking "$30,000,000" and inserting "$51,900,000".

SEC. 607. SHENANDOAH VALLEY BATTLEFIELDS.

(a) SHORT TITLE.—This section may be cited as the "Shenandoah Valley Battlefields National Historic District and Commission Act of 1996".

(b) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) there are situated in the Shenandoah Valley in the Commonwealth of Virginia the sites of several key Civil War battles;

(2) certain sites, battlefields, structures, and districts in the Shenandoah Valley are collectively of national significance in the history of the Civil War;

(3) in 1992, the Secretary of the Interior issued a comprehensive study of significant sites and structures associated with Civil War battles in the Shenandoah Valley, and found that many of the sites within the Shenandoah Valley possess national significance and retain a high degree of historical integrity;

(4) the preservation and interpretation of these sites will make a vital contribution to the understanding of the heritage of the United States;

(5) the preservation of Civil War sites within a regional framework requires cooperation among local property owners and Federal, State, and local government entities; and

(6) partnerships between Federal, State, and local governments, the regional entities of such governments, and the private sector offer the most effective opportunities for the enhancement and management of the Civil War battlefields and related sites in the Shenandoah Valley.

(c) STATEMENT OF PURPOSE.—The purposes of this section are to—

(1) preserve, conserve, and interpret the legacy of the Civil War in the Shenandoah Valley;

(2) recognize and interpret important events and geographic locations representing key Civil War battles in the Shenandoah Valley, including those battlefields associated with the Thomas J. (Stonewall) Jackson campaign of 1862 and the decisive campaigns of 1864;

(3) recognize and interpret the effect of the Civil War on the civilian population of the Shenandoah Valley during the war and postwar reconstruction period; and

(4) create partnerships among Federal, State, and local governments, the regional entities of such governments, and the private sector to preserve, conserve, enhance, and interpret the nationally significant battlefields and related sites associated with the Civil War in the Shenandoah Valley.

(d) DEFINITIONS.—As used in this section:

(1) The term "District" means the Shenandoah Valley Battlefields National Historic District established by section 5.

(2) The term "Commission" means the Shenandoah Valley Battlefields National Historic District Commission established by section 9.

(3) The term "plan" means the Shenandoah Valley Battlefields National Historic District Commission plan approved by the Secretary under section 6.

(4) The term "management entity" means a unit of government or nonprofit organization designated by the plan to manage and administer the District.

(5) The term "Secretary" means the Secretary of the Interior.

(6) The term "Shenandoah Valley" means the Shenandoah Valley in the Commonwealth of Virginia.

(e) SHENANDOAH VALLEY BATTLEFIELDS NATIONAL HISTORIC DISTRICT.—

(1) ESTABLISHMENT.—To carry out the purposes of this section, there is hereby established the Shenandoah Valley Battlefields National Historic District in the Commonwealth of Virginia.

(2) BOUNDARIES.—(A) The corridor shall consist of lands and interests therein as generally depicted on the map entitled "Shenandoah Valley National Battlefields", numbered SHVA/80,000, and dated April 1994.

(B) The District shall consist of historic transportation routes linking the units depicted on the map referred to in subparagraph (A).

(C) The map referred to in subparagraph (A) shall be on file and available for public inspection in the offices of the Commission, the management entity, and in the appropriate offices of the National Park Service.

(f) SHENANDOAH VALLEY BATTLEFIELDS NATIONAL HISTORIC DISTRICT PLAN.—

(1) IN GENERAL.—The District shall be managed and administered by the Commission

and the management entity in accordance with the purposes of this Act and the Shenandoah Valley Battlefields National Historic District Plan developed by the Commission and approved by the Secretary, as provided in this subsection.

(2) SPECIFIC PROVISIONS.—The plan shall include—

(A) an inventory which includes any property in the District which should be preserved, restored, managed, maintained, or acquired because of its national historic significance;

(B) provisions for the protection and interpretation of the natural, cultural, and historic resources of the District consistent with the purposes of this section;

(C) provisions for the establishment of a management entity which shall be a unit of government or a private nonprofit organization that administers and manages the District consistent with the plan, and possesses the legal ability to—

(i) receive Federal funds and funds from other units of government or other organizations for use in preparing and implementing the management plan;

(ii) disburse Federal funds to other units of government or other nonprofit organizations for use in preparing and implementing the plan;

(iii) enter into agreements with the Federal, State, or other units of government and nonprofit organizations;

(iv) acquire lands or interests therein by gift or devise, or by purchase from a willing seller using donated or appropriated funds, or by donation and no lands or interests therein may be acquired by condemnation; and

(v) make such reasonable and necessary modifications to the plan which shall be approved by the Secretary;

(D) recommendations to the Commonwealth of Virginia (and political subdivisions thereof) for the management, protection, and interpretation of the natural, cultural, and historical resources of the District;

(E) identification of appropriate partnerships between the Federal, State, and local governments and regional entities, and the private sector, in furtherance of the purposes of this section;

(F) locations for visitor contact and major interpretive facilities;

(G) provisions for implementing a continuing program of interpretation and visitor education concerning the resources and values of the District;

(H) provisions for a uniform historical marker and wayside exhibit program in the District, including a provision for marking, with the consent of the owner, historic structures and properties that are contained within the historic core areas and contribute to the understanding of the District;

(I) recommendations for means of ensuring continued local involvement and participation in the management, protection, and development of the District; and

(J) provisions for appropriate living history demonstrations and battlefield reenactments.

(3) PREPARATION OF DRAFT PLAN.—(A) Not later than 3 years after the date on which the Commission conducts its first meeting, the Commission shall submit to the Secretary a draft plan that meets the requirements of paragraph (2).

(B) Prior to submitting the draft plan to the Secretary, the Commission shall ensure that—

(i) the Commonwealth of Virginia, and any political subdivision thereof that would be affected by the plan, receives a copy of the draft plan;

(ii) adequate notice of the availability of the draft plan is provided through publication in appropriate local newspapers in the area of the District; and

(iii) at least 1 public hearing in the vicinity of the District is conducted by the Commission with respect to the draft plan.

(4) REVIEW OF THE PLAN BY THE SECRETARY.—The Secretary shall review the draft plan submitted under paragraph (3) and, not later than 90 days after the date on which the draft plan is submitted, shall either—

(A) approve the draft plan as the plan if the Secretary finds that the plan, when implemented, would adequately protect the significant historical and cultural resources of the District; or

(B) reject the draft plan and advise the Commission in writing of the reasons therefore and indicate any recommendations for revisions that would make the draft plan acceptable.

(g) DUTIES OF THE SECRETARY.—

(1) IN GENERAL.—The Secretary may award grants, provide technical assistance and enter into cooperative agreements with the Commission, management entity, other units of government, or other persons to provide for the preservation and interpretation of the natural, cultural, and historical resources within the District.

(2) TECHNICAL ASSISTANCE.—The Secretary may make grants, provide technical assistance, and enter into cooperative agreements for—

(A) the preparation and implementation of the plan pursuant to subsection (f);

(B) interpretive and educational programs;

(C) acquiring lands or interests in lands from willing sellers;

(D) capital projects and improvements undertaken pursuant to the plan; and

(E) facilitating public access to historic resources within the District.

(3) EARLY ACTIONS.—After enactment of this Act but prior to approval of the plan, the Secretary may provide technical and financial assistance for early actions which are important to the purposes of this Act and which protect and preserve resources in imminent danger of irreversible damage but for the fact of such early action.

(4) ACQUISITION OF LAND.—The Secretary may acquire land and interests in lands from a willing seller or donee within the District that have been specifically identified by the Commission for acquisition by the Federal Government. No lands or interests therein may be acquired by condemnation.

(5) DETAIL.—Each fiscal year during the existence of the Commission and upon request of the Commission, the Secretary shall detail to the Commission, on a nonreimbursable basis, 2 employees of the Department of the Interior to enable the Commission to carry out the Commission's duties under section 9. Such detail shall be without interruption or loss of civil service status, benefits, or privileges.

(6) REPORT.—Not later than 2 years after approval of the plan, the Secretary shall submit to Congress a report recommending whether the District or components thereof meet the criteria for designation as a unit of the National Park Service.

(7) OTHER ASSISTANCE.—Nothing in this section shall be deemed to prohibit the Secretary or units of government from providing technical or financial assistance under any other provision of law.

(h) SHENANDOAH VALLEY BATTLEFIELDS NATIONAL HISTORIC DISTRICT COMMISSION.—

(1) ESTABLISHMENT.—There is hereby established the Shenandoah Valley Battlefields National Historic District Commission.

(2) MEMBERSHIP.—The Commission shall be composed of 19 members, to be appointed by the Secretary as follows:

(A) 5 members representing local governments of communities in the vicinity of the District, appointed after the Secretary considers recommendations made by appropriate local governing bodies.

(B) 10 members representing property owners within the District (1 member within each unit of the battlefields).

(C) 1 member with demonstrated expertise in historic preservation.

(D) 1 member who is a recognized historian with expertise in Civil War history.

(E) The Governor of Virginia, or a designee of the Governor, ex officio.

(F) The Director of the National Park Service, or a designee of the Director, ex officio.

(3) APPOINTMENTS.—Members of the Commission shall be appointed for terms of 3 years. Any member of the Commission appointed for a definite term may serve after the expiration of the term until the successor of the members is appointed.

(4) ELECTION OF OFFICERS.—The Commission shall elect 1 of its members as Chairperson and 1 as Vice Chairperson. The Vice Chairperson shall serve as Chairperson in the absence of the Chairperson.

(5) VACANCY.—Any vacancy on the Commission shall be filled in the same manner in which the original appointment was made, except that the Secretary shall fill any vacancy within 30 days after the vacancy occurs.

(6) QUORUM.—Any majority of the Commission shall constitute a quorum.

(7) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of the members of the Commission, but not less than quarterly. Notice of the Commission meetings and agendas for the meetings shall be published in local newspapers that have a distribution throughout the Shenandoah Valley. Meetings of the Commission shall be subject to section 552b of title 5, United States Code (relating to open meetings).

(8) STAFF OF THE COMMISSION.—The Commission shall have the power to appoint and fix the compensation of such staff as may be necessary to carry out its duties.

(9) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of the General Services Administration shall provide to the Commission, without reimbursement, such administrative support services as the Commission may request.

(10) FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency may detail to the Commission or management entity, without reimbursement, personnel of the agency to assist the Commission or management entity in carrying out its duties and such detail shall be without interruption or loss of civil service status, benefits, or privileges.

(11) SUBPOENAS.—The Commission may not issue subpoenas or exercise any subpoena authority.

(12) EXPENSES.—Members of the Commission shall serve without compensation, but the Secretary may reimburse members for expenses reasonably incurred in carrying out the responsibilities of the Commission under this Act.

(13) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(14) GIFTS.—The Commission may, for purposes of carrying out the duties of the Commission, seek, accept, and dispose of gifts, bequests, or donations of money, personal or real property, or services received from any source.

(15) TERMINATION.—The Commission shall terminate at the expiration of the 45-day period beginning on the date on which the Secretary approves the plan under subsection (f)(4).

(i) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall—

(A) develop the plan and draft plan referred to in subsection (f), in consultation with the Secretary;

(B) assist the Commonwealth of Virginia, and any political subdivision thereof, in the management, protection, and interpretation of the natural, cultural, and historical resources within the District, except that the Commission shall in no way infringe upon the authorities and policies of the Commonwealth of Virginia or any political subdivision; and

(C) take appropriate action to encourage protection of the natural, cultural, and historic resources within the District by landowners, local governments, organizations, and businesses.

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Commission not more than $250,000 annually to remain available until expended.

(2) ASSISTANCE.—(A) There are authorized to be appropriated to the Secretary for grants and technical assistance pursuant to subsections (g)(1), (2), and (3) not more than $1,000,000 annually for each of the fical years 1997 through 2006, to remain available until expended.

(B) The Federal share of any funds awarded under subsection (g)(2) may not exceed the amount of non-Federal funds provided for the preservation, interpretation, planning, development, or implementation with respect to which the grant is awarded.

(3) LAND ACQUISITION.—There are authorized to be appropriated for land acquisition pursuant to subsection (g)(4) not more than $2,000,000 annually for each of the fical years 1997 through 2006, to remain available until expended.

(4) MANAGEMENT ENTITY.—There are authorized to be appropriated to the management entity not more than $500,000 annually for each of the fical years 1997 through 2006, to remain available until expended.

SEC. 608. WASHITA BATTLEFIELD.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) the Battle of the Washita, November 27, 1868, was one of the largest engagements between Plains tribes and the United States Army on the Southern Great Plains. The site is a registered National Historic Landmark;

(B) Lt. Colonel George A. Custer, leading the 7th United States Calvary, attacked the sleeping Cheyenne village of peace chief Black Kettle. Custer's attack resulted in more than 150 Indian casualties, many of them women and children;

(3) the Battle of the Washita symbolizes the struggle of the Southern Great Plains tribes to maintain their traditional lifeways and not to submit to reservation confinement; and

(4) the Washita battle site possesses a high degree of integrity and the cultural landscape is essentially intact. The Cheyenne village site has not been altered substantially except by periodic flooding of the Washita River.

(2) PURPOSES.—The purposes of this section are to—

(1) recognize the importance of the Battle of the Washita as a nationally significant element of frontier military history and as a symbol of the struggles of the Southern Great Plains tribes to maintain control of their traditional use areas; and

(2) establish the site of the Battle of the Washita as a national historic site and provide opportunities for American Indian groups including the Cheyenne-Arapaho Tribe to be involved in the formulation of plans and educational programs for the national historic site.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—In order to provide for the preservation and interpretation of the Battle of the Washita, there is hereby established the Washita Battlefield National Historic Site in the State of Oklahoma (hereafter in this section referred to as the "national historic site").

(2) BOUNDARY.—

(A) IN GENERAL.—The national historic site shall consist of—

(i) approximately 326 acres, as generally depicted on the map entitled "Washita Battlefield National Historic Site", numbered 22,000A and dated 12/95; and

(ii) the private lands subject to conservation easements referred to in subsection (d)(2).

(B) MAP.—The map referred to in subparagraph (A)(i) shall be on file in the offices of the Director of the National Park Service, Department of the Interior, and other appropriate offices of the National Park Service. The Secretary of the Interior (hereafter in this section referred to as the "Secretary") may, from time to time, make minor revisions in the boundary of the national historic site in accordance with section 7(c) of the Land and Water Conservation Act of 1965 (16 U.S.C. 4601–4 and following).

(c) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary, acting through the Director of the National Park Service, shall manage the national historic site in accordance with this section and the provisions of law generally applicable to units of the National Park System, including "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

(2) MANAGEMENT PURPOSES.—The Secretary shall manage the national historic site for the following purposes, among others:

(A) To protect and preserve the national historic site, including the topographic features important to the battle site, artifacts and other physical remains of the battle, and the visual scene as closely as possible as it was at the time of the battle.

(B) To interpret the cultural and natural resources of the historic site, providing for public understanding and appreciation of the area in such manner as to perpetuate these qualities and values for future generations.

(3) CONSULTATION AND TRAINING.—The Secretary, acting through the Director of the National Park Service, shall consult regularly with the Cheyenne-Arapaho Tribe on the formulation of the management plan provisions referred to in subsection (e)(5) and on preparation of educational programs provided to the public. The Secretary is authorized to enter into cooperative agreements with the Cheyenne-Arapaho Tribe, its subordinate boards, committees, enterprises, and traditional leaders to further the purposes of this Act.

(d) ACQUISITION OF PROPERTY.—

(1) PARK BOUNDARIES.—Within the boundaries of the national historic site, the Secretary is authorized to acquire lands and interest in lands by donation, purchase with donated or appropriated funds, or exchange, except that—

(A) no lands or interest in lands within the historic site may be acquired without the consent of the owner thereof, and

(B) lands and interests in lands owned by the State of Oklahoma or any political subdivision thereof may be acquired only by donation.

(2) CONSERVATION EASEMENTS.—The Congress finds that the State of Oklahoma, acting through the Oklahoma Historical Society, will work with local land owners to acquire and hold in perpetuity conservation easements in the vicinity of the national historic site as deemed necessary for the visual and interpretive integrity of the site. The intent of the easements will be to keep occupancy of the land in private ownership and use of the land in general agriculture.

(e) MANAGEMENT PLAN.—Within 5 years after the date funds are made available for purposes of this section, the Secretary, acting through the Director of the National Park Service, shall prepare a general management plan for the national historic site. The plan shall address, but not be limited to, each of the following:

(1) A resource protection program.

(2) A visitor use plan including programs and facilities that will be provided for public use, including the location and cost of public facilities.

(3) A research and curation plan.

(4) A highway signing program.

(5) Involvement by the Cheyenne-Arapaho Tribe in the formulation of educational programs for the national historic site.

(6) Involvement by the State of Oklahoma and other local and national entities willing to share in the responsibilities of developing and supporting the national historic site.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section for land acquisition and development not more than $5,000,000.

TITLE VII—FEES

SEC. 701. SKI AREA PERMIT RENTAL CHARGE.

(a) The Secretary of Agriculture shall charge a rental charge for all ski area permits issued pursuant to section 3 of the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b), the Act of March 4, 1915 (38 Stat. 1101, chapter 144; 16 U.S.C. 497), or the 9th through 20th paragraphs under the heading "SURVEYING THE PUBLIC LANDS" under the heading "UNDER THE DEPARTMENT OF THE INTERIOR" in the Act of June 4, 1897 (30 Stat. 34, chapter 2), on National Forest System lands. Permit rental charges for permits issued pursuant to the National Forest Ski Area Permit Act of 1986 shall be calculated as set forth in subsection (b). Permit rental charges for existing ski area permits issued pursuant to the Act of March 4, 1915, and the Act of June 4, 1897, shall be calculated in accordance with those existing permits: *Provided*, That a permittee may, at the permittee's option, use the calculation method set forth in subsection (b).

(b)(1) The ski area permit rental charge (SAPRC) shall be calculated by adding the permittee's gross revenues from lift ticket/year-round ski area use pass sales plus revenue from ski school operations (LT+SS) and multiplying such total by the slope transport feet percentage (STFP) on National Forest System land. That amount shall be increased by the gross year-round revenue

from ancillary facilities (GRAF) physically located on national forest land, including all permittee or subpermittee lodging, food service, rental shops, parking and other ancillary operations, to determine the adjusted gross revenue (AGR) subject to the permit rental charge. The final rental charge shall be calculated by multiplying the AGR by the following percentages for each revenue bracket and adding the total for each revenue bracket:

(A) 1.5 percent of all adjusted gross revenue below $3,000,000;

(B) 2.5 percent for adjusted gross revenue between $3,000,000 and $15,000,000;

(C) 2.75 percent for adjusted gross revenue between $15,000,000 and $50,000,000; and

(D) 4.0 percent for the amount of adjusted gross revenue that exceeds $50,000,000.

Utilizing the abbreviations indicated in this subsection the ski area permit fee (SAPF) formula can be simply illustrated as:

SAPF = ((LT + SS) STFP) + GRAF = AGR;
AGR % BRACKETS

(2) In cases where ski areas are only partially located on national forest lands, the slope transport feet percentage on national forest land referred to in subsection (b) shall be calculated as generally described in the Forest Service Manual in effect as of January 1, 1992. Revenues from Nordic ski operations shall be included or excluded from the rental charge calculation according to the percentage of trails physically located on national forest land.

(3) In order to ensure that the rental charge remains fair and equitable to both the United States and the ski area permittees, the adjusted gross revenue figures for each revenue bracket in paragraph (1) shall be adjusted annually by the percent increase or decrease in the national Consumer Price Index for the preceding calendar year. No later than 3 years after the date of enactment of this Act and every 5 years thereafter the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives a report analyzing whether the ski area permit rental charge legislated by this Act is returning a fair market value rental to the United States together with any recommendations the Secretary may have for modifications of the system.

(c) The rental charge set forth in subsection (b) shall be due on June 1 of each year and shall be paid or pre-paid by the permittee on a monthly, quarterly, annual or other schedule as determined appropriate by the Secretary in consultation with the permittee. Unless mutually agreed otherwise by the Secretary and the permittee, the payment or prepayment schedule shall conform to the permittee's schedule in effect prior to enactment of this Act. To reduce costs to the permittee and the Forest Service, the Secretary shall each year provide the permittee with a standardized form and worksheets (including annual rental charge calculation brackets and rates) to be used for rental charge calculation and submitted with the rental charge payment. Information provided on such forms shall be compiled by the Secretary annually and kept in the Office of the Chief, United States Forest Service.

(d) The ski area permit rental charge set forth in this section shall become effective on June 1, 1996 and cover receipts retroactive to June 1, 1995: *Provided however*, That if a permittee has paid rental charges for the period June 1, 1995, to June 1, 1996, under the graduated rate rental charge system formula in effect prior to the date of enactment of this Act, such rental charges shall be credited toward the new rental charge due on June 1, 1996. In order to ensure increasing rental charge receipt levels to the United States during transition from the graduated rate rental charge system formula to the formula of this Act, the rental charge paid by any individual permittee shall be—

(1) for the 1995–1996 permit year, either the rental charge paid for the preceding 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher;

(2) for the 1996–1997 permit year, either the rental charge paid for the 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher; and

(3) for the 1997–1998 permit year, either the rental charge for the 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher.

If an individual permittee's adjusted gross revenue for the 1995–1996, 1996–1997, or 1997–1998 permit years falls more than 10 percent below the 1994–1995 base year, the rental charge paid shall be the rental charge calculated pursuant to this Act.

(e) Under no circumstances shall revenue, or subpermittee revenue (other than lift ticket, area use pass, or ski school sales) obtained from operations physically located on non-national forest land be included in the ski area permit rental charge calculation.

(f) To reduce administrative costs of ski area permittees and the Forest Service the terms "revenue" and "sales", as used in this section, shall mean actual income from sales and shall not include sales of operating equipment, refunds, rent paid to the permittee by sublessees, sponsor contributions to special events or any amounts attributable to employee gratuities or employee lift tickets, discounts, or other goods or services (except for bartered goods and complimentary lift tickets) for which the permittee does not receive money.

(g) In cases where an area of national forest land is under a ski area permit but the permittee does not have revenue or sales qualifying for rental charge payment pursuant to subsection (a), the permittee shall pay an annual minimum rental charge of $2 for each national forest acre under permit or a percentage of appraised land value, as determined appropriate by the Secretary.

(h) Where the new rental charge provided for in subsection (b)(1) results in an increase in permit rental charge greater than one-half of 1 percent of the permittee's adjusted gross revenue as determined under subsection (b)(1), the new rental charge shall be phased in over a five year period in a manner providing for increases of approximately equal increments.

(i) To reduce Federal costs in administering the provisions of this Act, the reissuance of a ski area permit to provide activities similar in nature and amount to the activities provided under the previous permit shall not constitute a major Federal action for the purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.).

(j) Subject to valid existing rights, all lands located within the boundaries of ski area permits issued prior to, on or after the date of enactment of this Act pursuant to authority of the Act of March 4, 1915 (38 Stat. 1101, chapter 144; 16 U.S.C. 497), and the Act of June 4, 1897, or the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b) are hereby and henceforth automatically withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto. Such withdrawal shall continue for the full term of the permit and any modification, reissuance, or renewal thereof. Unless the Secretary requests otherwise of the Secretary of the Interior, such withdrawal shall be canceled automatically upon expiration or other termination of the permit and the land automatically restored to all appropriation not otherwise restricted under the public land laws.

SEC. 702. DELAWARE WATER GAP.

(a) IN GENERAL.—Effective at noon on September 30, 2005, the use of Highway 209 within Delaware Water Gap National Recreation Area by commercial vehicles, when such use is not connected with the operation of the recreation area, is prohibited, except as provided in subsection (b).

(b) LOCAL BUSINESS USE PROTECTED.—Subsection (a) does not apply with respect to the use of commercial vehicles to serve businesses located within or in the vicinity of the recreation area, as determined by the Secretary.

(c) CONFORMING PROVISIONS.—

(1) Paragraphs (1) through (3) of the third undesignated paragraph under the heading "ADMINISTRATIVE PROVISIONS" in chapter VII of title I of Public Law 98–63 (97 Stat. 329) are repealed, effective September 30, 2005.

(2) Prior to noon on September 30, 2005, the Secretary shall collect and utilize a commercial use fee from commercial vehicles in accordance with paragraphs (1) through (3) of such third undesignated paragraph. Such fee shall not exceed $25 per trip.

SEC. 704. GLACIER BAY NATIONAL PARK.

Section 3(g) of Public Law 91–383 (16 U.S.C. 1a-2(g)) is amended by: striking "and park programs" and inserting the following at the end: "Sixty percent of the fees paid by permittees for the privilege of entering into within Glacier Bay for the period beginning on the first full fiscal year following the date of enactment of this sentence shall be deposited into a special account and that such funds shall be available—

"(1) to the extent determined necessary, to acquire and preposition necessary and adequate emergency response equipment to prevent harm or the threat of harm to aquatic park resources from permittees; and

"(2) to conduct investigations to quantify any effect of permittees' activity on wildlife and other natural resource values of Glacier Bay National Park. The investigations provided for in this subsection shall be designed to provide information of value to the Secretary, in determining any appropriate limitations on permittees' activity in Glacier Bay. The Secretary may not impose any additional permittee operating conditions in the areas of air, water, and oil pollution beyond those determined and enforced by other appropriate agencies. When competitively awarding permits to enter Glacier Bay, the Secretary may take into account the relative impact particular permittees will have on park values and resources, provided that no operating conditions or limitations relating to noise abatement shall be imposed unless the Secretary determines, based on the weight of the evidence from all available studies including verifiable scientific information from the investigations provided for in this subsection, that such limitations or conditions are necessary to protect park values and resources. Fees paid by certain permittees for the privilege of entering into Glacier Bay shall not exceed $5 per passenger. For the purposes of this subsection, 'certain permittee' shall mean a permittee

which provides overnight accommodations for at least 500 passengers for an itinerary of at least 3 nights, and 'permittee' shall mean a concessionaire providing visitor services within Glacier Bay. Nothing in this subsection authorizes the Secretary to require additional categories of permits or otherwise increase the number of permits to enter Glacier Bay in Glacier Bay National Park.".

TITLE VIII—MISCELLANEOUS ADMINISTRATIVE AND MANAGEMENT PROVISIONS

SEC. 801. LIMITATION ON PARK BUILDINGS.

The 10th undesignated paragraph (relating to a limitation on the expenditure of funds for park buildings) under the heading "MISCELLANEOUS OBJECTS, DEPARTMENT OF THE INTERIOR", which appears under the heading "UNDER THE DEPARTMENT OF THE INTERIOR", as contained in the first section of the Act of August 24, 1912 (37 Stat. 460), as amended (16 U.S.C. 451), is hereby repealed.

SEC. 802. APPROPRIATIONS FOR TRANSPORTATION OF CHILDREN.

The first section of the Act of August 7, 1946 (16 U.S.C. 17j-2), is amended by adding at the end the following:

"(j) Provide transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service.".

SEC. 803. FERAL BURROS AND HORSES.

(a) VEHICLES AND AIRCRAFT.—Section 9 of the Act of December 15, 1971 (16 U.S.C. 1338a), is amended by adding at the end thereof the following: "Nothing in this title shall be deemed to limit the authority of the Secretary in the management of units of the National Park System, and the Secretary may, without regard either to the provisions of this title, or the provisions of section 47(a) of title 18, United States Code, use motor vehicles, fixed-wing aircraft, or helicopters, or to contract for such use, in furtherance of the management of the National Park System, and section 47(a) of title 18, United States Code, shall be applicable to such use.".

(b) OZARK NATIONAL SCENIC RIVERWAYS.—Section 7 of the Act entitled "An Act to provide for the establishment of the Ozark National Scenic Riverways in the State of Missouri, and for other purposes", approved August 27, 1964 (16 U.S.C. 460m-6), is amended to read as follows:

"SEC. 7. (a) The Secretary, in accordance with this section, shall allow free-roaming horses in the Ozark National Scenic Riverways. Within 180 days after enactment of this section, the Secretary shall enter into an agreement with the Missouri Wild Horse League or another qualified nonprofit entity to provide for management of free-roaming horses. The agreement shall provide for cost-effective management of the horses and limit Federal expenditures to the costs of monitoring the agreement. The Secretary shall issue permits for adequate pastures to accommodate the historic population level of the free-roaming horse herd, which shall be not less than the number of horses in existence on the date of the enactment of this section nor more than 50.

"(b) The Secretary may not remove, or assist in, or permit the removal of any free-roaming horses from Federal lands within the boundary of the Ozark National Scenic Riverways unless—

"(1) the entity with whom the Secretary has entered into the agreement under subsection (a), following notice and a 90-day response period, substantially fails to meet the terms and conditions of the agreement;

"(2) the number of free-roaming horses exceeds 50; or

"(3) in the case of an emergency or to protect public health and safety, as defined in the agreement.

"(c) Nothing in this section shall be construed as creating liability for the United States for any damages caused by the free-roaming horses to property located inside or outside the boundaries of the Ozark National Scenic Riverways.".

SEC. 804. AUTHORITIES OF THE SECRETARY OF THE INTERIOR RELATING TO MUSEUMS.

(a) FUNCTIONS.—The Act entitled "An Act to increase the public benefits from the National Park System by facilitating the management of museum properties relating thereto, and for other purposes" approved July 1, 1955 (16 U.S.C. 18f), is amended—

(1) in subsection (b) of the first section, by striking out "from such donations and bequests of money"; and

(2) by adding at the end thereof the following:

"SEC. 2. ADDITIONAL FUNCTIONS.

"(a) MUSEUM OBJECTS AND COLLECTIONS.—In addition to the functions specified in the first section of this Act, the Secretary of the Interior may perform the following functions in such manner as he shall consider to be in the public interest:

"(1) Transfer museum objects and museum collections that the Secretary determines are no longer needed for museum purposes to qualified Federal agencies, including the Smithsonian Institution, that have programs to preserve and interpret cultural or natural heritage, and accept the transfer of museum objects and museum collections for the purposes of this Act from any other Federal agency, without reimbursement. The head of any other Federal agency may transfer, without reimbursement, museum objects and museum collections directly to the administrative jurisdiction of the Secretary of the Interior for the purpose of this Act.

"(2) Convey museum objects and museum collections that the Secretary determines are no longer needed for museum purposes, without monetary consideration but subject to such terms and conditions as the Secretary deems necessary, to private institutions exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and to non-Federal governmental entities if the Secretary determines that the recipient is dedicated to the preservation and interpretation of natural or cultural heritage and is qualified to manage the property, prior to any conveyance under this subsection.

"(3) Destroy or cause to be destroyed museum objects and museum collections that the Secretary determines to have no scientific, cultural, historic, educational, esthetic, or monetary value.

"(b) REVIEW AND APPROVAL.—The Secretary shall ensure that museum collections are treated in a careful and deliberate manner that protects the public interest. Prior to taking any action under subsection (a), the Secretary shall establish a systematic review and approval process, including consultation with appropriate experts, that meets the highest standards of the museum profession for all actions taken under this section.".

(b) APPLICATION AND DEFINITIONS.—The Act entitled "An Act to increase the public benefits from the National Park System by facilitating the management of museum properties relating thereto, and for other purposes" approved July 1, 1955 (16 U.S.C. 18f), as amended by subsection (a), is further amended by adding the following after section 2:

"SEC. 3. APPLICATION AND DEFINITIONS.

"(a) APPLICATION.—Authorities in this Act shall be available to the Secretary of the Interior with regard to museum objects and museum collections that were under the administrative jurisdiction of the Secretary for the purposes of the National Park System before the date of enactment of this section as well as those museum objects and museum collections that may be acquired on or after such date.

"(b) DEFINITION.—For the purposes of this Act, the terms 'museum objects' and 'museum collections' mean objects that are eligible to be or are made part of a museum, library, or archive collection through a formal procedure, such as accessioning. Such objects are usually movable and include but are not limited to prehistoric and historic artifacts, works of art, books, documents, photographs, and natural history specimens.".

SEC. 805. VOLUNTEERS IN PARKS INCREASE.

Section 4 of the Volunteers in the Parks Act of 1969 (16 U.S.C. 18j) is amended by striking out "$1,000,000" and inserting in lieu thereof "$3,500,000".

SEC. 806. CARL GARNER FEDERAL LANDS CLEANUP DAY.

The Federal Lands Cleanup Act of 1985 (36 U.S.C. 1691-1691-1) is amended by striking the terms "Federal Lands Cleanup Day" each place it appears and inserting "Carl Garner Federal Lands Cleanup Day".

SEC. 807. FORT PULASKI NATIONAL MONUMENT, GEORGIA.

Section 4 of the Act of June 26, 1936 (ch. 844; 49 Stat. 1979), is amended by striking ": *Provided*, That" and all that follows and inserting a period.

SEC. 808. LAURA C. HUDSON VISITOR CENTER.

(a) DESIGNATION.—The visitor center at Jean Lafitte National Historical Park, located at 419 Rue Decatur in New Orleans, Louisiana, is hereby designated as the "Laura C. Hudson Visitor Center".

(b) LEGAL REFERENCES.—Any reference in any law, regulation, paper, record, map, or any other document of the United States to the visitor center referred to in subsection (a) shall be deemed to be a reference to the "Laura C. Hudson Visitor Center".

SEC. 809. ROBERT J. LAGOMARSINO VISITOR CENTER.

(a) DESIGNATION.—The visitor center at the Channel Islands National Park, California, is designated as the "Robert J. Lagomarsino Visitor Center".

(b) LEGAL REFERENCES.—Any reference in any law, regulation, document, record, map, or other paper document of the United States to the visitor center referred to in section 301 is deemed to be a reference to the "Robert J. Lagomarsino Visitor Center".

SEC. 810. EXPENDITURE OF FUNDS OUTSIDE AUTHORIZED BOUNDARY OF ROCKY MOUNTAIN NATIONAL PARK.

The Secretary of the Interior is authorized to collect and expend donated funds and expend appropriated funds for the operation and maintenance of a visitor center to be constructed for visitors to and administration of Rocky Mountain National Park with private funds on privately owned lands located outside the boundary of the park.

SEC. 811. DAYTON AVIATION.

Section 201(b) of the Dayton Aviation Heritage Preservation Act of 1992 (Public Law 102-419, approved October 16, 1992), is amended as follows:

(1) In paragraph (2), by striking "from recommendations" and inserting "after consideration of recommendations".

(2) In paragraph (4), by striking "from recommendations" and inserting "after consideration of recommendations".

(3) In paragraph (5), by striking "from recommendations" and inserting "after consideration of recommendations".

(4) In paragraph (6), by striking "from recommendations" and inserting "after consideration of recommendations".

(5) In paragraph (7), by striking "from recommendations" and inserting "after consideration of recommendations".

SEC. 812. PROHIBITION ON CERTAIN TRANSFERS OF NATIONAL FOREST LANDS.

After the date of the enactment of this Act the Secretary of Agriculture shall not transfer (by exchange or otherwise) any lands owned by the United States and managed by the Secretary as part of the Angeles National Forest to any person unless the instrument of conveyance contains a restriction, enforceable by the Secretary, on the future use of such land prohibiting the use of any portion of such land as a solid waste landfill. Such restriction shall be promptly enforced by the Secretary when and if a violation of the restriction occurs.

SEC. 813. GRAND LAKE CEMETERY.

(a) AGREEMENT.—Notwithstanding any other law, not later than 6 months after the date of enactment of this Act, the Secretary of the Interior shall enter into an appropriate form of agreement with the town of Grand Lake, Colorado, authorizing the town to maintain permanently, under appropriate terms and conditions, a cemetery within the boundaries of the Rocky Mountain National Park.

(b) CEMETERY BOUNDARIES.—The cemetery shall be comprised of approximately 5 acres of land, as generally depicted on the map entitled "Grand Lake Cemetery" and dated February 1995.

(c) AVAILABILITY FOR PUBLIC INSPECTION.—The Secretary of the Interior shall place the map described in subsection (b) on file, and make the map available for public inspection, in the headquarters office of the Rocky Mountain National Park.

(d) LIMITATION.—The cemetery shall not be extended beyond the boundaries of the cemetery shown on the map described in subsection (b).

SEC. 814. NATIONAL PARK SERVICE ADMINISTRATIVE REFORM.

(a) NATIONAL PARK SERVICE HOUSING IMPROVEMENT.—

(1) PURPOSES.—The purposes of this section are—

(A) to develop where necessary an adequate supply of quality housing units for field employees of the National Park Service within a reasonable time frame;

(B) to expand the alternatives available for construction and repair of essential government housing;

(C) to rely on the private sector to finance or supply housing in carrying out this section, to the maximum extent possible, in order to reduce the need for Federal appropriations;

(D) to ensure that adequate funds are available to provide for long-term maintenance needs of field employee housing; and

(E) to eliminate unnecessary government housing and locate such housing as is required in a manner such that primary resource values are not impaired.

(2) GENERAL AUTHORITY.—To enhance the ability of the Secretary of the Interior (hereafter in this subsection referred to as "the Secretary"), acting through the Director of the National Park Service, to effectively manage units of the National Park System, the Secretary is authorized where necessary and justified to make available employee housing, on or off the lands under the administrative jurisdiction of the National Park Service, and to rent or lease such housing to field employees of the National Park Service at rates based on the reasonable value of the housing in accordance with requirements applicable under section 5911 of title 5, United States Code.

(3) REVIEW AND REVISION OF HOUSING CRITERIA.—Upon the enactment of this Act, the Secretary shall review and revise the existing criteria under which housing is provided to employees of the National Park Service. Specifically, the Secretary shall examine the existing criteria with respect to what circumstances the National Park Service requires an employee to occupy Government quarters to provide necessary services, protect Government property, or because of a lack of availability of non-Federal housing in the geographic area.

(4) SUBMISSION OF REPORT.—A report detailing the results of the revisions required by paragraph (3) shall be submitted to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than 180 days after the date of the enactment of this Act. The report shall include justifications for keeping, or for changing, each of the criteria or factors used by the Department of the Interior with regard to the provision of housing to employees of the National Park Service.

(5) REVIEW OF CONDITION OF AND COSTS RELATING TO HOUSING.—Using the revised criteria developed under paragraph (3), the Secretary shall undertake a review, for each unit of the National Park System, of existing government-owned housing provided to employees of the National Park Service. The review shall include an assessment of the physical condition of such housing and the suitability of such housing to effectively carry out the missions of the Department of the Interior and the National Park Service. For each unit of such housing, the Secretary shall determine whether the unit is needed and justified. The review shall include estimates of the cost of bringing each such unit that is needed and justified into usable condition that meets all applicable legal housing requirements or, if the unit is determined to be obsolete but is still warranted to carry out the missions of the Department of the Interior and the National Park Service, the cost of replacing the unit.

(6) AUTHORIZATION FOR HOUSING AGREEMENTS.—For those units of the National Park System for which the review required by paragraphs (3) and (5) has been completed, the Secretary is authorized, pursuant to the authorities contained in this subsection and subject to the appropriation of necessary funds in advance, to enter into housing agreements with housing entities under which such housing entities may develop, construct, rehabilitate, or manage housing, located on or off public lands, for rent or lease to National Park Service employees who meet the housing eligibility criteria developed by the Secretary pursuant to this Act.

(7) JOINT PUBLIC-PRIVATE SECTOR HOUSING PROGRAMS.—

(A) LEASE TO BUILD PROGRAM.—Subject to the appropriation of necessary funds in advance, the Secretary may—

(i) lease Federal land and interests in land to qualified persons for the construction of field employee quarters for any period not to exceed 50 years; and

(ii) lease developed and undeveloped non-Federal land for providing field employee quarters.

(B) COMPETITIVE LEASING.—Each lease under subparagraph (A)(i) shall be awarded through the use of publicly advertised, competitively bid, or competitively negotiated contracting procedures.

(C) TERMS AND CONDITIONS.—Each lease under subparagraph (A)(i)—

(i) shall stipulate whether operation and maintenance of field employee quarters is to be provided by the lessee, field employees or the Federal Government;

(ii) shall require that the construction and rehabilitation of field employee quarters be done in accordance with the requirements of the National Park Service and local applicable building codes and industry standards;

(iii) shall contain such additional terms and conditions as may be appropriate to protect the Federal interest, including limits on rents the lessee may charge field employees for the occupancy of quarters, conditions on maintenance and repairs, and agreements on the provision of charges for utilities and other infrastructure; and

(iv) may be granted at less than fair market value if the Secretary determines that such lease will improve the quality and availability of field employee quarters available.

(D) CONTRIBUTIONS BY UNITED STATES.—The Secretary may make payments, subject to appropriations, or contributions in kind either in advance of or on a continuing basis to reduce the costs of planning, construction, or rehabilitation of quarters on or off Federal lands under a lease under this paragraph.

(8) RENTAL GUARANTEE PROGRAM.—

(A) GENERAL AUTHORITY.—Subject to the appropriation of necessary funds in advance, the Secretary may enter into a lease to build arrangement as set forth in paragraph (7) with further agreement to guarantee the occupancy of field employee quarters constructed or rehabilitated under such lease. A guarantee made under this paragraph shall be in writing.

(B) LIMITATIONS.—The Secretary may not guarantee—

(i) the occupancy of more than 75 percent of the units constructed or rehabilitated under such lease; and

(ii) at a rental rate that exceeds the rate based on the reasonable value of the housing in accordance with requirements applicable under section 5911 of title 5, United States Code.

In no event shall outstanding guarantees be in excess of $3,000,000.

(C) RENTAL TO GOVERNMENT EMPLOYEES.—A guarantee may be made under this subsection only if the lessee agrees to permit the Secretary to utilize for housing purposes any units for which the guarantee is made.

(D) FAILURE TO MAINTAIN A SATISFACTORY LEVEL OF OPERATION AND MAINTENANCE.—The lease shall be null and void if the lessee fails to maintain a satisfactory level of operation and maintenance.

(9) JOINT DEVELOPMENT AUTHORITY.—The Secretary may use authorities granted by statute in combination with one another in the furtherance of providing where necessary and justified affordable field employee housing.

(10) CONTRACTS FOR THE MANAGEMENT OF FIELD EMPLOYEE QUARTERS.—

(A) GENERAL AUTHORITY.—Subject to the appropriation of necessary funds in advance, the Secretary may enter into contracts of

any duration for the management, repair, and maintenance of field employee quarters.

(B) TERMS AND CONDITIONS.—Any such contract shall contain such terms and conditions as the Secretary deems necessary or appropriate to protect the interests of the United States and assure that necessary quarters are available to field employees.

(11) LEASING OF SEASONAL EMPLOYEE QUARTERS.—

(A) GENERAL AUTHORITY.—Subject to subparagraph (B), the Secretary may lease quarters at or near a unit of the national park system for use as seasonal quarters for field employees. The rent charged to field employees under such a lease shall be a rate based on the reasonable value of the quarters in accordance with requirements applicable under section 5911 of title 5, United States Code.

(B) LIMITATION.—The Secretary may only issue a lease under subparagraph (A) if the Secretary finds that there is a shortage of adequate and affordable seasonal quarters at or near such unit and that—

(i) the requirement for such seasonal field employee quarters is temporary; or

(ii) leasing would be more cost effective than construction of new seasonal field employee quarters.

(C) UNRECOVERED COSTS.—The Secretary may pay the unrecovered costs of leasing seasonal quarters under this paragraph from annual appropriations for the year in which such lease is made.

(12) SURVEY OF EXISTING FACILITIES.—The Secretary shall—

(A) complete a condition assessment for all field employee housing, including the physical condition of such housing and the necessity and suitability of such housing for carrying out the agency mission, using existing information; and

(B) develop an agency-wide priority listing, by structure, identifying those units in greatest need for repair, rehabilitation, replacement, or initial construction.

(13) USE OF HOUSING-RELATED FUNDS.—Expenditure of any funds authorized and appropriated for new construction, repair, or rehabilitation of housing under this section shall follow the housing priority listing established by the agency under paragraph (13), in sequential order, to the maximum extent practicable.

(14) ANNUAL BUDGET SUBMITTAL.—The President's proposed budget to Congress for the first fiscal year beginning after enactment of this Act, and for each subsequent fiscal year, shall include identification of nonconstruction funds to be spent for National Park Service housing maintenance and operations which are in addition to rental receipts collected.

(15) STUDY OF HOUSING ALLOWANCES.—Within 12 months after the date of enactment of this Act, the Secretary shall conduct a study to determine the feasibility of providing eligible employees of the National Park Service with housing allowances rather than government housing. The study shall specifically examine the feasibility of providing rental allowances to temporary and lower paid permanent employees. Whenever the Secretary submits a copy of such study to the Office of Management and Budget, he shall concurrently transmit copies of the report to the Resources Committee of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

(16) STUDY OF SALE OF EMPLOYEE HOUSING.—Within 18 months of the date of the enactment of the Act, the Secretary shall complete a study of the sale of Government quarters to a cooperative consisting of field employees. The Secretary shall examine the potential benefits to the Government as well as the employees and any risks associated with such a program.

(17) GENERAL PROVISIONS.—

(A) CONSTRUCTION LIMITATIONS ON FEDERAL LANDS.—The Secretary may not utilize any lands for the purposes of providing field employee housing under this section which will impact primary resource values of the area or adversely affect the mission of the agency.

(B) RENTAL RATES.—To the extent practicable, the Secretary shall establish rental rates for all quarters occupied by field employees of the National Park Service that are based on the reasonable value of the quarters in accordance with requirements applicable under section 5911 of title 5, United States Code.

(C) EXEMPTION FROM LEASING REQUIREMENTS.—The provisions of section 5 of the Act of July 15, 1968 (82 Stat. 354, 356; 16 U.S.C. 4601-22), and section 321 of the Act of June 30, 1932 (40 U.S.C. 303b; 47 Stat. 412), shall not apply to leases issued by the Secretary under this section.

(18) PROCEEDS.—The proceeds from any lease under paragraph (7)(A)(i)(I), any lease under paragraph (11)(B), and any lease of seasonal quarters under subsection (1), shall be retained by the National Park Service. Such proceeds shall be deposited into the special fund established for maintenance and operation of quarters.

(19) DEFINITIONS.—For purposes of this subsection:

(A) The term "field employee" means—

(i) an employee of the National Park Service who is exclusively assigned by the National Park Service to perform duties at a field unit, and the members of their family; and

(ii) other individuals who are authorized to occupy Government quarters under section 5911 of title 5, United States Code, and for whom there is no feasible alternative to the provision of Government housing, and the members of their family.

(B) The term "land management agency" means the National Park Service, Department of the Interior.

(C) The term "primary resource values" means resources which are specifically mentioned in the enabling legislation for that field unit or other resource value recognized under Federal statute.

(D) The term "quarters" means quarters owned or leased by the Government.

(E) The term "seasonal quarters" means quarters typically occupied by field employees who are hired on assignments of 6 months or less.

(b) MINOR BOUNDARY REVISION AUTHORITY.—Section 7(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9(c)) is amended as follows:

(1) In the first sentence, by striking "Committee on Natural" and inserting "Committee on".

(2)(A) By striking ": *Provided, however,*" and all that follows through "1965"; and

(B) by inserting "(1)" after "(c)" and by inserting at the end the following:

"(2) For the purposes of clause (i) of paragraph (1), in all cases except the case of technical boundary revisions (resulting from such causes as survey error or changed road alignments), the authority of the Secretary under such clause (i) shall apply only if each of the following conditions is met:

"(A) The sum of the total acreage of lands, waters, and interests therein to be added to the area and the total such acreage to be deleted from the area is not more than 5 percent of the total Federal acreage authorized to be included in the area and is less than 200 acres in size.

"(B) The acquisition, if any, is not a major Federal action significantly affecting the quality of the human environment, as determined by the Secretary.

"(C) The sum of the total appraised value of the lands, water, and interest therein to be added to the area and the total appraised value of the lands, waters, and interests therein to be deleted from the area does not exceed $750,000.

"(D) The proposed boundary revision is not an element of a more comprehensive boundary modification proposal.

"(E) The proposed boundary has been subject to a public review and comment period.

"(F) The Director of the National Park Service obtains written consent for the boundary modification from all property owners whose lands, water, or interests therein, or a portion of whose lands, water, or interests therein, will be added to or deleted from the area by the boundary modification.

"(G) The lands are adjacent to other Federal lands administered by the Director of the National Park Service."

Minor boundary revisions involving only deletions of acreage owned by the Federal Government and administered by the National Park Service may be made only by Act of Congress.".

(c) AUTHORIZATION FOR PARK FACILITIES TO BE LOCATED OUTSIDE THE BOUNDARIES OF ZION NATIONAL PARK.—In order to facilitate the administration of Zion National Park, the Secretary of the Interior is authorized, under such terms and conditions as he may deem advisable, to expend donated or appropriated funds for the establishment of essential facilities for park administration and visitor use outside the boundaries, but within the vicinity, of the park. Such facilities and the use thereof shall be in conformity with approved plans for the park. The Secretary shall use existing facilities wherever feasible. Such facilities may only be constructed by the Secretary upon a finding that the location of such facilities would—

(1) avoid undue degradation of natural or cultural resources within the park;

(2) enhance service to the public; or

(3) provide a cost saving to the Federal Government.

The Secretary is authorized to enter into cooperative agreements with State or local governments or private entities to undertake the authority granted under this subsection. The Secretary is encouraged to identify and utilize funding sources to supplement any Federal funding used for these facilities.

(d) ELIMINATION OF UNNECESSARY CONGRESSIONAL REPORTING REQUIREMENTS.—

(1) REPEALS.—The following provisions are hereby repealed:

(A) Section 302(c) of the Act entitled "An Act to authorize the establishment of the Chattahoochee River National Recreation Area in the State of Georgia, and for other purposes (Public Law 95-344; 92 Stat. 478; 16 U.S.C. 2302(c)).

(B) Section 503 of the Act of December 19, 1980 (Public Law 96-550; 94 Stat. 3228; 16 U.S.C. 410ii-2).

(C) Subsections (b) and (c) of section 4 of the Act of October 15, 1982 (Public Law 97-335; 96 Stat. 1628; 16 U.S.C. 341 note).

(D) Section 7 of Public Law 89-671 (96 Stat. 1457; 16 U.S.C. 284f).

(E) Section 3(c) of the National Trails System Act (Public Law 90–543; 82 Stat. 919; 16 U.S.C. 1242(c)).

(F) Section 4(b) of the Act of October 24, 1984 (Public Law 98–540; 98 Stat. 2720; 16 U.S.C. 1a–8).

(G) Section 106(b) of the National Visitor Center Facilities Act of 1968 (Public Law 90–264; 82 Stat. 44; 40 U.S.C. 805(b)).

(H) Section 6(f)(7) of the Act of September 3, 1964 (Public Law 88–578; 78 Stat. 900; 16 U.S.C. 4601–8(f)(7)).

(I) Subsection (b) of section 8 of the Act of August 18, 1970 (Public Law 91–383; 90 Stat. 1940; 16 U.S.C. 1a–5(b)).

(J) The last sentence of section 10(a)(2) of the National Trails System Act (Public Law 90–543; 82 Stat. 926; 16 U.S.C. 1249(a)(2)).

(K) Section 4 of the Act of October 31, 1988 (Public Law 100–573; 102 Stat. 2891; 16 U.S.C. 460o note).

(L) Section 104(b) of the Act of November 19, 1988 (Public Law 100–698; 102 Stat. 4621).

(M) Section 1015(b) of the Urban Park and Recreation Recovery Act of 1978 (Public Law 95–625; 92 Stat. 3544; 16 U.S.C. 2514(b)).

(N) Section 105 of the Act of August 13, 1970 (Public Law 91–378; 16 U.S.C. 1705).

(O) Section 307(b) of the National Historic Preservation Act (Public Law 89–665; 16 U.S.C. 470w–6(b)).

(2) AMENDMENTS.—The following provisions are amended:

(A) Section 10 of the Archaeological Resources Protection Act of 1979, by striking the last sentence of subsection (c) (Public Law 96–95; 16 U.S.C. 470ii(c)).

(B) Section 5(c) of the Act of June 27, 1960 (Public Law 86–523; 16 U.S.C. 469a–3(c); 74 Stat. 220), by inserting a period after "Act" and striking "and shall submit" and all that follows.

(C) Section 7(a)(3) of the Act of September 3, 1964 (Public Law 88–578; 78 Stat. 903; 16 U.S.C. 4601–9(a)(3)), by striking the last sentence.

(D) Section 111 of the Petroglyph National Monument Establishment Act of 1990 (Public Law 101–313; 104 Stat. 278), by striking the second sentence.

(E) Section 307(a) of the National Historic Preservation Act (Public Law 89–665; 16 U.S.C. 470w–6(a)) is amended by striking the first and second sentences.

(F) Section 101(a)(1)(B) of the National Historic Preservation Act (Public Law 89–665; 16 U.S.C. 470a) by inserting a period after "Register" the last place such term appears and by striking "and submitted" and all that follows.

(e) SENATE CONFIRMATION OF THE DIRECTOR OF THE NATIONAL PARK SERVICE.—

(1) IN GENERAL.—The first section of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1; commonly referred to as the "National Park Service Organic Act"), is amended in the first sentence by striking "who shall be appointed by the Secretary" and all that follows and inserting "who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall have substantial experience and demonstrated competence in land management and natural or cultural resource conservation. The Director shall select two Deputy Directors. The first Deputy Director shall have responsibility for National Park Service operations, and the second Deputy Director shall have responsibility for other programs assigned to the National Park Service.".

(2) EFFECTIVE DATE AND APPLICATION.—The amendment made by subsection (a) shall take effect on February 1, 1997, and shall apply with respect to the individual (if any) serving as the Director of the National Park Service on that date.

(f) NATIONAL PARK SYSTEM ADVISORY BOARD AUTHORIZATION.—

(1) NATIONAL PARK SYSTEM ADVISORY BOARD.—Section 3 of the Act of August 21, 1935 (49 Stat. 667; 16 U.S.C. 463) is amended as follows:

(A) In subsection (a) by striking the first 3 sentences and inserting in lieu thereof: "There is hereby established a National Park System Advisory Board, whose purpose shall be to advise the Director of the National Park Service on matters relating to the National Park Service, the National Park System, and programs administered by the National Park Service. The Board shall advise the Director on matters submitted to the Board by the Director as well as any other issues identified by the Board. Members of the Board shall be appointed on a staggered term basis by the Secretary for a term not to exceed 4 years and shall serve at the pleasure of the Secretary. The Board shall be comprised of no more than 12 persons, appointed from among citizens of the United States having a demonstrated commitment to the mission of the National Park Service. Board members shall be selected to represent various geographic regions, including each of the administrative regions of the National Park Service. At least 6 of the members shall have outstanding expertise in 1 or more of the following fields: history, archeology, anthropology, historical or landscape architecture, biology, ecology, geology, marine science, or social science. At least 4 of the members shall have outstanding expertise and prior experience in the management of national or State parks or protected areas, or national or cultural resources management. The remaining members shall have outstanding expertise in 1 or more of the areas described above or in another professional or scientific discipline, such as financial management, recreation use management, land use planning or business management, important to the mission of the National Park Service. At least 1 individual shall be a locally elected official from an area adjacent to a park. The Board shall hold its first meeting by no later than 60 days after the date on which all members of the Advisory Board who are to be appointed have been appointed. Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner in which the original appointment was made. The Board may adopt such rules as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel. All members of the Board shall be reimbursed for travel and per diem in lieu of subsistence expenses during the performance of duties of the Board while away from home or their regular place of business, in accordance with subchapter 1 of chapter 57 of title 5, United States Code. With the exception of travel and per diem as noted above, a member of the Board who is otherwise an officer or employee of the United States Government shall serve on the Board without additional compensation.".

(B) By redesignating subsections (b) and (c) as (f) and (g) and by striking from the first sentence of subsection (f), as so redesignated "1995" and inserting in lieu thereof "2006".

(C) By adding the following new subsections after subsection (a):

"(b)(1) The Secretary is authorized to hire 2 full-time staffers to meet the needs of the Advisory Board.

"(2) Service of an individual as a member of the Board shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Board, or as an employee of the Board, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

"(c)(1) Upon request of the Director, the Board is authorized to—

"(A) hold such hearings and sit and act at such times,

"(B) take such testimony,

"(C) have such printing and binding done,

"(D) enter into such contracts and other arrangements,

"(E) make such expenditures, and

"(F) take such other actions,

as the Board may deem advisable. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

"(2) The Board may establish committees or subcommittees. Any such subcommittees or committees shall be chaired by a voting member of the Board.

"(d) The provisions of the Federal Advisory Committee Act shall apply to the Board established under this section with the exception of section 14(b).

"(e)(1) The Board is authorized to secure directly from any office, department, agency, establishment, or instrumentality of the Federal Government such information as the Board may require for the purpose of this section, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Board, upon request made by a member of the Board.

"(2) Upon the request of the Board, the head of any Federal department, agency, or instrumentality is authorized to make any of the facilities and services of such department, agency, or instrumentality to the Board, on a nonreimbursable basis, to assist the Board in carrying out its duties under this section.

"(3) The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies in the United States.".

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Park System Advisory Board $200,000 per year to carry out the provisions of section 3 of the Act of August 21, 1935 (49 Stat. 667; 16 U.S.C. 463).

(3) EFFECTIVE DATE.—This subsection shall take effect on December 7, 1997.

(g) CHALLENGE COST-SHARE AGREEMENT AUTHORITY.—

(1) DEFINITIONS.—For purposes of this subsection:

(A) The term "challenge cost-share agreement" means any agreement entered into between the Secretary and any cooperator for the purpose of sharing costs or services in carrying out authorized functions and responsibilities of the Secretary of the Interior with respect to any unit or program of the National Park System (as defined in section 2(a) of the Act of August 8, 1953 (16 U.S.C.

1c(a))), any affiliated area, or any designated National Scenic or Historic Trail.

(B) The term "cooperator" means any State or local government, public or private agency, organization, institution, corporation, individual, or other entity.

(2) CHALLENGE COST-SHARE AGREEMENTS.—The Secretary of the Interior is authorized to negotiate and enter into challenge cost-share agreements with cooperators.

(3) USE OF FEDERAL FUNDS.—In carrying out challenge cost-share agreements, the Secretary of the Interior is authorized to provide the Federal funding share from any funds available to the National Park Service.

(h) COST RECOVERY FOR DAMAGE TO NATIONAL PARK RESOURCES.—Public Law 101–337 is amended as follows:

(1) In section 1 (16 U.S.C. 19jj), by amending subsection (d) to read as follows:

"(d) 'Park system resource' means any living or non-living resource that is located within the boundaries of a unit of the National Park System, except for resources owned by a non-Federal entity.".

(2) In section 1 (16 U.S.C. 19jj) by adding at the end thereof the following:

"(g) 'Marine or aquatic park system resource' means any living or non-living part of a marine or aquatic regimen within or is a living part of a marine or aquatic regimen within the boundaries of a unit of the National Park System, except for resources owned by a non-Federal entity.".

(3) In section 2(b) (16 U.S.C. 19jj–1(b)), by inserting "any marine or aquatic park resource" after "any park system resource".

SEC. 815. WILLIAM B. SMULLIN VISITOR CENTER.

(a) DESIGNATION.—The Bureau of Land Management's visitors center in Rand, Oregon is hereby designated as the "William B. Smullin Visitor Center".

(b) LEGAL REFERENCES.—Any reference in any law, regulation, document, record, map, or other document of the United States to the visitor center referred to in subsection (a) shall be deemed to be a reference to the "William B. Smullin Visitor Center".

SEC. 816. CALUMET ECOLOGICAL PARK.

(a) FEASIBILITY STUDY.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of the Interior shall conduct a study of the feasibility of establishing an urban ecological park to be known as "Calumet Ecological Park", in the Lake Calumet area situated between the Illinois and Michigan Canal National Heritage Corridor and the Indiana Dunes National Lakeshore.

(2) PARTICULARS OF STUDY.—The study under paragraph (1) shall include consideration of the following:

(A) The suitability of establishing a park in the Lake Calumet area that—

(i) conserves and protects the wealth of natural resources threatened by development and pollution in the Lake Calumet area; and

(ii) consists of a number of nonadjacent sites forming green corridors between the Illinois and Michigan Canal National Heritage Corridor and the Indiana Dunes National Lakeshore, that are based on the lakes and waterways in the area.

(B) The long term future use of the Lake Calumet area.

(C) Ways in which a Calumet Ecological Park would—

(i) benefit and enhance the cultural, historical, and natural resources of the Lake Calumet area; and

(ii) preserve natural lands and habitats in the Lake Calumet area and northwest Indiana.

(3) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Congress a report containing findings and recommendations of a study under this section.

SEC. 817. ACQUISITION OF CERTAIN PROPERTY ON SANTA CRUZ ISLAND.

Section 202 of Public Law 96–199 (16 U.S.C. 410ff–1) is amended by adding the following new subsection at the end thereof:

"(e)(1) Notwithstanding any other provision of law, effective 90 days after the date of enactment of this subsection, all right, title, and interest in and to, and the right to immediate possession of, the real property on the eastern end of Santa Cruz Island which is known as the Gherini Ranch is hereby vested in the United States, except for the reserved rights of use and occupancy set forth in Instrument No. 90–027494 recorded in the Official Records of the County of Santa Barbara, California.

"(2) The United States shall pay just compensation to the owners of any real property taken pursuant to this subsection, determined as of the date of taking. The full faith and credit of the United States is hereby pledged to the payment of any judgment entered against the United States with respect to the taking of such property. Payment shall be in the amount of the agreed negotiated value of such real property plus interest or the valuation of such real property awarded by judgment plus interest. Interest shall accrue from the date of taking to the date of payment. Interest shall be compounded quarterly and computed at the rate applicable for the period involved, as determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities from the date of enactment of this subsection to the last day of the month preceding the date on which payment is made.

"(3) In the absence of a negotiated settlement, or an action by the owner, within 1 year after the date of enactment of this subsection, the Secretary shall initiate a proceeding, seeking in a court of competent jurisdiction a determination of just compensation with respect to the taking of such property.

"(4) The Secretary shall not allow any unauthorized use of the lands to be acquired under this subsection, except that the Secretary shall permit the orderly termination of all current activities and the removal of any equipment, facilities, or personal property.".

SEC. 818. NATIONAL PARK AGREEMENTS.

Section 3 of the Act entitled "An Act to improve the administration of the National Park System by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes" approved August 18, 1970 (16 U.S.C. 1a–2), is amended—

(1) in paragraph (i), by striking the period at the end thereof and inserting in lieu thereof "; and"; and

(2) by adding at the end thereof the following:

"(j) enter into cooperative agreements with public or private educational institutions, States, and their political subdivisions, for the purpose of developing adequate, coordinated, cooperative research and training programs concerning the resources of the National Park System, and, pursuant to any such agreements, to accept from and make available to the cooperator such technical and support staff, financial assistance for mutually agreed upon research projects, supplies and equipment, facilities, and administrative services relating to cooperative research units as the Secretary deems appropriate; except that this paragraph shall not waive any requirements for research projects that are subject to the Federal procurement regulations.".

TITLE IX—HERITAGE AREAS

SEC. 901. BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR.

(a) BOUNDARY CHANGES.—Section 2 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended by striking the first sentence and inserting the following new sentence: "The boundaries shall include the lands and water generally depicted on the map entitled 'Blackstone River Valley National Heritage Corridor Boundary Map', numbered BRV–80–80,011, and dated May 2, 1993.".

(b) TERMS.—Section 3(c) of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended by inserting before the period at the end the following: ", but may continue to serve after the expiration of this term until a successor has been appointed".

(c) REVISION OF PLAN.—Section 6 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended by adding at the end the following new subsection:

"(d) REVISION OF PLAN.—(1) Not later than 1 year after the date of the enactment of this subsection, the Commission, with the approval of the Secretary, shall revise the Cultural Heritage and Land Management Plan. The revision shall address the boundary change and shall include a natural resource inventory of areas or features that should be protected, restored, managed, or acquired because of their contribution to the understanding of national cultural landscape values.

"(2) No changes other than minor revisions may be made in the approved plan as amended without the approval of the Secretary. The Secretary shall approve or disapprove any proposed change in the plan, except minor revisions, in accordance with subsection (b).".

(d) EXTENSION OF COMMISSION.—Section 7 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended to read as follows:

"SEC. 7. TERMINATION OF COMMISSION.

"The Commission shall terminate on the date that is 10 years after the date of enactment of this section.".

(e) IMPLEMENTATION OF PLAN.—Subsection (c) of section 8 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended to read as follows:

"(c) IMPLEMENTATION.—(1) To assist in the implementation of the Cultural Heritage and Land Management Plan in a manner consistent with purposes of this Act, the Secretary is authorized to undertake a limited program of financial assistance for the purpose of providing funds for the preservation and restoration of structures on or eligible for inclusion on the National Register of Historic

Places within the Corridor which exhibit national significance or provide a wide spectrum of historic, recreational, or environmental education opportunities to the general public.

"(2) To be eligible for funds under this section, the Commission shall submit an application to the Secretary that includes—

"(A) a 10-year development plan including those resource protection needs and projects critical to maintaining or interpreting the distinctive character of the Corridor; and

"(B) specific descriptions of annual work programs that have been assembled, the participating parties, roles, cost estimates, cost-sharing, or cooperative agreements necessary to carry out the development plan.

"(3) Funds made available pursuant to this subsection shall not exceed 50 percent of the total cost of the work programs.

"(4) In making the funds available, the Secretary shall give priority to projects that attract greater non-Federal funding sources.

"(5) Any payment made for the purposes of conservation or restoration of real property or structures shall be subject to an agreement either—

"(A) to convey a conservation or preservation easement to the Department of Environmental Management or to the Historic Preservation Commission, as appropriate, of the State in which the real property or structure is located; or

"(B) that conversion, use, or disposal of the resources so assisted for purposes contrary to the purposes of this Act, as determined by the Secretary, shall result in a right of the United States for reimbursement of all funds expended upon such resources or the proportion of the increased value of the resources attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

"(6) The authority to determine that a conversion, use, or disposal of resources has been carried out contrary to the purposes of this Act in violation of an agreement entered into under paragraph (5)(A) shall be solely at the discretion of the Secretary.".

(f) LOCAL AUTHORITY.—Section 5 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99-647; 16 U.S.C. 461 note), is amended by adding at the end the following new subsection:

"(j) LOCAL AUTHORITY AND PRIVATE PROPERTY NOT AFFECTED.—Nothing in this Act shall be construed to affect or to authorize the Commission to interfere with—

"(1) the rights of any person with respect to private property; or

"(2) any local zoning ordinance or land use plan of the Commonwealth of Massachusetts or any political subdivision of the Commonwealth.".

(g) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding any other provision of law regarding limitations on funding for heritage areas, section 10 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99-647; 16 U.S.C. 461 note), as amended, is further amended:

(1) in subsection (a), by striking "$350,000" and inserting "$650,000"; and

(2) by amending subsection (b) to read as follows:

"(b) DEVELOPMENT FUNDS.—For fiscal years 1996, 1997, and 1998, there is authorized to be appropriated to carry out section 8(c) not to exceed $5,000,000.".

SEC. 902. ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR.

The Illinois and Michigan Canal National Heritage Corridor Act of 1984 (Public Law 98-398; 16 U.S.C. 461 note) is amended by inserting after section 117 the following new section:

"SEC. 118. STUDY OF POSSIBLE ADDITIONS TO CORRIDOR

"The Commission shall undertake a study to determine whether the Joliet Army Ammunition Plant and the Calumet-Sag and Chicago Sanitary and Ship Canals should be added to the corridor. The study shall specifically examine the relationship between the purposes of this Act and the areas proposed for study and shall identify any specific resources which are related to the purposes for which the corridor was established. The study shall propose boundaries which provide for the inclusion of any related resources within the corridor. The Commission shall submit the study to the Secretary and the appropriate congressional committees. Upon receipt of the study, the Secretary shall determine which lands (if any) should be added to the corridor and shall so notify the appropriate congressional committees.".

TITLE X—MISCELLANEOUS

Subtitle A—Tallgrass Prairie National Preserve

SEC. 1001. SHORT TITLE.

This subtitle may be cited as the "Tallgrass Prairie National Preserve Act of 1996".

SEC. 1002. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) of the 400,000 square miles of tallgrass prairie that once covered the North American Continent, less than 1 percent remains, primarily in the Flint Hills of Kansas;

(2) in 1991, the National Park Service conducted a special resource study of the Spring Hill Ranch, located in the Flint Hills of Kansas;

(3) the study concludes that the Spring Hill Ranch—

(A) is a nationally significant example of the once vast tallgrass ecosystem, and includes buildings listed on the National Register of Historic Places pursuant to section 101 of the National Historic Preservation Act (16 U.S.C. 470a) that represent outstanding examples of Second Empire and other 19th Century architectural styles; and

(B) is suitable and feasible as a potential addition to the National Park System; and

(4) the National Park Trust, which owns the Spring Hill Ranch, has agreed to permit the National Park Service—

(A) to purchase a portion of the ranch, as specified in this subtitle; and

(B) to manage the ranch in order to—

(i) conserve the scenery, natural and historic objects, and wildlife of the ranch; and

(ii) provide for the enjoyment of the ranch in such a manner and by such means as will leave the scenery, natural and historic objects, and wildlife unimpaired for the enjoyment of future generations.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to preserve, protect, and interpret for the public an example of a tallgrass prairie ecosystem on the Spring Hill Ranch, located in the Flint Hills of Kansas; and

(2) to preserve and interpret for the public the historic and cultural values represented on the Spring Hill Ranch.

SEC. 1003. DEFINITIONS.

In this subtitle:

(1) ADVISORY COMMITTEE.—The term "Advisory Committee" means the Advisory Committee established under section 1007.

(2) PRESERVE.—The term "Preserve" means the Tallgrass Prairie National Preserve established by section 1004.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) TRUST.—The term "Trust" means the National Park Trust, Inc., a District of Columbia nonprofit corporation, or any successor-in-interest.

SEC. 1004. ESTABLISHMENT OF TALLGRASS PRAIRIE NATIONAL PRESERVE.

(a) IN GENERAL.—In order to provide for the preservation, restoration, and interpretation of the Spring Hill Ranch area of the Flint Hills of Kansas, for the benefit and enjoyment of present and future generations, there is established the Tallgrass Prairie National Preserve.

(b) DESCRIPTION.—The Preserve shall consist of the lands and interests in land, including approximately 10,894 acres, generally depicted on the map entitled "Boundary Map, Flint Hills Prairie National Monument" numbered NM-TGP 80,000 and dated June 1994, more particularly described in the deed filed at 8:22 a.m. of June 3, 1994, with the Office of the Register of Deeds in Chase County, Kansas, and recorded in Book L-106 at pages 328 through 339, inclusive. In the case of any difference between the map and the legal description, the legal description shall govern, except that if, as a result of a survey, the Secretary determines that there is a discrepancy with respect to the boundary of the Preserve that may be corrected by making minor changes to the map, the Secretary shall make changes to the map as appropriate, and the boundaries of the Preserve shall be adjusted accordingly. The map shall be on file and available for public inspection in the appropriate offices of the National Park Service of the Department of the Interior.

SEC. 1005. ADMINISTRATION OF NATIONAL PRESERVE.

(a) IN GENERAL.—The Secretary shall administer the Preserve in accordance with this subtitle, the cooperative agreements described in subsection (f)(1), and the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1, 2 through 4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.).

(b) APPLICATION OF REGULATIONS.—With the consent of a private owner of land within the boundaries of the Preserve, the regulations issued by the Secretary concerning the National Park Service that provide for the proper use, management, and protection of persons, property, and natural and cultural resources shall apply to the private land.

(c) FACILITIES.—For purposes of carrying out the duties of the Secretary under this subtitle relating to the Preserve, the Secretary may, with the consent of a landowner, directly or by contract, construct, reconstruct, rehabilitate, or develop essential buildings, structures, and related facilities including roads, trails, and other interpretive facilities on real property that is not owned by the Federal Government and is located within the Preserve.

(d) LIABILITY.—

(1) LIABILITY OF THE UNITED STATES AND ITS OFFICERS AND EMPLOYEES.—Except as otherwise provided in this subsection, the liability of the United States is subject to the terms and conditions of the Federal Tort Claims Act, as amended, 28 U.S.C. 2671 et seq., with respect to the claims arising by virtue of the Secretaries administration of the Preserve pursuant to this Act.

(2) LIABILITY OF LANDOWNERS.—

(A) The Secretary of the Interior is authorized, under such terms and conditions as he deems appropriate, to include in any cooperative agreement entered into in accordance with subsection (f)(1) an indemnification provision by which the United States agrees to hold harmless, defend and indemnify the landowner in full from and against any suit, claim, demand or action, liability, judgment, cost or other fee arising out of any claim of personal injury or property damage that occurs in connection with the operation of the Preserve under the agreement: *Provided however*, That indemnification shall not exceed $3 million per claimant per occurrence.

(B) The indemnification provision authorized by subparagraph (A) shall not include claims for personal injury or property damage proximately caused by the wanton or willful misconduct of the landowner.

(e) UNIT OF THE NATIONAL PARK SYSTEM.—The Preserve shall be a unit of the National Park System for all purposes, including the purpose of exercising authority to charge entrance and admission fees under section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–6a).

(f) AGREEMENTS AND DONATIONS.—

(1) AGREEMENTS.—The Secretary may expend Federal funds for the cooperative management of private property within the Preserve for research, resource management (including pest control and noxious weed control, fire protection, and the restoration of buildings), and visitor protection and use.

(2) DONATIONS.—The Secretary may accept, retain, and expend donations of funds, property (other than real property), or services from individuals, foundations, corporations, or public entities for the purposes of providing programs, services, facilities, or technical assistance that further the purposes of this subtitle.

(g) GENERAL MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than the end of the third full fiscal year beginning after the date of enactment of this Act, the Secretary shall prepare and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a general management plan for the Preserve.

(2) CONSULTATION.—In preparing the general management plan, the Secretary, acting through the Director of the National Park Service, shall consult with—

(A)(i) appropriate officials of the Trust; and

(ii) the Advisory Committee; and

(B) adjacent landowners, appropriate officials of nearby communities, the Kansas Department of Wildlife and Parks, and the Kansas Historical Society, and other interested parties.

(3) CONTENT OF PLAN.—The general management plan shall provide for the following:

(A) Maintaining and enhancing the tallgrass prairie within the boundaries of the Preserve.

(B) Public access and enjoyment of the property that is consistent with the conservation and proper management of the historical, cultural, and natural resources of the ranch.

(C) Interpretive and educational programs covering the natural history of the prairie, the cultural history of Native Americans, and the legacy of ranching in the Flint Hills region.

(D) Provisions requiring the application of applicable State law concerning the maintenance of adequate fences within the boundaries of the Preserve. In any case in which an activity of the National Park Service requires fences that exceed the legal fence standard otherwise applicable to the Preserve, the National Park Service shall pay the additional cost of constructing and maintaining the fences to meet the applicable requirements for that activity.

(E) Provisions requiring the Secretary to comply with applicable State noxious weed, pesticide, and animal health laws.

(F) Provisions requiring compliance with applicable State water laws and Federal and State waste disposal laws (including regulations) and any other applicable law.

(G) Provisions requiring the Secretary to honor each valid existing oil and gas lease for lands within the boundaries of the Preserve (as described in section 1004(b)) that is in effect on the date of enactment of this Act.

(H) Provisions requiring the Secretary to offer to enter into an agreement with each individual who, as of the date of enactment of this Act, holds rights for cattle grazing within the boundaries of the Preserve (as described in section 1004(b)).

(4) HUNTING AND FISHING.—The Secretary may allow hunting and fishing on Federal lands within the Preserve.

(5) FINANCIAL ANALYSIS.—As part of the development of the general management plan, the Secretary shall prepare a financial analysis indicating how the management of the Preserve may be fully supported through fees, private donations, and other forms of non-Federal funding.

SEC. 1006. LIMITED AUTHORITY TO ACQUIRE.

(a) IN GENERAL.—The Secretary shall acquire, by donation, not more than 180 acres of real property within the boundaries of the Preserve (as described in section 1004(b)) and the improvements on the real property.

(b) PAYMENTS IN LIEU OF TAXES.—For the purposes of payments made under chapter 69 of title 31, United States Code, the real property described in subsection (a)(1) shall be deemed to have been acquired for the purposes specified in section 6904(a) of that title.

(c) PROHIBITIONS.—No property may be acquired under this section without the consent of the owner of the property. The United States may not acquire fee ownership of any lands within the Preserve other than lands described in this section.

SEC. 1007. ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established an advisory committee to be known as the "Tallgrass Prairie National Preserve Advisory Committee".

(b) DUTIES.—The Advisory Committee shall advise the Secretary and the Director of the National Park Service concerning the development, management, and interpretation of the Preserve. In carrying out those duties, the Advisory Committee shall provide timely advice to the Secretary and the Director during the preparation of the general management plan under section 1005(g).

(c) MEMBERSHIP.—The Advisory Committee shall consist of 13 members, who shall be appointed by the Secretary as follows:

(1) Three members shall be representatives of the Trust.

(2) Three members shall be representatives of local landowners, cattle ranchers, or other agricultural interests.

(3) Three members shall be representatives of conservation or historic preservation interests.

(4)(A) One member shall be selected from a list of persons recommended by the Chase County Commission in the State of Kansas.

(B) One member shall be selected from a list of persons recommended by appropriate officials of Strong City, Kansas, and Cottonwood Falls, Kansas.

(C) One member shall be selected from a list of persons recommended by the Governor of the State of Kansas.

(5) One member shall be a range management specialist representing institutions of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) in the State of Kansas.

(d) TERMS.—

(1) IN GENERAL.—Each member of the Advisory Committee shall be appointed to serve for a term of 3 years, except that the initial members shall be appointed as follows:

(A) Four members shall be appointed, one each from paragraphs (1), (2), (3), and (4) of subsection (c), to serve for a term of 3 years.

(B) Four members shall be appointed, one each from paragraphs (1), (2), (3), and (4) of subsection (c), to serve for a term of 4 years.

(C) Five members shall be appointed, one each from paragraphs (1) through (5) of subsection (c), to serve for a term of 5 years.

(2) REAPPOINTMENT.—Each member may be reappointed to serve a subsequent term.

(3) EXPIRATION.—Each member shall continue to serve after the expiration of the term of the member until a successor is appointed.

(4) VACANCIES.—A vacancy on the Advisory Committee shall be filled in the same manner as an original appointment is made. The member appointed to fill the vacancy shall serve until the expiration of the term in which the vacancy occurred.

(e) CHAIRPERSON.—The members of the Advisory Committee shall select 1 of the members to serve as Chairperson.

(f) MEETINGS.—Meetings of the Advisory Committee shall be held at the call of the Chairperson or the majority of the Advisory Committee. Meetings shall be held at such locations and in such a manner as to ensure adequate opportunity for public involvement. In compliance with the requirements of the Federal Advisory Committee Act (5 U.S.C. App.), the Advisory Committee shall choose an appropriate means of providing interested members of the public advance notice of scheduled meetings.

(g) QUORUM.—A majority of the members of the Advisory Committee shall constitute a quorum.

(h) COMPENSATION.—Each member of the Advisory Committee shall serve without compensation, except that while engaged in official business of the Advisory Committee, the member shall be entitled to travel expenses, including per diem in lieu of subsistence in the same manner as persons employed intermittently in Government service under section 5703 of title 5, United States Code.

(i) CHARTER.—The rechartering provisions of section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Committee.

SEC. 1008. RESTRICTION ON AUTHORITY.

Nothing in this subtitle shall give the Secretary authority to regulate lands outside the land area acquired by the Secretary under section 1006(a).

SEC. 1009. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of the Interior such sums as are necessary to carry out this subtitle.

Subtitle B—Sterling Forest

SEC. 1011. PALISADES INTERSTATE PARK COMMISSION.

(a) FUNDING.—The Secretary of the Interior is authorized to provide funding to the Palisades Interstate Park Commission to be used

for the acquisition of lands and interests in lands within the area generally depicted on the map entitled "Boundary Map, Sterling Forest Reserve", numbered SFR–60,001 and dated July 1, 1994. There are authorized to be appropriated for purposes of this section not more than $17,500,000. No funds made available under this section may be used for the acquisition of any lands or interest in lands without the consent of the owner thereof.

(b) LAND EXCHANGE.—The Secretary of the Interior is authorized to exchange unreserved unappropriated Federal lands under the administrative jurisdiction of the Secretary for the lands comprising approximately 2,220 acres depicted on the map entitled "Sterling Forest, Proposed Sale of Sterling Forest Lands" and dated July 25, 1996. The Secretary shall consult with the Governor of any State in which such unreserved unappropriated lands are located prior to carrying out such exchange. The lands acquired by the Secretary under this section shall be transferred to the Palisades Interstate Park Commission to be included within the Sterling Forest Reserve. The lands exchanged under this section shall be of equal value, as determined by the Secretary utilizing nationally recognized appraisal standards. The authority to exchange lands under this section shall expire on the date 18 months after the date of enactment of this Act.

Subtitle C—Additional Provisions

SEC. 1021. RECREATION LAKES.

(a) FINDINGS AND PURPOSES.—The Congress finds that the Federal Government, under the authority of the Reclamation Act and other statutes, has developed manmade lakes and reservoirs that have become a powerful magnet for diverse recreational activities and that such activities contribute to the well-being of families and individuals and the economic viability of local communities. The Congress further finds that in order to further the purposes of the Land and Water Conservation Fund, the President should appoint an advisory commission to review the current and anticipated demand for recreational opportunities at federally-managed manmade lakes and reservoirs through creative partnerships involving Federal, State and local governments and the private sector and to develop alternatives for enhanced recreational use of such facilities.

(b) COMMISSION.—The Land and Water Conservation Fund Act of 1965 (P.L. 88–578, 78 Stat. 897) is amended by adding at the end the following new section:

"SEC. 13. (a) The President shall appoint an advisory commission to review the opportunities for enhanced opportunities for water based recreation which shall submit a report to the President and to the Committee on Energy and Natural Resources of the Senate and in the House of Representatives to the Committee on Transportation and Infrastructure and the Committee on Resources of the House of Representatives within one year from the date of enactment of this section.

"(b) The members of the Commission shall include—

"(1) the Secretary of the Interior, or his designee;

"(2) the Secretary of the Army, or his designee;

"(3) the Chairman of the Tennessee Valley Authority, or his designee;

"(4) the Secretary of Agriculture, or his designee;

"(5) a person nominated by the National Governor's Association; and

"(6) four persons familiar with the interests of the recreation and tourism industry, conservation and recreation use, Indian tribes, and local governments, at least one of whom shall be familiar with the economics and financing of recreation related infrastructure.

"(c) The President shall appoint one member to serve as Chairman. Any vacancy on the Commission shall be filled in the same manner as the original appointment. Members of the Commission shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties. The Secretary of the Interior shall provide all financial, administrative, and staffing requirements for the Commission, including office space, furnishings, and equipment. The heads of other Federal agencies are authorized, at the request of the Commission, to provide such information or personnel, to the extent permitted by law and within the limits of available funds, to the Commission as may be useful to accomplish the purposes of this section.

"(d) The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it deems advisable: Provided, That, to the maximum extent possible, the Commission shall use existing data and research. The Commission is authorized to use the United States mail in the same manner and upon the same conditions as other departments and agencies of the United States.

"(e) The report shall review the extent of water related recreation at Federal manmade lakes and reservoirs and shall develop alternatives to enhance the opportunities for such use by the public. In developing the report, the Commission shall—

"(1) review the extent to which recreation components identified in specific authorizations associated with individual federal manmade lakes and reservoirs have been accomplished,

"(2) evaluate the feasibility of enhancing recreation opportunities at federally-managed lakes and reservoirs under existing statutes,

"(3) consider legislative changes that would enhance recreation opportunities consistent with and subject to the achievement of the authorized purposes of federal water projects, and

"(4) make recommendations on alternatives for enhanced recreation opportunities including, but not limited to, the establishment of a National Recreation Lake System under which specific lakes would receive national designation and which would be managed through innovative partnership-based agreements between federal agencies, State and local units of government, and the private sector.

Any such alternatives shall be consistent with and subject to the authorized purposes for any manmade lakes and reservoirs and shall emphasize private sector initiatives in concert with State and local units of government.".

SEC. 1022. BISTI/DE-NA-ZIN WILDERNESS EXPANSION AND FOSSIL FOREST PROTECTION.

(a) SHORT TITLE.—This section may be cited as the "Bisti/De-Na-Zin Wilderness Expansion and Fossil Forest Protection Act".

(b) WILDERNESS DESIGNATION.—Section 102 of the San Juan Basin Wilderness Protection Act of 1984 (98 Stat. 3155) is amended—

(1) in subsection (a)—

(A) by striking "wilderness, and, therefore," and all that follows through "System—" and inserting "wilderness areas, and as one component of the National Wilderness Preservation System, to be known as the 'Bisti/De-Na-Zin Wilderness'—";

(B) in paragraph (1), by striking ", and which shall be known as the Bisti Wilderness; and" and inserting a semicolon;

(C) in paragraph (2), by striking ", and which shall be known as the De-Na-Zin Wilderness." and inserting "; and"; and

(D) by adding at the end the following new paragraph:

"(3) certain lands in the Farmington District of the Bureau of Land Management, New Mexico, which comprise approximately 16,525 acres, as generally depicted on a map entitled 'Bisti/De-Na-Zin Wilderness Amendment Proposal', dated May 1992.";

(2) in the first sentence of subsection (c), by inserting after "of this Act" the following: "with regard to the areas described in paragraphs (1) and (2) of subsection (a), and as soon as practicable after the date of enactment of subsection (a)(3) with regard to the area described in subsection (a)(3)";

(3) in subsection (d), by inserting after "of this Act" the following: "with regard to the areas described in paragraphs (1) and (2) of subsection (a), and where established prior to the date of enactment of subsection (a)(3) with regard to the area described in subsection (a)(3)"; and

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

"(e)(1) Subject to valid existing rights, the lands described in subsection (a)(3) are withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing, geothermal leasing, and mineral material sales.

"(2) The Secretary of the Interior may issue coal leases in New Mexico in exchange for any preference right coal lease application within the area described in subsection (a)(3). Such exchanges shall be made in accordance with applicable existing laws and regulations relating to coal leases after a determination has been made by the Secretary that the applicant is entitled to a preference right lease and that the exchange is in the public interest.

"(3) Operations on oil and gas leases issued prior to the date of enactment of subsection (a)(3) shall be subject to the applicable provisions of Group 3100 of title 43, Code of Federal Regulations (including section 3162.5–1), and such other terms, stipulations, and conditions as the Secretary of the Interior considers necessary to avoid significant disturbance of the land surface or impairment of the ecological, educational, scientific, recreational, scenic, and other wilderness values of the lands described in subsection (a)(3) in existence on the date of enactment of subsection (a)(3). In order to satisfy valid existing rights on the lands described in subsection (a)(3), the Secretary of the Interior may exchange any oil and gas lease within this area for an unleased parcel outside this area of like mineral estate and with similar appraised mineral values.".

(c) EXCHANGES FOR STATE LANDS.—Section 104 of the San Juan Basin Wilderness Protection Act of 1984 (98 Stat. 3156) is amended—

(1) in the first sentence of subsection (b), by inserting after "of this Act" the following: "with regard to the areas described in paragraphs (1) and (2) of subsection (a), and not later than 120 days after the date of enactment of subsection (a)(3) with regard to the area described in subsection (a)(3)";

(2) in subsection (c), by inserting before the period the following: "with regard to the areas described in paragraphs (1) and (2) of subsection (a), and as of the date of enactment of subsection (a)(3) with regard to the area described in subsection (a)(3)"; and

(3) in the last sentence of subsection (d), by inserting before the period the following: "with regard to the areas described in paragraphs (1) and (2) of subsection (a), and not later than 2 years after the date of enactment of subsection (a)(3) with regard to the area described in subsection (a)(3)".

(d) EXCHANGES FOR INDIAN LANDS.—Section 105 of the San Juan Basin Wilderness Protection Act of 1984 (98 Stat. 3157) is amended by adding at the end the following new subsection:

"(d)(1) The Secretary of the Interior shall exchange any lands held in trust for the Navajo Tribe by the Bureau of Indian Affairs that are within the boundary of the area described in subsection (a)(3).

"(2) The lands shall be exchanged for lands within New Mexico approximately equal in value that are selected by the Navajo Tribe.

"(3) After the exchange, the lands selected by the Navajo Tribe shall be held in trust by the Secretary of the Interior in the same manner as the lands described in paragraph (1).".

(e) FOSSIL FOREST RESEARCH NATURAL AREA.—Section 103 of the San Juan Basin Wilderness Protection Act of 1984 (98 Stat. 3156) is amended to read as follows:

"SEC. 103. FOSSIL FOREST RESEARCH NATURAL AREA.

"(a) ESTABLISHMENT.—To conserve and protect natural values and to provide scientific knowledge, education, and interpretation for the benefit of future generations, there is established the Fossil Forest Research Natural Area (referred to in this section as the 'Area'), consisting of the approximately 2,770 acres in the Farmington District of the Bureau of Land Management, New Mexico, as generally depicted on a map entitled 'Fossil Forest', dated June 1983.

"(b) MAP AND LEGAL DESCRIPTION.—

"(1) IN GENERAL.—As soon as practicable after the date of enactment of this paragraph, the Secretary of the Interior shall file a map and legal description of the Area with the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives.

"(2) FORCE AND EFFECT.—The map and legal description described in paragraph (1) shall have the same force and effect as if included in this Act.

"(3) TECHNICAL CORRECTIONS.—The Secretary of the Interior may correct clerical, typographical, and cartographical errors in the map and legal description subsequent to filing the map pursuant to paragraph (1).

"(4) PUBLIC INSPECTION.—The map and legal description shall be on file and available for public inspection in the Office of the Director of the Bureau of Land Management, Department of the Interior.

"(c) MANAGEMENT.—

"(1) IN GENERAL.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall manage the Area—

"(A) to protect the resources within the Area; and

"(B) in accordance with this Act, the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and other applicable provisions of law.

"(2) MINING.—

"(A) WITHDRAWAL.—Subject to valid existing rights, the lands within the Area are withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing, geothermal leasing, and mineral material sales.

"(B) COAL PREFERENCE RIGHTS.—The Secretary of the Interior is authorized to issue coal leases in New Mexico in exchange for any preference right coal lease application within the Area. Such exchanges shall be made in accordance with applicable existing laws and regulations relating to coal leases after a determination has been made by the Secretary that the applicant is entitled to a preference right lease and that the exchange is in the public interest.

"(C) OIL AND GAS LEASES.—Operations on oil and gas leases issued prior to the date of enactment of this paragraph shall be subject to the applicable provisions of Group 3100 of title 43, Code of Federal Regulations (including section 3162.5-1), and such other terms, stipulations, and conditions as the Secretary of the Interior considers necessary to avoid significant disturbance of the land surface or impairment of the natural, educational, and scientific research values of the Area in existence on the date of enactment of this paragraph.

"(3) GRAZING.—Livestock grazing on lands within the Area may not be permitted.

"(d) INVENTORY.—Not later than 3 full fiscal years after the date of enactment of this subsection, the Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall develop a baseline inventory of all categories of fossil resources within the Area. After the inventory is developed, the Secretary shall conduct monitoring surveys at intervals specified in the management plan developed for the Area in accordance with subsection (e).

"(e) MANAGEMENT PLAN.—

"(1) IN GENERAL.—Not later than 5 years after the date of enactment of this Act, the Secretary of the Interior shall develop and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a management plan that describes the appropriate uses of the Area consistent with this Act.

"(2) CONTENTS.—The management plan shall include—

"(A) a plan for the implementation of a continuing cooperative program with other agencies and groups for—

"(i) laboratory and field interpretation; and

"(ii) public education about the resources and values of the Area (including vertebrate fossils);

"(B) provisions for vehicle management that are consistent with the purpose of the Area and that provide for the use of vehicles to the minimum extent necessary to accomplish an individual scientific project;

"(C) procedures for the excavation and collection of fossil remains, including botanical fossils, and the use of motorized and mechanical equipment to the minimum extent necessary to accomplish an individual scientific project; and

"(D) mitigation and reclamation standards for activities that disturb the surface to the detriment of scenic and environmental values.".

SEC. 1023. OPAL CREEK WILDERNESS AND SCENIC RECREATION AREA.

(a) DEFINITIONS.—In this section:

(1) BULL OF THE WOODS WILDERNESS.—The term "Bull of the Woods Wilderness" means the land designated as wilderness by section 3(4) of the Oregon Wilderness Act of 1984 (Public Law 98-328; 16 U.S.C. 1132 note).

(2) OPAL CREEK WILDERNESS.—The term "Opal Creek Wilderness" means certain land in the Willamette National Forest in the State of Oregon comprising approximately 12,800 acres, as generally depicted on the map entitled "Proposed Opal Creek Wilderness and Scenic Recreation Area", dated July 1996.

(3) SCENIC RECREATION AREA.—The term "Scenic Recreation Area" means the Opal Creek Scenic Recreation Area, comprising approximately 13,000 acres, as generally depicted on the map entitled "Proposed Opal Creek Wilderness and Scenic Recreation Area", dated July 1996 and established under subsection (c)(1)(C).

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(b) PURPOSES.—The purposes of this section are—

(1) to establish a wilderness and scenic recreation area to protect and provide for the enhancement of the natural, scenic, recreational, historic and cultural resources of the area in the vicinity of Opal Creek;

(2) to protect and support the economy of the communities in the Santiam Canyon; and

(3) to provide increased protection for an important drinking water source for communities served by the North Santiam River.

(c) ESTABLISHMENT OF OPAL CREEK WILDERNESS AND SCENIC RECREATION AREA.—

(1) ESTABLISHMENT.—On a determination by the Secretary under paragraph (2)—

(A) the Opal Creek Wilderness, as depicted on the map described in subsection (a)(2), is hereby designated as wilderness, subject to the provisions of the Wilderness Act of 1964, shall become a component of the National Wilderness System, and shall be known as the Opal Creek Wilderness;

(B) the part of the Bull of the Woods Wilderness that is located in the Willamette National Forest shall be incorporated into the Opal Creek Wilderness; and

(C) the Secretary shall establish the Opal Creek Scenic Recreation Area in the Willamette National Forest in the State of Oregon, comprising approximately 13,000 acres, as generally depicted on the map described in subsection (a)(3).

(2) CONDITIONS.—The designations in paragraph (1) shall not take effect unless the Secretary makes a determination, not later than 2 years after the date of enactment of this title, that the following conditions have been met:

(A) the following have been donated to the United States in an acceptable condition and without encumbrances:

(i) all right, title, and interest in the following patented parcels of land—

(I) Santiam Number 1, mineral survey number 992, as described in patent number 39-92-0002, dated December 11, 1991;

(II) Ruth Quartz Mine Number 2, mineral survey number 994, as described in patent number 39-91-0012, dated February 12, 1991;

(III) Morning Star Lode, mineral survey number 993, as described in patent number 36-91-0011, dated February 12, 1991;

(ii) all right, title, and interest held by any entity other than the Times Mirror Land and Timber Company, its successors and assigns, in and to lands located in section 18, township 8 south, range 5 east, Marion County, Oregon, Eureka numbers 6, 7, 8, and 13 mining claims; and

(iii) an easement across the Hewitt, Starvation, and Poor Boy Mill Sites, mineral survey number 990, as described in patent number 36-91-0017, dated May 9, 1991. In the sole discretion of the Secretary, such easement may be limited to administrative use if an alternative access route, adequate and appropriate for public use, is provided.

(B) a binding agreement has been executed by the Secretary and the owners of record as

of March 29, 1996, of the following interests, specifying the terms and conditions for the disposition of such interests to the United States Government—

(i) The lode mining claims known as Princess Lode, Black Prince Lode, and King Number 4 Lode, embracing portions of sections 29 and 32, township 8 south, range 5 east, Willamette Meridian, Marion County, Oregon, the claims being more particularly described in the field notes and depicted on the plat of mineral survey number 887, Oregon; and

(ii) Ruth Quartz Mine Number 1, mineral survey number 994, as described in patent number 39-91-0012, dated February 12, 1991.

(3) ADDITIONS TO THE WILDERNESS AND SCENIC RECREATION AREAS.—

(A) Lands or interests in lands conveyed to the United States under this subsection shall be included in and become part of, as appropriate, Opal Creek Wilderness or the Opal Creek Scenic Recreation Area.

(B) On acquiring all or substantially all of the land located in section 36, township 8 south, range 4 east, of the Willamette Meridian, Marion County, Oregon, commonly known as the Rosboro section by exchange, purchase from a willing seller, or by donation, the Secretary shall expand the boundary of the Scenic Recreation Area to include such land.

(C) On acquiring all or substantially all of the land located in section 18, township 8 south, range 5 east, Marion County, Oregon, commonly known as the Times Mirror property, by exchange, purchase from a willing seller, or by donation, such land shall be included in and become a part of the Opal Creek Wilderness.

(d) ADMINISTRATION OF THE SCENIC RECREATION AREA.—

(1) IN GENERAL.—The Secretary shall administer the Scenic Recreation Area in accordance with this section and the laws (including regulations) applicable to the National Forest System.

(2) OPAL CREEK MANAGEMENT PLAN.—

(A) IN GENERAL.—Not later than 2 years after the date of establishment of the Scenic Recreation Area, the Secretary, in consultation with the advisory committee established under subsection (e)(1), shall prepare a comprehensive Opal Creek Management Plan (Management Plan) for the Scenic Recreation Area.

(B) INCORPORATION IN LAND AND RESOURCE MANAGEMENT PLAN.—Upon its completion, the Opal Creek Management Plan shall become part of the land and resource management plan for the Willamette National Forest and supersede any conflicting provision in such land and resource management plan.Nothing in this paragraph shall be construed to supersede the requirements of the Endangered Species Act or the National Forest Management Act or regulations promulgated under those Acts, or any other law.

(C) REQUIREMENTS.—The Opal Creek Management Plan shall provide for a broad range of land uses, including—

(i) recreation;

(ii) harvesting of nontraditional forest products, such as gathering mushrooms and material to make baskets; and

(iii) educational and research opportunities.

(D) PLAN AMENDMENTS.—The Secretary may amend the Opal Creek Management Plan as the Secretary may determine to be necessary, consistent with the procedures and purposes of this section.

(3) CULTURAL AND HISTORIC RESOURCE INVENTORY.—

(A) IN GENERAL.—Not later than 1 year after the date of establishment of the Scenic Recreation Area, the Secretary shall review and revise the inventory of the cultural and historic resources on the public land in the Scenic Recreation Area developed pursuant to the Oregon Wilderness Act of 1984 (Public Law 98-328; 16 U.S.C. 1132).

(B) INTERPRETATION.—Interpretive activities shall be developed under the management plan in consultation with State and local historic preservation organizations and shall include a balanced and factual interpretation of the cultural, ecological, and industrial history of forestry and mining in the Scenic Recreation Area.

(4) TRANSPORTATION PLANNING.—

(A) IN GENERAL.—Except as provided in this subparagraph, motorized vehicles shall not be permitted in the Scenic Recreation Area.To maintain reasonable motorized and other access to recreation sites and facilities in existence on the date of enactment of this title, the Secretary shall prepare a transportation plan for the Scenic Recreation Area that—

(i) evaluates the road network within the Scenic Recreation Area to determine which roads should be retained and which roads should be closed;

(ii) provides guidelines for transportation and access consistent with this section;

(iii) considers the access needs of persons with disabilities in preparing the transportation plan for the Scenic Recreation Area;

(iv) allows forest road 2209 beyond the gate to the Scenic Recreation Area, as depicted on the map described in subsection (a)(2), to be used by motorized vehicles only for administrative purposes and for access by private inholders, subject to such terms and conditions as the Secretary may determine to be necessary; and

(v) restricts construction or improvement of forest road 2209 beyond the gate to the Scenic Recreation Area to maintaining the character of the road as it existed upon the date of enactment of this Act, which shall not include paving or widening.

In order to comply with subsection (f)(2), the Secretary may make improvements to forest road 2209 and its bridge structures consistent with the character of the road as it existed on the date of enactment of this Act.

(5) HUNTING AND FISHING.—

(A) IN GENERAL.—Subject to applicable Federal and State law, the Secretary shall permit hunting and fishing in the Scenic Recreation Area.

(B) LIMITATION.—The Secretary may designate zones in which, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, or public use and enjoyment of the Scenic Recreation Area.

(C) CONSULTATION.—Except during an emergency, as determined by the Secretary, the Secretary shall consult with the Oregon State Department of Fish and Wildlife before issuing any regulation under this subsection.

(6) TIMBER CUTTING.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall prohibit the cutting and/or selling of trees in the Scenic Recreation Area.

(B) PERMITTED CUTTING.—

(i) IN GENERAL.—Subject to clause (ii), the Secretary may allow the cutting of trees in the Scenic Recreation Area only—

(I) for public safety, such as to control the continued spread of a forest fire in the Scenic Recreation Area or on land adjacent to the Scenic Recreation Area;

(II) for activities related to administration of the Scenic Recreation Area, consistent with the Opal Creek Management Plan; or

(III) for removal of hazard trees along trails and roadways.

(ii) SALVAGE SALES.—The Secretary may not allow a salvage sale in the Scenic Recreation Area.

(7) WITHDRAWAL.

(A) subject to valid existing rights, all lands in the scenic recreation area are withdrawn from—

(i) any form of entry, appropriation, or disposal under the public land laws;

(ii) location, entry, and patent under the mining laws; and

(iii) disposition under the mineral and geothermal leasing laws.

(8) BORNITE PROJECT.—

(A) Nothing in this section shall be construed to interfere with or approve any exploration, mining, or mining-related activity in the Bornite Project Area, depicted on the map described in subsection (a)(3), conducted in accordance with applicable laws.

(B) Nothing in this section shall be construed to interfere with the ability of the Secretary to approve and issue, or deny, special use permits in connection with exploration, mining, and mining-related activities in the Bornite Project Area.

(C) Motorized vehicles, roads, structures, and utilities (including but not limited to power lines and water lines) may be allowed inside the Scenic Recreation Area to serve the activities conducted on land within the Bornite Project.

(D) After the date of enactment of this Act, no patent shall be issued for any mining claim under the general mining laws located within the Bornite Project Area.

(9) WATER IMPOUNDMENTS.—Notwithstanding the Federal Power Act (16 U.S.C. 791a et seq.), the Federal Energy Regulatory Commission may not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project work in the Scenic Recreation Area, except as may be necessary to comply with the provisions of paragraph (8) with regard to the Bornite Project.

(10) RECREATION.—

(A) RECOGNITION.—Congress recognizes recreation as an appropriate use of the Scenic Recreation Area.

(B) MINIMUM LEVELS.—The management plan shall permit recreation activities at not less than the levels in existence on the date of enactment of this Act.

(C) HIGHER LEVELS.—The management plan may provide for levels of recreation use higher than the levels in existence on the date of enactment of this Act if such uses are consistent with the protection of the resource values of Scenic Recreation Area.

(D) The management plan may include public trail access through section 28, township 8 south, range 5 east, Willamette Meridian, to Battle Axe Creek, Opal Pool and other areas in the Opal Creek Wilderness and the Opal Creek Scenic Recreation Area.

(11) PARTICIPATION.—So that the knowledge, expertise, and views of all agencies and groups may contribute affirmatively to the most sensitive present and future use of the Scenic Recreation Area and its various subareas for the benefit of the public:

(A) ADVISORY COUNCIL.—The Secretary shall consult on a periodic and regular basis with the advisory council established under subsection (e) with respect to matters relating to management of the Scenic Recreation Area.

(B) PUBLIC PARTICIPATION.—The Secretary shall seek the views of private groups, individuals, and the public concerning the Scenic Recreation Area.

(C) OTHER AGENCIES.—The Secretary shall seek the views and assistance of, and cooperate with, any other Federal, State, or local agency with any responsibility for the zoning, planning, or natural resources of the Scenic Recreation Area.

(D) NONPROFIT AGENCIES AND ORGANIZATIONS.—The Secretary shall seek the views of any nonprofit agency or organization that may contribute information or expertise about the resources and the management of the Scenic Recreation Area.

(e) ADVISORY COUNCIL.—

(1) ESTABLISHMENT.—not later than 90 days after the establishment of the scenic recreation area, the secretary shall establish an advisory council for the scenic recreation area.

(2) MEMBERSHIP.—the advisory council shall consist of not more than 13 members, of whom—

(A) 1 member shall represent Marion County, Oregon, and shall be designated by the governing body of the county;

(B) 1 member shall represent the State of Oregon and shall be designated by the Governor of Oregon; and

(C) 1 member shall represent the City of Salem, and shall be designated by the mayor of Salem, Oregon;

(D) 1 member from a city within a 25 mile radius of the Opal Creek Scenic Recreation Area, to be designated by the Governor of the State of Oregon from a list of candidates provided by the mayors of the cities located within a 25 mile radius of the Opal Creek Scenic Recreation Area; and

(E) not more than 9 members shall be appointed by the Secretary from among persons who, individually or through association with a national or local organization, have an interest in the administration of the Scenic Recreation Area, including, but not limited to, representatives of the timber industry, environmental organizations, the mining industry, inholders in the Opal Creek Wilderness and Scenic Recreation Area, economic development interests and Indian tribes.

(3) STAGGERED TERMS.—Members of the advisory council shall serve for staggered terms of 3 years.

(4) CHAIRMAN.—The Secretary shall designate 1 member of the advisory council as chairman.

(5) VACANCIES.—The Secretary shall fill a vacancy on the advisory council in the same manner as the original appointment.

(6) COMPENSATION.—Members of the advisory council shall receive no compensation for their service on the advisory council.

(f) GENERAL PROVISIONS.—

(1) LAND ACQUISITION.—

(A) IN GENERAL.—Subject to the other provisions of this section, the Secretary may acquire any lands or interests in land in the Scenic Recreation Area or the Opal Creek Wilderness that the Secretary determines are needed to carry out this section.

(B) PUBLIC LAND.—Any lands or interests in land owned by a State or a political subdivision of a State may be acquired only by donation or exchange.

(C) CONDEMNATION.—Within the boundaries of the Opal Creek Wilderness or the Scenic Recreation Area, the Secretary may not acquire any privately owned land or interest in land without the consent of the owner unless the Secretary finds that—

(i) the nature of land use has changed significantly, or the landowner has demonstrated intent to change the land use significantly, from the use that existed on the date of the enactment of this Act; and

(ii) acquisition by the Secretary of the land or interest in land is essential to ensure use of the land or interest in land in accordance with the purposes of this title or the management plan prepared under subsection (d)(2).

(D) Nothing in this section shall be construed to enhance or diminish the condemnation authority available to the Secretary outside the boundaries of the Opal Creek Wilderness or the Scenic Recreation Area.

(2) ENVIRONMENTAL RESPONSE ACTIONS AND COST RECOVERY.—

(A) RESPONSE ACTIONS.—Nothing in this section shall limit the authority of the Secretary or a responsible party to conduct an environmental response action in the Scenic Recreation Area in connection with the release, threatened release, or cleanup of a hazardous substance, pollutant, or contaminant, including a response action conducted under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(B) LIABILITY.—Nothing in this section shall limit the authority of the Secretary or a responsible party to recover costs related to the release, threatened release, or cleanup of any hazardous substance or pollutant or contaminant in the Scenic Recreation Area.

(3) MAPS AND DESCRIPTION.—

(A) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a boundary description for the Opal Creek Wilderness and for the Scenic Recreation Area with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(B) FORCE AND EFFECT.—The boundary description and map shall have the same force and effect as if the description and map were included in this section, except that the Secretary may correct clerical and typographical errors in the boundary description and map.

(C) AVAILABILITY.—The map and boundary description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(4) SAVINGS PROVISION.—Nothing in this section shall interfere with any activity for which a special use permit has been issued, has not been revoked, and has not expired, before the date of enactment of this Act, subject to the terms of the permit.

(g) ROSBORO LAND EXCHANGE.—

(1) AUTHORIZATION.—Notwithstanding any other law, if the Rosboro Lumber Company (referred to in this subsection as "Rosboro") offers and conveys marketable title to the United States to the land described in paragraph (2), the Secretary of Agriculture shall convey all right, title and interest held by the United States to sufficient lands described in paragraph (3) to Rosboro, in the order in which they appear in this subsection, as necessary to satisfy the equal value requirements of paragraph (4).

(2) LAND TO BE OFFERED BY ROSBORO.—The land referred to in paragraph (1) as the land to be offered by Rosboro shall comprise Section 36, Township 8 South, Range 4 East, Willamette Meridian.

(3) LAND TO BE CONVEYED BY THE UNITED STATES.—The land referred to in paragraph (1) as the land to be conveyed by the United States shall comprise sufficient land from the following prioritized list to be of equal value under paragraph (4):

(A) Section 5, Township 17 South, Range 4 East, Lot 7 (37.63 acres);

(B) Section 2, Township 17 South, Range 4 East, Lot 3 (29.28 acres);

(C) Section 13, Township 17 South, Range 4 East, S½ SE¼ (80 acres);

(D) Section 2, Township 17 South, Range 4 East, SW¼ SW¼ (40 acres);

(E) Section 2, Township 17 South, Range 4 East, NW¼ SE¼ (40 acres);

(F) Section 8, Township 17 South, Range 4 East, SE¼ SW¼ (40 acres);

(G) Section 11, Township 17 South, Range 4 East, W½ NW¼ (80 acres);

(4) EQUAL VALUE.—The land and interests in land exchanged under this subsection shall be of equal market value as determined by nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Standards for Federal Land Acquisition, the Uniform Standards of Professional Appraisal Practice, or shall be equalized by way of payment of cash pursuant to the provisions of section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)), and other applicable law. The appraisal shall consider access costs for the parcels involved.

(5) TIMETABLE.—

(A) The exchange directed by this subsection shall be consummated not later than 120 days after the date Rosboro offers and conveys the property described in paragraph (2) to the United States.

(B) The authority provided by this subsection shall lapse if Rosboro fails to offer the land described in paragraph (2) within 2 years after the date of enactment of this Act.

(6) CHALLENGE.—Rosboro shall have the right to challenge in United States District Court for the District of Oregon a determination of marketability under paragraph (1) and a determination of value for the lands described in paragraphs (2) and (3) by the Secretary of Agriculture. The court shall have the authority to order the Secretary to complete the transaction contemplated in this subsection.

(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

(h) DESIGNATION OF ELKHORN CREEK AS A WILD AND SCENIC RIVER.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following:

"( )(A) ELKHORN CREEK.—The 6.4-mile segment traversing federally administered lands from that point along the Willamette National Forest boundary on the common section line between Sections 12 and 13, Township 9 South, Range 4 East, Willamette Meridian, to that point where the segment leaves Federal ownership along the Bureau of Land Management boundary in Section 1, Township 9 South, Range 3 East, Willamette Meridian, in the following classes:

"(i) a 5.8-mile wild river area, extending from that point along the Willamette National Forest boundary on the common section line between Sections 12 and 13, Township 9 South, Range 4 East, Willamette Meridian, to its confluence with Buck Creek in Section 1, Township 9 South, Range 3 East, Willamette Meridian, to be administered as agreed on by the Secretaries of Agriculture and the Interior, or as directed by the President; and

"(ii) a 0.6-mile scenic river area, extending from the confluence with Buck Creek in Section 1, Township 9 South, Range 3 East, Willamette Meridian, to that point where the

segment leaves Federal ownership along the Bureau of Land Management boundary in Section 1, Township 9 South, Range 3 East, Willamette Meridian, to be administered by the Secretary of Interior, or as directed by the President.

"(B) Notwithstanding section 3(b) of this Act, the lateral boundaries of both the wild river area and the scenic river area along Elkhorn Creek shall include an average of not more than 640 acres per mile measured from the ordinary high water mark on both sides of the river.".

(i) ECONOMIC DEVELOPMENT.—

(1) ECONOMIC DEVELOPMENT PLAN.—As a condition for receiving funding under paragraph (2), the State of Oregon, in consultation with Marion County, Oregon, and the Secretary of Agriculture, shall develop a plan for economic development projects for which grants under this subsection may be used in a manner consistent with this section and to benefit local communities in the vicinity of the Opal Creek area. Such plan shall be based on an economic opportunity study and other appropriate information.

(2) FUNDS PROVIDED TO THE STATES FOR GRANTS.—Upon completion of the Opal Creek Management Plan, and receipt of the plan referred to in paragraph (1), the Secretary shall provide, subject to appropriations, $15,000,000 to the State of Oregon. Such funds shall be used to make grants or loans for economic development projects that further the purposes of this section and benefit the local communities in the vicinity of the Opal Creek area.

(3) REPORT.—The State of Oregon shall—

(A) prepare and provide the Secretary and Congress with an annual report on the use of the funds made available under this subsection;

(B) make available to the Secretary and to Congress, upon request, all accounts, financial records, and other information related to grants and loans made available pursuant to this subsection; and

(C) as loans are repaid, make additional grants and loans with the money made available for obligation by such repayments.

SEC. 1024. UPPER KLAMATH BASIN ECOLOGICAL RESTORATION PROJECTS.

(a) DEFINITIONS.—In this section:

(1) ECOSYSTEM RESTORATION OFFICE.—The term "Ecosystem Restoration Office" means the Klamath Basin Ecosystem Restoration Office operated cooperatively by the United States Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, and Forest Service.

(2) WORKING GROUP.—The term "Working Group" means the Upper Klamath Basin Working Group, established before the date of enactment of this title, consisting of members nominated by their represented groups, including—

(A) 3 tribal members;

(B) 1 representative of the city of Klamath Falls, Oregon;

(C) 1 representative of Klamath County, Oregon;

(D) 1 representative of institutions of higher education in the Upper Klamath Basin;

(E) 4 representatives of the environmental community, including at least one such representative from the State of California with interests in the Klamath Basin National Wildlife Refuge Complex;

(F) 4 representatives of local businesses and industries, including at least one representative of the forest products industry and one representative of the ocean commercial fishing industry and/or the recreational fishing industry based in either Oregon or California;

(G) 4 representatives of the ranching and farming community, including representatives of Federal lease-land farmers and ranchers and of private land farmers and ranchers in the Upper Klamath Basin;

(H) 2 representatives from State of Oregon agencies with authority and responsibility in the Klamath River Basin, including one from the Oregon Department of Fish and Wildlife and one from the Oregon Water Resources Department;

(I) 4 representatives from the local community; and

(J) One representative each from the following Federal resource management agencies in the Upper Klamath Basin: Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, Bureau of Indian Affairs, Forest Service, Natural Resources Conservation Service, National Marine Fisheries Service and Ecosystem Restoration Office.

(K) One representative of the Klamath County Soil and Water Conservation District.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) TASK FORCE.—The term "Task Force" means the Klamath River Basin Fisheries Task Force as established by the Klamath River Basin Fishery Resource Restoration Act (P.L. 99–552, 16 U.S.C. 460ss–3, et.seq.).

(5) COMPACT COMMISSION.—The term "Compact Commission" means the Klamath River Basin Compact Commission created pursuant to the Klamath River Compact Act of 1954.

(6) CONSENSUS.—The term "consensus" means a unanimous agreement by the Working Group members present and consisting of at least a quorum at a regularly scheduled business meeting.

(7) QUORUM.—The term "quorum" means one more than half of those qualified Working Group members appointed and eligible to serve.

(8) TRINITY TASK FORCE.—The term "Trinity Task Force" means the Trinity River Restoration Task Force created by Public Law 98–541, as amended by Public Law 104–143.

(b) IN GENERAL.—

(1) The Working Group through the Ecosystem Restoration Office, with technical assistance from the Secretary, will propose ecological restoration projects, economic development and stability projects, and projects designed to reduce the impacts of drought conditions to be undertaken in the Upper Klamath Basin based on a consensus of the Working Group membership.

(2) The Secretary shall pay, to the greatest extent feasible, up to 50 percent of the cost of performing any project approved by the Secretary or his designee, up to a total amount of $1,000,000 during each of fiscal years 1997 through 2001.

(3) Funds made available under this title through the Department of the Interior or the Department of Agriculture shall be distributed through the Ecosystem Restoration Office.

(4) The Ecosystem Restoration Office may utilize not more than 15 percent of all Federal funds administered under this section for administrative costs relating to the implementation of this section.

(5) All funding recommendations developed by the Working Group shall be based on a consensus of Working Group members.

(c) COORDINATION.—(1) The Secretary shall formulate a cooperative agreement among the Working Group, the Task Force, the Trinity Task Force and the Compact Commission for the purposes of ensuring that projects proposed and funded through the Working Group are consistent with other basin-wide fish and wildlife restoration and conservation plans, including but not limited to plans developed by the Task Force and the Compact Commission;

(2) To the greatest extent practicable, the Working Group shall provide notice to, and accept input from, two members each of the Task Force, the Trinity Task Force, and the Compact Commission, so appointed by those entities, for the express purpose of facilitating better communication and coordination regarding additional basin-wide fish and wildlife and ecosystem restoration and planning efforts.The roles and relationships of the entities involved shall be clarified in the cooperative agreement.

(d) PUBLIC MEETINGS.—The Working Group shall conduct all meetings subject to Federal open meeting and public participation laws.The chartering requirements of the Federal Advisory Committee Act (5 U.S.C. App.) are hereby deemed to have been met by this section.

(e) TERMS AND VACANCIES.— Working Group members shall serve for three-year terms, beginning on the date of enactment of this title. Vacancies which occur for any reason after the date of enactment of this title shall be filled by direct appointment of the governor of the State of Oregon, in consultation with the Secretary of the Interior and the Secretary of Agriculture, in accordance with nominations from the appropriate groups, interests, and government agencies outlined in subsection (a)(2).

(f) RIGHTS, DUTIES AND AUTHORITIES UNAFFECTED.—The Working Group will supplement, rather than replace, existing efforts to manage the natural resources of the Klamath Basin. Nothing in this section affects any legal right, duty or authority of any person or agency, including any member of the working group.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 1997 through 2002.

SEC. 1025. DESCHUTES BASIN ECOSYSTEM RESTORATION PROJECTS.

(a) DEFINITIONS.—In this section:

(1) WORKING GROUP.—The term "Working Group" means the Deschutes River Basin Working Group established before the date of enactment of this title, consisting of members nominated by their represented groups, including—

(A) 5 representatives of private interests including one each from hydroelectric production, livestock grazing, timber, land development, and recreation/tourism;

(B) 4 representatives of private interests including two each from irrigated agriculture and the environmental community;

(C) 2 representatives from the Confederated Tribes of the Warm Springs Reservation of Oregon;

(D) 2 representatives from Federal agencies with authority and responsibility in the Deschutes River Basin, including one from the Department of the Interior and one from the Agriculture Department;

(E) 2 representatives from the State of Oregon agencies with authority and responsibility in the Deschutes River Basin, including one from the Oregon Department of Fish and Wildlife and one from the Oregon Water Resources Department; and

(F) 4 representatives from county or city governments within the Deschutes River Basin county and/or city governments.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) FEDERAL AGENCIES.—The term "Federal agencies" means agencies and departments of the United States, including, but not limited to, the Bureau of Reclamation, Bureau of Indian Affairs, Bureau of Land Management, Fish and Wildlife Service, Forest Service, Natural Resources Conservation Service, Farm Services Agency, the National Marine Fisheries Service, and the Bonneville Power Administration.

(4) CONSENSUS.—The term "consensus" means a unanimous agreement by the Working Group members present and constituting at least a quorum at a regularly scheduled business meeting.

(5) QUORUM.—The term "quorum" means one more than half of those qualified Working Group members appointed and eligible to serve.

(b) IN GENERAL.—

(1) The Working Group will propose ecological restoration projects on both Federal and non-Federal lands and waters to be undertaken in the Deschutes River Basin based on a consensus of the Working Group, provided that such projects, when involving Federal land or funds, shall be proposed to the Bureau of Reclamation in the Department of the Interior and any other Federal agency with affected land or funds.

(2) The Working Group will accept donations, grants or other funds and place such funds received into a trust fund, to be expended on ecological restoration projects which, when involving Federal land or funds, are approved by the affected Federal agency.

(3) The Bureau of Reclamation shall pay from funds authorized under subsection (h) of this title up to 50 percent of the cost of performing any project proposed by the Working Group and approved by the Secretary, up to a total amount of $1,000,000 during each of the fiscal years 1997 through 2001.

(4) Non-Federal contributions to project costs for purposes of computing the Federal matching share under paragraph (3) of this subsection may include in-kind contributions.

(5) Funds authorized in subsection (h) of this section shall be maintained in and distributed by the Bureau of Reclamation in the Department of the Interior.The Bureau of Reclamation shall not expend more than 5 percent of amounts appropriated pursuant to subsection (h) for Federal administration of such appropriations pursuant to this section.

(6) The Bureau of Reclamation is authorized to provide by grant to the Working Group not more than 5 percent of funds appropriated pursuant to subsection (h) of this title for not more than 50 percent of administrative costs relating to the implementation of this section.

(7) The Federal agencies with authority and responsibility in the Deschutes River Basin shall provide technical assistance to the Working Group and shall designate representatives to serve as members of the Working Group.

(8) All funding recommendations developed by the Working Group shall be based on a consensus of the Working Group members.

(c) PUBLIC NOTICE AND PARTICIPATION.—The Working Group shall conduct all meetings subject to applicable open meeting and public participation laws.The activities of the Working Group and the Federal agencies pursuant to the provisions of this title are exempt from the provisions of 5 U.S.C. App. 2 1–15.

(d) PRIORITIES.—The Working Group shall give priority to voluntary market-based economic incentives for ecosystem restoration including, but not limited to, water leases and purchases; land leases and purchases; tradable discharge permits; and acquisition of timber, grazing, and land development rights to implement plans, programs, measures, and projects.

(e) TERMS AND VACANCIES.—Members of the Working Group representing governmental agencies or entities shall be named by the represented government. Members of the Working Group representing private interests shall be named in accordance with the articles of incorporation and bylaws of the Working Group.Representatives from Federal agencies will serve for terms of 3 years.Vacancies which occur for any reason after the date of enactment of this title shall be filled in accordance with this title.

(f) ADDITIONAL PROJECTS.—Where existing authority and appropriations permit, Federal agencies may contribute to the implementation of projects recommended by the Working Group and approved by the Secretary.

(g) RIGHTS, DUTIES AND AUTHORITIES UNAFFECTED.—The Working Group will supplement, rather than replace, existing efforts to manage the natural resources of the Deschutes Basin.Nothing in this title affects any legal right, duty or authority of any person or agency, including any member of the working group.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this title $1,000,000 for each of fiscal years 1997 through 2001.

SEC. 1026. BULL RUN PROTECTION.

(a) AMENDMENTS TO PUBLIC LAW 95–200.—

(1) The first sentence of section 2(a) of Public Law 95–200 is amended by striking "2(b)" and inserting in lieu thereof "2(c)".

(2) The first sentence of section 2(b) of Public Law 95–200 is amended after "the policy set forth in subsection (a)" by inserting "and (b)".

(3) Subsections (b), (c), (d), and (e) of section 2 of Public Law 95–200 are redesignated as as subsections (c), (d), (e), and (f), respectively.

(4) Section 2 of Public Law 95–200 is amended by inserting after subsection (a) the following new subsection:

"(b) TIMBER CUTTING.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Agriculture shall prohibit the cutting of trees in that part of the unit consisting of the hydrographic boundary of the Bull Run River Drainage, including certain lands within the unit and located below the headworks of the city of Portland, Oregon's water storage and delivery project, and as depicted in a map dated July 22, 1996, and entitled 'Bull Run River Drainage'.

"(2) PERMITTED CUTTING.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary of Agriculture shall prohibit the cutting of trees in the area described in subparagraph (1).

"(B) PERMITTED CUTTING.—Subject to subparagraph (C), the Secretary may only allow the cutting of trees in the area described in subparagraph (1)—

"(i) for the protection or enhancement of water quality in the area described in subparagraph (1); or

"(ii) for the protection, enhancement, or maintenance of water quantity available from the area described in subparagraph (1); or

"(iii) for the construction, expansion, protection or maintenance of municipal water supply facilities; or

"(iv) for the construction, expansion, protection or maintenance of facilities for the transmission of energy through and over the unit or previously authorized hydroelectric facilities or hydroelectric projects associated with municipal water supply facilities.

"(C) SALVAGE SALES.—The Secretary of Agriculture may not authorize a salvage sale in the area described in subparagraph (1).".

(b) REPORT TO CONGRESS.—The Secretary of Agriculture shall, in consultation with the city of Portland and other affected parties, undertake a study of that part of the Little Sandy Watershed that is within the unit (hereinafter referred to as the "study area"). The study shall determine—

(1) the impact of management activities within the study area on the quality of drinking water provided to the Portland Metropolitan area;

(2) the identity and location of certain ecological features within the study area, including late successional forest characteristics, aquatic and terrestrial wildlife habitat, significant hydrological values, or other outstanding natural features; and

(3) the location and extent of any significant cultural or other values within the study area.

(c) RECOMMENDATIONS.—The study referred to in subsection (b) shall include both legislative and regulatory recommendations to Congress on the future management of the study area. In formulating such recommendations, the Secretary shall consult with the city of Portland and other affected parties.

(d) EXISTING DATA AND PROCESSES.—To the greatest extent possible, the Secretary shall use existing data and processes to carry out the study and report.

(e) SUBMISSION TO CONGRESS.—The study referred to in subsection (b) shall be submitted to the Senate Committees on Energy and Natural Resources and Agriculture and the House Committees on Resources and Agriculture not later than one year from the date of enactment of this section.

(f) MORATORIUM.—The Secretary is prohibited from advertising, offering or awarding any timber sale within the study area for a period of two years after the date of enactment of this section.

(g) WATER RIGHTS.—Nothing in this section shall in any way affect any State or Federal law governing appropriation, use of or Federal right to water on or flowing through National Forest System lands.Nothing in this section is intended to influence the relative strength of competing claims to the waters of the Little Sandy River.Nothing in this section shall be construed to expand or diminish Federal, State, or local jurisdiction, responsibility, interests, or rights in water resources development or control, including rights in and current uses of water resources in the unit.

(h) OTHER LANDS IN UNIT.—Lands within the Bull Run Management Unit, as defined in Public Law 95–200, but not contained within the Bull Run River Drainage, as described in the amendment made by subsection (a)(4) of this section and as depicted on the map dated July 22, 1996, and entitled "Bull Run River Drainage", shall continue to be managed in accordance with Public Law 95–200.

SEC. 1027. OREGON ISLANDS WILDERNESS, ADDITIONS.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act of 1964, certain lands within the boundaries of the Oregon Islands National Wildlife Refuge, Oregon, comprising approximately 95 acres and as generally depicted on a map entitled "Oregon Island Wilderness Additions—Proposed" dated August 1996, are hereby designated as wilderness. The map shall be on file and

available for public inspection in the offices of the Fish and Wildlife Service, Department of Interior.

(b) OTHER AREAS WITHIN REFUGE BOUNDARIES.—All other federally owned named, unnamed, surveyed and unsurveyed rocks, reefs, islets and islands lying within three geographic miles off the coast of Oregon and above mean high tide, not currently designated as wilderness and also within the Oregon Islands National Wildlife Refuge boundaries under the administration of the U.S. Fish and Wildlife Service, Department of Interior, as designated by Executive Order 7035, Proclamation 2416, Public Land Orders 4395, 4475 and 6287, and Pubic Laws 91-504 and 95-450, are hereby designated as wilderness.

(c) AREAS UNDER BLM JURISDICTION.—All federally owned named, unnamed, surveyed and unsurveyed rocks, reefs, islets and islands lying within three geographic miles off the coast of Oregon and above mean high tide, and presently under the jurisdiction of the Bureau of Land Management, except Chiefs Island, are hereby designated as wilderness, shall become part of the Oregon Islands National Wildlife Refuge and the Oregon Islands Wilderness and shall be under the jurisdiction of the United States Fish and Wildlife Service, Department of the Interior.

(d) MAP AND DESCRIPTION.—As soon as practicable after this Act takes effect, a map of the wilderness area and a description of its boundaries shall be filed with the Senate Committee on Energy and Natural Resources and the House Committee on Resources, and such map shall have the same force and effect as if included in this section: *Provided, however*, That correcting clerical and typographical errors in the map and land descriptions may be made.

(e) ORDER 6287.—Public Land Order 6287 of June 16, 1982, which withdrew certain rocks, reefs, islets, and islands lying within three geographical miles off the coast of Oregon and above mean high tide, including the 95 acres described in subsection (a), as an addition to the Oregon Islands National Wildlife Refuge is hereby made permanent.

SEC. 1028. UMPQUA RIVER LAND EXCHANGE STUDY: POLICY AND DIRECTION.

(a) IN GENERAL.—The Secretaries of the Interior and Agriculture (Secretaries) are hereby authorized and directed to consult, coordinate and cooperate with the Umpqua Land Exchange Project (ULEP), affected units and agencies of State and local government, and, as appropriate, the World Forestry Center and National Fish and Wildlife Foundation, to assist ULEP's ongoing efforts in studying and analyzing land exchange opportunities in the Umpqua River basin and to provide scientific, technical, research, mapping and other assistance and information to such entities. Such consultation, coordination and cooperation shall at a minimum include, but not be limited to—

(1) working with ULEP to develop or assemble comprehensive scientific and other information (including comprehensive and integrated mapping) concerning the Umpqua River basin's resources of forest, plants, wildlife, fisheries (anadromous and other), recreational opportunities, wetlands, riparian habitat and other physical or natural resources;

(2) working with ULEP to identify general or specific areas within the basin where land exchanges could promote consolidation of forestland ownership for long-term, sustained timber production; protection and restoration of habitat for plants, fish and wildlife (including any federally listed threatened or endangered species); protection of drinking water supplies; recovery of threatened and endangered species; protection and restoration of wetlands, riparian lands and other environmentally sensitive areas; consolidation of land ownership for improved public access and a broad array of recreational uses; and consolidation of land ownership to achieve management efficiency and reduced costs of administration; and

(3) developing a joint report for submission to the Congress which discusses land exchange opportunities in the basin and outlines either a specific land exchange proposal or proposals which may merit consideration by the Secretaries or the Congress, or ideas and recommendations for new authorizations, direction, or changes in existing law or policy to expedite and facilitate the consummation of beneficial land exchanges in the basin via administrative means.

(b) MATTERS FOR SPECIFIC STUDY.—In analyzing land exchange opportunities with ULEP, the Secretaries shall give priority to assisting ULEP's ongoing efforts in:

(1) studying, identifying, and mapping areas where the consolidation of land ownership via land exchanges could promote the goals of long term species and watershed protection and utilization, including but not limited to the goals of the Endangered Species Act of 1973 more effectively than current land ownership patterns and whether any changes in law or policy applicable to such lands after consummation of an exchange would be advisable or necessary to achieve such goals;

(2) studying, identifying and mapping areas where land exchanges might be utilized to better satisfy the goals of sustainable timber harvest, including studying whether changes in existing law or policy applicable to such lands after consummation of an exchange would be advisable or necessary to achieve such goals;

(3) identifying issues and studying options and alternatives, including possible changes in existing law or policy, to insure that combined post-exchange revenues to units of local government from state and local property, severance and other taxes or levies and shared Federal land receipts will approximate pre-exchange revenues;

(4) identifying issues and studying whether possible changes in law, special appraisal instruction, or changes in certain Federal appraisal procedures might be advisable or necessary to facilitate the appraisal of potential exchange lands which may have special characteristics or restrictions affecting land values;

(5) identifying issues and studying options and alternatives, including changes in existing laws or policy, for achieving land exchanges without reducing the net supply of timber available to small businesses;

(6) identifying, mapping, and recommending potential changes in land use plans, land classifications, or other actions which might be advisable or necessary to expedite, facilitate or consummate land exchanges in certain areas;

(7) analyzing potential sources for new or enhanced Federal, State, or other funding to promote improved resource protection, species recovery, and management in the basin; and

(8) identifying and analyzing whether increased efficiency and better land and resource management could occur through either consolidation of Federal forest management under one agency or exchange of lands between the Forest Service and Bureau of Land Management.

(c) REPORT TO CONGRESS.—No later than February 1, 1998, ULEP and the Secretaries shall submit a joint report to the Committee on Resources of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate concerning their studies, findings, recommendations, mapping and other activities conducted pursuant to this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—In furtherance of the purposes of this section, there is hereby authorized to be appropriated the sum of $2,000,000, to remain available until expended.

SEC. 1027. BOSTON HARBOR ISLANDS RECREATION AREA.

(a) PURPOSES.—The purposes of this section are—

(1) to preserve for public use and enjoyment the lands and waters that comprise the Boston Harbor Islands National Recreation Area;

(2) to manage the recreation area in partnership with the private sector, the Commonwealth of Massachusetts, municipalities surrounding Massachusetts and Cape Cod Bays, the Thompson Island Outward Bound Education Center, and Trustees of Reservations, and with historical, business, cultural, civic, recreational and tourism organizations;

(3) to improve access to the Boston Harbor Islands through the use of public water transportation; and

(4) to provide education and visitor information programs to increase public understanding of and appreciation for the natural and cultural resources of the Boston Harbor Islands, including the history of Native American use and involvement.

(b) DEFINITIONS.—For the purposes of this section—

(1) the term recreation area means the Boston Harbor Islands National Recreation Area established by subsection (c); and

(2) the term "Secretary" means the Secretary of the Interior.

(c) BOSTON HARBOR ISLANDS NATIONAL RECREATION AREA.—

(1) ESTABLISHMENT.—In order to preserve for the benefit and inspiration of the people of the United States as a national recreation area certain lands located in Massachusetts Bay, there is established as a unit of the National Park System the Boston Harbor Islands National Recreation Area.

(2) BOUNDARIES.—(A) The recreation area shall be comprised of the lands, waters, and submerged lands generally depicted on the map entitled "Proposed Boston Harbor Islands NRA", numbered BOHA 80002, and dated September 1996. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service. Alter advising the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, in writing, the Secretary may make minor revisions of the boundaries of the recreation area when necessary by publication of a revised drawing or other boundary description in the Federal Register.

(B) The recreation area shall include the following:

(i) The areas depicted on the map referenced in subparagraph (A).

(ii) Landside points required for access, visitor services, and administration in the city of Boston along its Harborwalk and at Long Wharf, Fan Pier, John F. Kennedy Library, and the Custom House; Charlestown Navy Yard; Old Northern Avenue Bridge; the

city of Quincy at Squantum Point/Marina Bay, the Fore River Shipyard, and Town River; the Town of Hingham at Hewitt's Cove; the Town of Hull; the city of Salem at Salem National Historic Site; and the city of Lynn at the Heritage State Park.

(d) ADMINISTRATION OF RECREATION AREA.—

(1) IN GENERAL.—The recreation area shall be administered in partnership by the Secretary, the Commonwealth of Massachusetts, City of Boston and its applicable subdivisions and others in accordance with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467) as amended and supplemented and in accordance with the integrated management plan specified in subsection (f).

(2) STATE AND LOCAL JURISDICTION.—Nothing in this section shall be construed to diminish, enlarge, or modify any right of the Commonwealth of Massachusetts or any political subdivision thereof, to exercise civil and criminal jurisdiction or to carry out State laws, rules, and regulations within the recreation area, including those relating to fish and wildlife, or to tax persons, corporations, franchises, or private property on the lands and waters included in the recreation area.

(3) COOPERATIVE AGREEMENTS.—The Secretary may consult and enter into cooperative agreements with the Commonwealth of Massachusetts or its political subdivisions to acquire from and provide to the Commonwealth or its political subdivisions goods and services to be used in the cooperative management of lands within the recreation area, if the Secretary determines that appropriations for that purpose are available and the agreement is in the best interest of the United States.

(4) CONSTRUCTION OF FACILITIES ON NON-FEDERAL LANDS.—In order to facilitate the administration of the recreation area, the Secretary is authorized, subject to the appropriation of necessary funds in advance, to construct essential administrative or visitor use facilities on non-Federal public lands within the recreation area. Such facilities and the use thereof shall be in conformance with applicable plans.

(5) OTHER PROPERTY, FUNDS, AND SERVICES.—The Secretary may accept and use donated funds, property, and services to carry out this section.

(6) RELATIONSHIP OF RECREATION AREA TO BOSTON-LOGAN INTERNATIONAL AIRPORT.—With respect to the recreation area, the present and future maintenance, operation, improvement and use of Boston-Logan International Airport and associated flight patterns from time to time in effect shall not be deemed to constitute the use of publicly owned land of a public park, recreation area, or other resource within the meaning of section 303(c) of title 49, United States Code, and shall not be deemed to have a significant effect on natural, scenic, and recreation assets within the meaning of section 47101(h)(2) of title 49, United States Code.

(7) MANAGEMENT IN ACCORDANCE WITH INTEGRATED MANAGEMENT PLAN.—The Secretary shall preserve, interpret, manage, and provide educational and recreational uses for the recreation area, in consultation with the owners and managers of lands in the recreation area, in accordance with the integrated management plan.

(e) BOSTON HARBOR ISLANDS PARTNERSHIP ESTABLISHMENT.—

(1) ESTABLISHMENT.—There is hereby established the Boston Harbor Islands Partnership whose purpose shall be to coordinate the activities of Federal, State, and local authorities and the private sector in the development and implementation of an integrated resource management plan for the recreation area.

(2) MEMBERSHIP.—The Partnership shall be composed of 13 members, as follows:

(A) One individual appointed by the Secretary, to represent the National Park Service.

(B) One individual, appointed by the Secretary of Transportation, to represent the United States Coast Guard.

(C) Two individuals, appointed by the Secretary, after consideration of recommendations by the Governor of Massachusetts, to represent the Department of Environmental Management and the Metropolitan District Commission.

(D) One individual, appointed by the Secretary, after consideration of recommendations by the Chair, to represent the Massachusetts Port Authority.

(E) One individual, appointed by the Secretary, after consideration of recommendations by the Chair, to represent the Massachusetts Water Resources Authority.

(F) One individual, appointed by the Secretary, after consideration of recommendations by the Mayor of Boston, to represent the Office of Environmental Services of the city of Boston.

(G) One individual, appointed by the Secretary, after consideration of recommendations by the Chair, to represent the Boston Redevelopment Authority.

(H) One individual, appointed by the Secretary, after consideration of recommendations of the President of the Thompson Island Outward Bound Education Center, to represent the Center.

(I) One individual, appointed by the Secretary, after consideration of recommendations of the Chair, to represent the Trustees of Reservations.

(J) One individual, appointed by the Secretary, after consideration of recommendations of the President of the Island Alliance, to represent the Alliance, a non-profit organization whose sole purpose is to provide financial support for the Boston Harbor Islands National Recreation Area.

(K) Two individuals, appointed by the Secretary, to represent the Boston Harbor Islands Advisory Council, established in subsection (g).

(3) TERMS OF OFFICE; REAPPOINTMENT.—(A) Members of the Partnership shall serve for terms of three years. Any member may be reappointed for one additional 3-year term.

(B) The Secretary shall appoint the first members of the Partnership within 30 days after the date on which the Secretary has received all of the recommendations for appointment pursuant to subsections (b)(3), (4), (5), (6), (7), (8), (9), and (10).

(C) A member may serve after the expiration of his or her term until a successor has been appointed.

(4) COMPENSATION.—Members of the Partnership shall serve without pay, but while away from their homes or regular places of business in the performance of services for the Partnership, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(5) ELECTION OF OFFICERS.—The Partnership shall elect one of its members as Chairperson and one as Vice Chairperson. The term of office of the Chairperson and Vice Chairperson shall be one year. The Vice Chairperson shall serve as chairperson in the absence of the Chairperson.

(6) VACANCY.—Any vacancy on the Partnership shall be filled in the same manner in which the original appointment was made.

(7) MEETINGS.—The Partnership shall meet at the call of the Chairperson or a majority of its members.

(8) QUORUM.—A majority of the Partnership shall constitute a quorum.

(9) STAFF OF THE PARTNERSHIP.—The Secretary shall provide the Partnership with such staff and technical assistance as the Secretary, after consultation with the Partnership, considers appropriate to enable the Partnership to carry out its duties. The Secretary may accept the services of personnel detailed from the Commonwealth of Massachusetts, any political subdivision of the Commonwealth or any entity represented on the Partnership.

(10) HEARINGS.—The Partnership may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Partnership may deem appropriate.

(11) DONATIONS.—Notwithstanding any other provision of law, the Partnership may seek and accept donations of funds, property, or services from individuals, foundations, corporations, and other private and public entities for the purpose of carrying out this section.

(12) USE OF FUNDS TO OBTAIN MONEY.—The Partnership may use its funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

(13) MAILS.—The Partnership may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(14) OBTAINING PROPERTY.—The Partnership may obtain by purchase, rental, donation, or otherwise, such property, facilities, and services as may be needed to carry out its duties, except that the Partnership may not acquire any real property or Interest in real property.

(15) COOPERATIVE AGREEMENTS.—For purposes of carrying out the plan described in subsection (f), the Partnership may enter into cooperative agreements with the Commonwealth of Massachusetts, any political subdivision thereof, or with any organization or person.

(f) INTEGRATED RESOURCE MANAGEMENT PLAN.—

(1) IN GENERAL.—Within three years after the date of enactment of this Act, the Partnership shall submit to the Secretary a management plan for the recreation area to be developed and implemented by the Partnership.

(2) CONTENTS OF PLAN.—The plan shall include (but not be limited to) each of the following:

(A) A program providing for coordinated administration of the recreation area with proposed assignment of responsibilities to the appropriate governmental unit at the Federal, State, and local levels, and non-profit organizations, including each of the following:

(i) A plan to finance and support the public improvements and services recommended in the plan, including allocation of non-Federal matching requirements set forth in subsection (h)(2) and a delineation of private sector roles and responsibilities.

(ii) A program for the coordination and consolidation, to the extent feasible, of activities that may be carried out by Federal, State, and local agencies having jurisdiction over land and waters within the recreation area, including planning and regulatory responsibilities.

(B) Policies and programs for the following purposes:

(i) Enhancing public outdoor recreational opportunities in the recreation area.

(ii) Conserving, protecting and maintaining the scenic, historical, cultural, natural and scientific values of the islands.

(iii) Developing educational opportunities in the recreation area.

(iv) Enhancing public access to the Is lands, including development of transportation networks.

(v) Identifying potential sources of revenue from programs or activities carried out within the recreation area.

(vi) Protecting and preserving Native American burial grounds connected with the King Philip's War internment period and other periods.

(C) A policy statement that recognizes existing economic activities within the recreation area.

(3) DEVELOPMENT OF PLAN.—In developing the plan, the Partnership shall—

(A) consult on a regular basis with appropriate officials of any local government or Federal or State agency which has jurisdiction over lands and waters within the recreation area;

(B) consult with interested conservation, business, professional, and citizen organizations; and

(C) conduct public hearings or meetings for the purposes of providing interested persons with the opportunity to testify with respect to matters to be addressed by the plan.

(4) APPROVAL OF PLAN.—(A) The Partnership shall submit the plan to the Governor of Massachusetts for review. The Governor shall have 90 days to review and make any recommendations. After considering the Governor's recommendations, the Partnership shall submit the plan to the Secretary, who shall approve or disapprove the plan within 90 days. In reviewing the plan the Secretary shall consider each of the following:

(i) The adequacy of public participation.

(ii) Assurances of plan implementation from State and local officials.

(iii) The adequacy of regulatory and financial tools that are in place to implement the plan.

(B) If the Secretary disapproves the plan, the Secretary shall within 60 days after the date of such disapproval, advise the Partnership in writing of the reasons therefore, together with recommendations for revision. Within 90 days of receipt of such notice of disapproval, the Partnership shall revise and resubmit the plan to the Secretary who shall approve or disapprove the revision within 60 days.

(5) INTERIM PROGRAM.—Prior to adoption of the Partnership's plan, the Secretary and the Partnership shall assist the owners and managers of lands and waters within the recreation area to ensure that existing programs, services, and activities that promote the purposes of this section are supported.

(g) BOSTON HARBOR ISLANDS ADVISORY COUNCIL.—

(1) ESTABLISHMENT.—The Secretary, acting through the Director of the National Park Service, shall establish an advisory committee to be known as the Boston Harbor Islands Advisory Council. The purpose of the Advisory Council shall be to represent various groups with interests in the recreation area and make recommendations to the Boston Harbor Islands Partnership on issues related to the development and implementation of the integrated resource management plan developed under subsection (f). The Advisory Council is encouraged to establish committees relating to specific recreation area management issues, including (but not limited to) education, tourism, transportation, natural resources, cultural and historic resources, and revenue raising activities. Participation on any such committee shall not be limited to members of the Advisory Council.

(2) MEMBERSHIP.—The Advisory Council shall consist of not fewer than 18 individuals, to be appointed by the Secretary, acting through the Director of the National Park Service. The Secretary shall appoint no fewer than three individuals to represent each of the following categories of entities: municipalities; educational and cultural institutions; environmental organizations; business and commercial entities, including those related to transportation, tourism and the maritime industry; and Boston Harbor-related advocacy organizations; and organizations representing Native American interests.

(3) PROCEDURES.—Each meeting of the Advisory Council and its committees shall be open to the public.

(4) FACA.—The provisions of section 14 of the Federal Advisory Committee Act (5 U.S.C. App.), are hereby waived with respect to the Advisory Council.

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this section, provided that no funds may be appropriated for land acquisition.

(2) MATCHING REQUIREMENT.—Amounts appropriated in any fiscal year to carry out this section may only be expended on a matching basis in a ration of at least three non-Federal dollars to every Federal dollar. The non-Federal share of the match may be in the form of cash, services, or in-kind contributions, fairly valued.

SEC. 1030. NATCHEZ NATIONAL HISTORICAL PARK.

Section 3 of the Act of October 8, 1988, entitled "An Act to create a national park at Natchez, Mississippi" (16 U.S.C. 410*oo* et seq.), is amended—

(1) by inserting "(a) IN GENERAL.—" after "SEC. 3."; and

(2) by adding at the end the following:

"(b) BUILDING FOR JOINT USE BY THE SECRETARY AND THE CITY OF NATCHEZ.—

"(1) CONTRIBUTION TOWARD CONSTRUCTION.—The Secretary may enter into an agreement with the city of Natchez under which the Secretary agrees to pay not to exceed $3,000,000 toward the planning and construction by the city of Natchez of a structure to be partially used by the Secretary as an administrative headquarters, administrative site, and visitors' center for Natchez National Historical Park.

"(2) USE FOR SATISFACTION OF MATCHING REQUIREMENTS.—The amount of payment under paragraph (1) may be available for matching Federal grants authorized under other law notwithstanding any limitations in any such law.

"(3) AGREEMENT.—Prior to the execution of an agreement under paragraph (1), and subject to the appropriation of necessary funds in advance, the Secretary may enter into a contract, lease, cooperative agreement, or other appropriate form of agreement with the city of Natchez providing for the use and occupancy of a portion of the structure constructed under paragraph (1) (including appropriate use of the land on which it is situated), at no cost to the Secretary (except maintenance, utility, and other operational costs), for a period of 50 years, with an option for renewal by the Secretary for an additional 50 years.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $3,000,000 to carry out this subsection.".

SEC. 1031. SUBSTITUTION OF TIMBER FOR CANCELED TIMBER SALE.

(a) IN GENERAL.—Notwithstanding the provisions of the Act of July 31, 1947 (30 U.S.C. 601 et seq.), and the requirements of section 5402.0–6 of title 43, Code of Federal Regulations, the Secretary of the Interior, acting through the Bureau of Land Management, is authorized to substitute, without competition, a contract for timber identified for harvest located on public lands administered by the Bureau of Land Management in the State of California of comparable value for the following terminated timber contract: Elkhorn Ridge Timber Sale, Contract No. CA–050–TS–88–01.

(b) DISCLAIMER.—Nothing in this section shall be construed as changing any law or policy of the Federal Government beyond the timber sale substitution specified in this section.

SEC. 1032. RURAL ELECTRIC AND TELEPHONE FACILITIES.

(a) IN GENERAL.—Section 504(g) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764(g)) is amended by striking "financed pursuant to the Rural Electrification Act of 1936, as amended," in the last sentence and inserting "eligible for financing pursuant to the Rural Electrification Act of 1936, as amended, determined without regard to any application requirement under that Act,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to rights-of-way leases held on or after the date of enactment of this Act.

SEC. 1033. FEDERAL BOROUGH RECOGNITION.

(a) Section 6901(2) of title 31, United States Code, is amended to read as follows:

"(2)(A) 'unit of general local government' means—

"(i) a county (or parish), township, borough, or city where the city is independent of any other unit of general local government, that—

"(I) is within the class or classes of such political subdivision in a State that the Secretary of the Interior, in his discretion, determines to be the principal provider or providers of governmental services within the State; and

"(II) is a unit of general government, as determined by the Secretary of the Interior on the basis of the same principles as were used by the Secretary of Commerce on January 1, 1983, for general statistical purposes;

"(ii) any area in Alaska that is within the boundaries of a census area used by the Secretary of Commerce in the decennial census, but that is not included within the boundary of a governmental entity described under clause (i);

"(iii) the District of Columbia;

"(iv) the Commonwealth of Puerto Rico;

"(v) Guam; and

"(vi) the Virgin Islands.

"(B) the term 'governmental services' includes, but is not limited to, those services that relate to public safety, the environment, housing, social services, transportation, and governmental administration.".

(b) PAYMENT IN LIEU OF TAXES.—Section 6902(a) of title 31, United States Code, is amended to read as follows:

"(a)(1) Except as provided in paragraph (2), the Secretary of the Interior shall make a payment for each fiscal year to each unit of general local government in which entitlement land is located as set forth in this chapter. A unit of general local government may use the payment for any governmental purpose.

"(2) For each unit of general local government described in section 6901(2)(A)(ii), the Secretary of the Interior shall make a payment for each fiscal year to the State of Alaska for entitlement land located within such unit as set forth in this chapter. The State of Alaska shall distribute such payment to home rule cities and general law cities (as such cities are defined by the State) located within the boundaries of the unit of general local government for which the payment was received. Such cities may use monies received under this paragraph for any governmental purpose.".

SEC. 1035. EXTENSION OF STATUTE OF LIMITATIONS.

Notwithstanding any other provision of law, any of the Alaska Native Village Corporations of Tyonek Native Corporation, Ninilchik Native Association, Inc., Knikatnu Inc., Seldovia Native Association, Inc., Chikaloon Moose Creek Native Association, Inc., and the Alaska Native Regional Corporation, Cook Inlet Region, Inc. may commence litigation at any time within 12 months of enactment of this Act in Federal District Court for Alaska to challenge any determination by the Department of the Interior that such native corporations will not receive conveyance of lands described in "Appendix C" of the Deficiency Agreement dated August 31, 1976.

SEC. 1038. REGULATION OF FISHING IN CERTAIN WATERS OF ALASKA.

(a) IN GENERAL.—Local residents who are descendants of Katmai residents who lived in the Naknek Lake and River Drainage shall be permitted, subject to reasonable regulations established by the Secretary of the Interior, to continue their traditional fishery for red fish within Katmai National Park (the national park and national preserve redesignated, established, and expanded under section 202(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 410hh–1)).

(b) RED FISH DEFINED.—For the purposes of subsection (a), the term "red fish" means spawned-out sockeye salmon that has no significant commercial value.

(c) TITLE.—No provision of this section shall be construed to invalidate or validate or in any other way affect any claim by the State of Alaska to title to any or all submerged lands, nor shall any actions taken pursuant to or in accordance with this Act operate under any provision or principle of the law to bar the State of Alaska from asserting at any time its claim of title to any or all of the submerged lands.

(d) JURISDICTION.—Nothing in this section nor in any actions taken pursuant to this section shall be construed as expanding or diminishing Federal or State jurisdiction, responsibility, interests, or rights in management, regulation, or control over waters of the State of Alaska or submerged lands under any provision of Federal or State law.

SEC. 1039. CREDIT FOR RECONVEYANCE.

Within 24 months after the date of the enactment of this Act, the Cape Fox Corporation may transfer all or part of its right, title, and interest in and to the approximately 320-acre parcel that includes Beaver Falls Hydroelectric power-house site to the United States as part of an equal value exchange.

SEC. 1040. RADIO SITE REPORT.

The Secretary of Agriculture (1) shall have a period of 180 days from the date of enactment of this Act to review management of Inspiration Point, San Bernadino National Forest, make a determination whether the continued presence of the KATY–FM antenna on the site is in the public interest, and report the determination with the reasons therefor to the Committee on Energy and Natural Resources, United States Senate, and the Committee on Resources, House of Representatives, and (2) shall take no action within such period which causes or results in, directly or indirectly, the removal of the antenna from the site.

TITLE XI—CALIFORNIA BAY DELTA ENVIRONMENTAL ENHANCEMENT

SEC. 1101. PROGRAM FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 1998, 1999, and 2000, there are authorized to be appropriated an additional $143,300,000 for both—

(1) the initial Federal share of the cost of developing and implementing that portion of an ecosystem protection plan for the Bay-Delta, referred to as "the Category III program" emanating out of the document entitled "Principles for Agreement on Bay-Delta Standards Between the State of California and the Federal Government", dated December 15, 1994, and

(2) the initial Federal share of the cost of developing and implementing the ecosystem restoration elements of the long-term CALFED Bay-Delta Program, pursuant to the cost sharing agreement required by section 78684.10 of California Senate Bill 900, Chapter 135, Statutes of 1996, signed by the Governor of California on July 11, 1996.

Funds appropriated pursuant to this section shall remain available until expended and shall be administered in accordance with procedures established by CALFED Bay-Delta Program until Congress authorizes another entity that is recommended by CALFED Bay-Delta Program to carry out this section.

(b) TREATMENT OF FUNDS.—Funds authorized to be appropriated pursuant to this section to those agencies that are currently or subsequently become participants in the CALFED Bay-Delta Program shall be in addition to the baseline funding levels established pursuant to subsection (e), for currently authorized projects and programs under the Central Valley Project Improvement Act (title XXXIV of of Public Law 102–575) and other currently authorized Federal programs for the purpose of Bay-Delta ecosystem protection and restoration.

(c) LONG-TERM SOLUTION.—Nothing in this section shall be deemed to diminish the Federal interest in and responsibility for working with the State of California through the CALFED Bay-Delta Program in developing, funding, and implementing a balanced, long-term solution to the problems of ecosystem quality, water quality, water supply and reliability, and system vulnerability affecting the San Francisco Bay/Sacramento-San Joaquin Delta Watershed in California. Participation in such long term solution shall only be undertaken pursuant to authorization provided by law other than this section, and shall be based on the equitable allocation of program costs among beneficiary groups that the CALFED Bay-Delta programs shall develop.

(d) ACTIVITIES.—To the extent not otherwise authorized, those agencies and departments that are currently or subsequently become participants in the CALFED Bay-Delta Program are hereby authorized to undertake the activities and programs for which Federal cost sharing is provided by this section. The United States shall immediately initiate coordinated consultations and negotiations with the State of California to expeditiously execute the cost-sharing agreement required by section 78684.10 of California Senate Bill 900, Chapter 135, Statutes of 1996, signed by the Governor of California on July 11, 1996. Such activities shall include, but not be limited to, planning, design, technical assistance, and construction for ecosystem restoration programs and projects.

(e) BUDGET CROSSCUT.—The Office of Management and Budget is directed to submit to the House and Senate Committees on Appropriations, as part of the President's Fiscal Year 1998 Budget, an interagency budget crosscut that displays Federal spending for fiscal years 1993 through 1998 on ecosystem restoration and other purposes in the Bay-Delta region, separately showing funding provided previously or requested under both pre-existing authorities and new authorities granted by this section.

(f) EFFECTIVE DATE.—Subsections (a) through (d) of this section shall take effect on the date of passage of California State Proposition 204.

DIVISION II

TITLE I—NATIONAL COAL HERITAGE AREA

SEC. 101. SHORT TITLE.

This title may be cited as the "National Coal Heritage Area Act of 1996".

SEC. 102. FINDINGS.

(a) FINDINGS.—The Congress finds as follows:

(1) Certain events that led to the development of southern West Virginia's coalfields during the latter part of the 19th Century and the early part of the current century are of national historic and cultural significance in terms of their contribution to the industrialization of the United States, the organization of workers into trade unions, and the unique culture of the Appalachian Region.

(2) It is in the national interest to preserve and protect physical remnants of this era for the education and benefit of present and future generations.

(3) There is a need to provide assistance for the preservation and promotion of those vestiges of southern West Virginia's coal heritage which have outstanding cultural, historic, and architectural value.

SEC. 103. ESTABLISHMENT.

(a) IN GENERAL.—For the purpose of preserving and interpreting for the educational and inspirational benefit of present and future generations certain lands and structures with unique and significant historic and cultural value associated with the coal mining heritage of the State of West Virginia and the Nation, there is hereby established the National Coal Heritage Area (hereinafter in this title referred to as the "Area").

(b) BOUNDARIES.—The Area shall be comprised of the counties in the State of West Virginia that are the subject of the study by the National Park Service, dated 1993, entitled "A Coal Mining Heritage Study: Southern West Virginia" conducted pursuant to title VI of Public Law 100–699.

(c) ADMINISTRATION.—The Area shall be administered in accordance with this title.

SEC. 104. CONTRACTUAL AGREEMENT.

The Secretary of the Interior (hereinafter in this title referred to as the "Secretary")

is authorized to enter into a contractual agreement with the Governor of the State of West Virginia, acting through the Division of Culture and History and the Division of Tourism and Parks, pursuant to which the Secretary shall assist the State of West Virginia, its units of local government, and nonprofit organizations in each of the following:

(1) The development and implementation of integrated cultural, historical, and land resource management policies and programs in order to retain, enhance, and interpret the significant values of the lands, waters, and structures of the Area.

(2) The preservation, restoration, maintenance, operation, interpretation, and promotion of buildings, structures, facilities, sites, and points of interest for public use that possess cultural, historical, and architectural values associated with the coal mining heritage of the Area.

(3) The coordination of activities by Federal, State, and local governments and private businesses and organizations in order to further historic preservation and compatible economic revitalization.

(4) The development of guidelines and standards for projects, consistent with standards established by the National Park Service, for the preservation and restoration of historic properties, including interpretive methods, that will further history preservation in the region.

SEC. 105. ELIGIBLE RESOURCES.

The resources eligible for the assistance under paragraphs (2) and (5) of section 104 shall include those set forth in appendix D of the study by the National Park Service, dated 1993, entitled "A Coal Mining Heritage Study: Southern West Virginia", conducted pursuant to title VI of Public Law 100–699. Priority consideration shall be given to those sites listed as "Conservation Priorities" and "Important Historic Resources" as depicted on the map entitled "Study Area: Historic Resources" in such study.

SEC. 106. COAL HERITAGE MANAGEMENT PLAN.

(a) IN GENERAL.—Pursuant to the contractual agreement referred to in section 104, within three years after the date of enactment of this title, the Governor of the State of West Virginia, acting through the Division of Culture and History and the Division of Tourism and Parks, shall submit to the Secretary a Coal Heritage Management Plan for the Area. The plan shall at a minimum—

(1) set forth the integrated cultural, historical, and land resource management policies and programs referred to in section 104;

(2) describe the guidelines and standards for projects referred to in section 104; and

(3) set forth the responsibilities of the State of West Virginia, units of local government, non-profit entities, or Secretary to administer any properties acquired pursuant to section 104.

(b) PLAN APPROVAL.—The Secretary shall approve the plan submitted under subsection (a) unless he determines that it would not meet the objectives of this title.

SEC. 107. SUNSET.

The Secretary may not make any grant or provide any assistance under this title after September 30, 2012.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated under this title not more than $1,000,000 for any fiscal year. Not more than a total of $10,000,000 may be appropriated for the Area under this title.

(b) 50 PERCENT MATCH.—Federal funding provided under this title may not exceed 50 percent of the total cost of any assistance or grant provided or authorized under this title.

TITLE II—TENNESSEE CIVIL WAR HERITAGE AREA

SEC. 201. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there are situated in the State of Tennessee the sites of several key Civil War battles, campaigns, and engagements;

(2) certain sites, battlefields, structures, and areas in Tennessee are collectively of national significance in the history of the Civil War;

(3) the Civil War Sites Advisory Commission, established by Congress in 1991, identified 38 sites in Tennessee as significant;

(4) the preservation and interpretation of these sites will make an important contribution to the understanding of the heritage of the United States;

(5) the preservation of Civil War sites within a regional framework requires cooperation among local property owners and Federal, State, and local government entities; and

(6) partnerships between Federal, State, and local governments and their regional entities, and the private sector, offer the most effective opportunities for the enhancement and management of the Civil War battlefields and related sites located in Tennessee.

(b) PURPOSES.—The purposes of this title are—

(1) to preserve, conserve, and interpret the legacy of the Civil War in Tennessee;

(2) to recognize and interpret important events and geographic locations representing key Civil War battles, campaigns, and engagements in Tennessee;

(3) to recognize and interpret the effect of the Civil War on the civilian population of Tennessee during the war and postwar reconstruction period; and

(4) to create partnerships among Federal, State, and local governments and their regional entities, and the private sector to preserve, conserve, enhance, and interpret the battlefields and associated sites associated with the Civil War in Tennessee.

SEC. 202. DEFINITIONS.

For purposes of this title:

(1) The term "national heritage area" means the Tennessee Civil War Heritage Area as designated pursuant to section 203.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "compact" means the compact approved under section 204.

(4) The term "management plan" means the management plan submitted under section 205.

SEC. 203. TENNESSEE CIVIL WAR HERITAGE AREA.

(a) DESIGNATION.—Upon publication by the Secretary in the Federal Register of notice that a compact regarding the Tennessee Civil War Heritage Area has been approved by the Secretary in accordance with this title, there is hereby designated the Tennessee Civil War Heritage Area.

(b) BOUNDARIES.—The Tennessee Civil War Heritage Area shall be comprised of areas of the State of Tennessee depicted on the map entitled "Tennessee Civil War Heritage Area". The map shall be on file and available for public inspection in the office of the Director of the National Park Service.

(c) ADMINISTRATION.—The national heritage area shall be administered in accordance with the compact and the management plan.

SEC. 204. COMPACT.

(a) COMPACT.—The compact referred to in section 203(a) shall include information relating to the objectives and management of the area proposed for designation as the national heritage area. Such information shall include (but not be limited to) each of the following:

(1) A delineation of the boundaries of the proposed national heritage area.

(2) A discussion of the goals and objectives of the proposed national heritage area, including an explanation of the approach, proposed by the partners referred to in paragraph (4), to conservation and interpretation of resources.

(3) An identification and description of the management entity that will administer the proposed national heritage area.

(4) A list of the initial partners to be involved in developing and implementing the management plan for the proposed national heritage area, and a Statement of the financial commitment of the partners.

(5) A description of the role of the State of Tennessee.

(b) PREPARATION OF AND ACTIONS CALLED FOR IN COMPACT.—The compact shall be prepared with public participation. Actions called for in the compact shall be likely to be initiated within a reasonable time after designation of the proposed national heritage area and shall ensure effective implementation of the State and local aspects of the compact.

(c) APPROVAL AND DISAPPROVAL OF COMPACTS.—

(1) IN GENERAL.—The Secretary, in consultation with the Governor of Tennessee, shall approve or disapprove the proposed compact not later than 90 days after receiving such compact.

(2) PROCEDURES IF DISAPPROVAL.—If the Secretary disapproves a proposed compact, the Secretary shall advise, in writing, of the reasons for the disapproval and shall make recommendations for revisions of the proposed compact. The Secretary shall approve or disapprove a proposed revision to such a compact within 90 days after the date on which the revision is submitted to the Secretary.

SEC. 205. MANAGEMENT.

(a) MANAGEMENT PLANS.—A management plan submitted under this title for the national heritage area shall present comprehensive recommendations for the conservation, funding, management, and development of the area. The management plan shall—

(1) be prepared with public participation;

(2) take into consideration existing Federal, State, county, and local plans and involve residents, public agencies, and private organizations in the area;

(3) include a description of actions that units of government and private organizations are recommended to take to protect the resources of the area;

(4) specify existing and potential sources of funding for the conservation, management, and development of the area; and

(5) include the following, as appropriate:

(A) An inventory of the resources contained in the national heritage area, including a list of property in the area that should be conserved, restored, managed, developed, or maintained because of the natural, cultural, or historic significance of the property as it relates to the themes of the area.

(B) A recommendation of policies for resource management that consider and detail the application of appropriate land and water management techniques, including (but not limited to) the development of intergovernmental cooperative agreements to manage the historical, cultural, and natural resources and the recreational opportunities of the area in a manner consistent with

the support of appropriate and compatible economic viability.

(C) A program, including plans for restoration and construction, for implementation of the management plan by the management entity specified in the compact for the area and specific commitments, for the first 5 years of operation of the plan, by the partners identified in the compact.

(D) An analysis of means by which Federal, State, and local programs may best be coordinated to promote the purposes of this title.

(E) An interpretive plan for the National Heritage Area.

(b) MANAGEMENT ENTITIES.—The management entity for the national heritage area shall do each of the following:

(1) Develop and submit to the Secretary a management plan not later than three years after the date of the designation of the area as a national heritage area.

(2) Give priority to the implementation of actions, goals, and policies set forth in the compact and management plan for the area, including—

(A) assisting units of government, regional planning organizations, and nonprofit organizations—

(i) in conserving the national heritage area;

(ii) in establishing and maintaining interpretive exhibits in the area;

(iii) in developing recreational opportunities in the area;

(iv) in increasing public awareness of and appreciation for the natural, historical, and cultural resources of the area;

(v) in the restoration of historic buildings that are located within the boundaries of the area and relate to the themes of the area; and

(vi) in ensuring that clear, consistent, and environmentally appropriate signs identifying access points and sites of interest are put in place throughout the area; and

(B) consistent with the goals of the management plan, encouraging economic viability in the affected communities by appropriate means.

(3) In developing and implementing the management plan for the area, consider the interests of diverse units of government, businesses, private property owners, and nonprofit groups within the geographic area.

(4) Conduct public meetings at least quarterly regarding the implementation of the management plan for the area.

(c) CLEARING HOUSE.—The Congress recognizes the Center for Historic Preservation at Middle Tennessee State University as the clearing house for the Tennessee Civil War Heritage Area.

SEC. 206. DUTIES AND AUTHORITIES OF SECRETARY.

The Secretary—

(1) may provide technical assistance and grants to units of government and private nonprofit organizations regarding the compact and, upon request of the management entity for the national heritage area, regarding the management plan and its implementation;

(2) may not, as a condition of the award of technical assistance or grants under this section, require any recipient of such technical assistance or grants to enact or modify land use restrictions; and

(3) may not make limitations on fishing, hunting, or trapping a condition for the approval of the compact or the determination of eligibility for technical assistance or grants under this section.

SEC. 207. SAVINGS PROVISIONS.

(a) LACK OF EFFECT ON AUTHORITY OF GOVERNMENTS.—Nothing in this title shall be construed to modify, enlarge, or diminish any authority of the Federal, State, or local governments to regulate any use of land as provided for by law or regulation.

(b) LACK OF ZONING OR LAND USE POWERS OF ENTITY.—Nothing in this title shall be construed to grant powers of zoning or land use to any management entity for the national heritage area.

(c) FISH AND WILDLIFE.—The designation of the national heritage area shall not diminish the authority of the State of Tennessee to manage fish and wildlife, including the regulation of fishing and hunting within such area.

SEC. 208. SUNSET.

The Secretary may not make any grant or provide any assistance under this title after September 30, 2012.

SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated under this title not more than $1,000,000 for any fiscal year. Not more than a total of $10,000,000 may be appropriated for the national heritage area under this title.

(b) 50 PERCENT MATCH.—Federal funding provided under this title, after the designation of the national heritage area, may not exceed 50 percent of the total cost of any assistance or grant provided or authorized under this title.

TITLE III—AUGUSTA CANAL NATIONAL HERITAGE AREA

SEC. 301. FINDINGS.

The Congress finds that—

(1) the Augusta Canal National Landmark in the State of Georgia, listed on the National Historic Register of Historic Places, and designated by the Governor of Georgia as one of four regionally important resources in the State, is one of the last unspoiled areas in the State of Georgia;

(2) the Augusta Canal National Historic Landmark possesses excellent water quality, beautiful rural and historic cultural landscapes, architecturally significant mill structures and mill villages, and large acreages of parks and permanent open space;

(3) three national historic districts, the Harrisburg, Laney Walker, and Greene Street districts, and two national historic landmarks, Stallings Island, located in the Savannah River, and Meadow Garden, are connected by the Augusta Canal Area;

(4) the beautiful rural landscapes and historic cultural landscapes, scenic vistas and excellent water quality of the Augusta Canal contain significant undeveloped recreational opportunities for people throughout the United States;

(5) the Augusta Canal and related mill sites, structures, and associated neighborhoods are representative of the development of the cotton textile industry and associated agriculture and trade in the South;

(6) the transformation of the agrarian economy of the area into an early industrial economy was precipitated by the development and use of the Augusta Canal;

(7) several significant sites associated with the American Revolution, the Civil War, Native Americans, Colonial Americans, African Americans, Chinese Americans, and Irish Americans are located within the Augusta Canal area;

(8) despite the efforts by the State of Georgia, political subdivisions of the State, volunteer organizations, and private businesses, the cultural, historical, natural, and recreational resources of the area have not realized full potential and may be lost without assistance from the Federal Government;

(9) the Secretary of the Interior considers this landmark to be threatened and has designated it a priority for protection;

(10) many local, regional, and State agencies, businesses, and private citizens have expressed an overwhelming desire to combine forces to work cooperatively to preserve and enhance the resources of the Augusta Canal National Historic Landmark and better plan for its future; and

(11) the Augusta Canal Authority, a public body established under the law of the State of Georgia, would be an appropriate management entity for a National Heritage Area established in the area of the Augusta Canal.

SEC. 302. PURPOSE.

It is the purpose of this title to provide a cooperative management framework to assist the State of Georgia, its units of local government, and area citizens in retaining, enhancing, and interpreting the significant features of the lands, water, and structures of the Augusta Canal, in a manner that is consistent with positive economic impact and development for the benefit and inspiration of present and future generations in the State of Georgia and the United States.

SEC. 303. DESIGNATION OF AUGUSTA CANAL NATIONAL HERITAGE AREA.

(a) DESIGNATION.—There is hereby designated in the State of Georgia the Augusta Canal National Heritage Area (referred to in this title as the "Heritage Area").

(b) BOUNDARIES.—

(1) IN GENERAL.—The Heritage Area shall include the land generally depicted on the map entitled "The Augusta Canal", numbered AUCA-80,000, and dated August 1994, which shall be on file and available for public inspection in the Office of the Director of the National Park Service, Washington, D.C.

(2) LEGAL DESCRIPTION.—As soon as practicable after the date of enactment of this title, the Secretary of the Interior (referred to in this title as the "Secretary") shall prepare and place on file with the map described in paragraph (1) a legal description of the boundaries of the Heritage Area.

SEC. 304. MANAGEMENT.

The Secretary, acting through the Director of the National Park Service, shall enter into a cooperative agreement with the Augusta Canal Authority, a public body established under the law of the State of Georgia, providing for the management of the Heritage Area by the Augusta Canal Authority under terms and conditions Stated in the cooperative agreement. The Secretary shall consult with the Augusta Canal Authority before carrying out any management authority with respect to the Heritage Area which is not provided for by the cooperative agreement.

SEC. 305. MANAGEMENT PLAN.

(a) PREPARATION OF PLAN.—Not later than three years after the date of enactment of this title, the Augusta Canal Authority shall prepare and submit to the Secretary for review and approval a plan for the management and administration of the Heritage Area.

(b) CONTENTS.—The plan shall be based on Federal, State, and local plans in existence on the date of enactment of this title, including the Augusta Canal Master Plan. The Augusta Canal Authority shall coordinate and combine such plans and present an integrated and cooperative approach for the protection, enhancement, and interpretation of the cultural, natural, scenic, and recreational resources of the Heritage Area.

(c) ASSISTANCE.—The Secretary may provide technical and financial assistance in the preparation of the management plan.

(d) APPROVAL.—

(1) IN GENERAL.—Not later than 180 days after receipt of the plan submitted under subsection (a), the Secretary shall approve or disapprove the plan.

(2) CRITERIA.—In determining whether to approve a plan, the Secretary shall consider—

(A) whether the plan has strong local support from a diversity of landowners, business interests, nonprofit organizations, and governments within the area;

(B) whether the plan is consistent with and complements continued economic activity in the area;

(C) whether the plan has a high potential for effective partnership mechanisms;

(D) whether the plan improperly infringes on private property rights; and

(E) whether the plan will take appropriate action to ensure private property rights are observed.

(3) DISAPPROVAL.—

(A) IN GENERAL.—If the Secretary disapproves the proposed management plan, the Secretary shall notify the Augusta Canal Authority of the disapproval in writing.

(B) CONTENTS.—A notification under subparagraph (A) shall include—

(i) the reasons for the disapproval; and

(ii) recommendations for revision.

(C) REVISED PLAN.—The Augusta Canal Authority shall revise and resubmit the management plan to the Secretary for approval. Not later than 180 days after receipt of the revised plan, the Secretary shall approve or disapprove the plan as provided in paragraph (2). The Augusta Canal Authority shall revise and submit the management plan until the management plan is approved by the Secretary.

(e) IMPLEMENTATION.—

(1) IN GENERAL.—Upon approval of the management plan as provided in subsection (d), the Secretary, in conjunction with the Augusta Canal Authority, shall take appropriate steps to implement the management plan.

(2) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with the State of Georgia, political subdivisions of the State, the Augusta Canal Authority, or any organization or individual to implement the management plan.

(f) ECONOMIC DEVELOPMENT.—It is the sense of Congress that the Augusta Canal Authority, the State of Georgia, the city of Augusta, and other political subdivisions of the State of Georgia should encourage, by appropriate means, enhanced economic and industrial development in the area consistent with the goals of the Augusta Canal Master Plan.

SEC. 306. GRANTS AND TECHNICAL ASSISTANCE.

The Secretary may provide grants and technical assistance for the purposes of this title.

SEC. 307. ACQUISITION OF REAL PROPERTY.

The Augusta Canal Authority may not use any Federal funds that it may receive pursuant to this title to acquire real property or an interest in real property.

SEC. 308. OCCUPATIONAL, SAFETY, CONSERVATION, AND ENVIRONMENTAL regulation.

Nothing in this title shall be construed to—

(1) impose any occupational, safety, conservation, or environmental regulation on the Heritage Area that is more stringent than the regulations that would be applicable to the Heritage Area but for the designation of the Heritage Area under section 303; or

(2) authorize any Federal agency to promulgate an occupational, safety, conservation, or environmental regulation for the Heritage Area that is more stringent than the regulations applicable to the Heritage Area in existence on the date of enactment of this title, solely as a result of the designation of the Heritage Area under section 303.

SEC. 309. LAND USE REGULATION.

Nothing in this title shall be construed to—

(1) modify, enlarge, or diminish any authority of Federal, State, and local governments to regulate any use of land as provided for by law or regulation; or

(2) grant powers of zoning or land use to the Augusta Canal Authority.

SEC. 310. SUNSET.

The Secretary may not make any grant or provide any assistance under this title after September 30, 2012.

SEC. 311. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated under this title not more than $1,000,000 for any fiscal year. Not more than a total of $10,000,000 may be appropriated for the Heritage Area under this title.

(b) 50 PERCENT MATCH.—Federal funding provided under this title, after the designation of the Heritage Area, may not exceed 50 percent of the total cost of any assistance or grant provided or authorized under this title.

TITLE IV—STEEL INDUSTRY HERITAGE PROJECT

SEC. 401. SHORT TITLE.

This title may be cited as the "Steel Industry American Heritage Area Act of 1996".

SEC. 402. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the industrial and cultural heritage of southwestern Pennsylvania, including the city of Pittsburgh, and the counties of Allegheny, Armstrong, Beaver, Fayette, Greene, Washington, and Westmoreland, related directly to steel and steel-related industries, is nationally significant;

(2) these industries include steelmaking, iron making, aluminum, specialty metals, glass, coal mining, coke production, machining and foundries, transportation, and electrical industries;

(3) the industrial and cultural heritage of the steel and related industries in this region includes the social history and living cultural traditions of the people of the region;

(4) the labor movement of the region played a significant role in the development of the Nation, including the formation of many key unions such as the Congress of Industrial Organizations (CIO) and the United Steel Workers of America (USWA), and crucial struggles to improve wages and working conditions, such as the Rail Strike of 1877, the Homestead Strike of 1892, and the Great Steel Strike of 1919;

(5) the Department of the Interior is responsible for protecting the Nation's cultural and historic resources, and there are significant examples of these resources within this seven-county region to merit the involvement of the Federal Government to develop programs and projects, in cooperation with the Steel Industry Heritage Corporation, the Commonwealth of Pennsylvania, and other local and governmental bodies, to adequately conserve, protect, and interpret this heritage for future generations, while providing opportunities for education and revitalization; and

(6) the Steel Industry Heritage Corporation would be an appropriate management entity for a Heritage Area established in the region.

(b) STATEMENT OF PURPOSE.—The objectives of the Steel Industry American Heritage Area are—

(1) to foster a close working relationship with all levels of government, the private sector, and the local communities in the steel industry region of southwestern Pennsylvania and empower the communities to conserve their heritage while continuing to pursue economic opportunities; and

(2) to conserve, interpret, and develop the historical, cultural, natural, and recreational resources related to the industrial and cultural heritage of the seven-county region of southwestern Pennsylvania.

SEC. 403. STEEL INDUSTRY AMERICAN HERITAGE AREA.

(a) ESTABLISHMENT.—There is hereby established the Steel Industry American Heritage Area (in this title referred to as the "Heritage Area").

(b) BOUNDARIES.—The Heritage Area shall be comprised of the counties of Allegheny, Armstrong, Beaver, Fayette, Greene, Washington, and Westmoreland in Pennsylvania.

(c) MANAGEMENT ENTITY.—The management entity for the Heritage Area shall be the Steel Industry Heritage Corporation.

SEC. 404. COMPACT.

(a) IN GENERAL.—To carry out the purposes of this title, the Secretary of the Interior (in this title referred to as the "Secretary") shall enter into a compact with the management entity. The compact shall include information relating to the objectives and management of the area, including the following:

(1) A delineation of the boundaries of the proposed Heritage Area.

(2) A discussion of the goals and objectives of the proposed Heritage Area, including an explanation of the proposed approach to conservation and interpretation and a general outline of the protection measures committed to by the partners referred to in paragraph (4).

(3) An identification and description of the management entity that will administer the proposed Heritage Area.

(4) A list of the initial partners to be involved in developing and implementing the management plan for the proposed Heritage Area, and a Statement of the financial commitment of the partners.

(5) A description of the role of the Commonwealth of Pennsylvania.

(b) ADDITIONAL REQUIREMENTS.—The compact shall be prepared with public participation. Actions called for in the compact shall be likely to be initiated within a reasonable time after designation of the proposed Heritage Area and shall ensure effective implementation of the State and local aspects of the compact.

SEC. 405. MANAGEMENT PLAN.

The management entity shall develop a management plan for the Heritage Area that presents comprehensive recommendations for the Heritage Area's conservation, funding, management and development. Such plan shall take into consideration existing State, county, and local plans and involve residents, public agencies, and private organizations working in the Heritage Area. It shall include actions to be undertaken by units of government and private organizations to protect the resources of the Heritage Area. It shall specify the existing and potential sources of funding to protect, manage, and develop the Heritage Area. Such plan shall include, as appropriate, the following:

(1) An inventory of the resources contained in the Heritage Area, including a list of any property in the Heritage Area that is related to the themes of the Heritage Area and that should be preserved, restored, managed, developed, or maintained because of its natural, cultural, historic, recreational, or scenic significance.

(2) A recommendation of policies for resource management which consider and detail application of appropriate land and water management techniques, including but not limited to, the development of intergovernmental cooperative agreements to protect the Heritage Area's historical, cultural, recreational, and natural resources in a manner consistent with supporting appropriate and compatible economic viability.

(3) A program for implementation of the management plan by the management entity, including plans for restoration and construction, and specific commitments of the identified partners for the first 5 years of operation.

(4) An analysis of ways in which local, State, and Federal programs may best be coordinated to promote the purposes of the title.

(5) An interpretation plan for the Heritage Area.

SEC. 406. AUTHORITIES AND DUTIES OF MANAGEMENT ENTITY.

(a) AUTHORITIES OF THE MANAGEMENT ENTITY.—The management entity may, for purposes of preparing and implementing the management plan under section 405, use Federal funds made available through this title—

(1) to make loans and grants to, and enter into cooperative agreements with, States and their political subdivisions, private organizations, or any person; and

(2) to hire and compensate staff.

(b) DUTIES OF THE MANAGEMENT ENTITY.—The management entity shall—

(1) develop and submit to the Secretary for approval a management plan as described in section 405 within 3 years after the date of the enactment of this title;

(2) give priority to implementing actions set forth in the compact and the management plan, including taking steps to—

(A) assist units of government, regional planning organizations, and nonprofit organizations in preserving the Heritage Area;

(B) assist units of government, regional planning organizations, and nonprofit organizations in establishing, and maintaining interpretive exhibits in the Heritage Area;

(C) assist units of government, regional planning organizations, and nonprofit organizations in developing recreational resources in the Heritage Area;

(D) assist units of government, regional planning organizations, and nonprofit organizations in increasing public awareness of and appreciation for the natural, historical and architectural resources and sites in the Heritage Area;

(E) assist units of government, regional planning organizations and nonprofit organizations in the restoration of any historic building relating to the themes of the Heritage Area;

(F) encourage by appropriate means economic viability in the Heritage Area consistent with the goals of the plan;

(G) encourage local governments to adopt land use policies consistent with the management of the Heritage Area and the goals of the plan; and

(H) assist units of government, regional planning organizations and nonprofit organizations to ensure that clear, consistent, and environmentally appropriate signs identifying access points and sites of interest are put in place throughout the Heritage Area;

(3) consider the interests of diverse governmental, business, and nonprofit groups within the Heritage Area;

(4) conduct public meetings at least quarterly regarding the implementation of the management plan;

(5) submit substantial changes (including any increase of more than 20 percent in the cost estimates for implementation) to the management plan to the Secretary for the Secretary's approval;

(6) for any year in which Federal funds have been received under this title, submit an annual report to the Secretary setting forth its accomplishments, its expenses and income, and the entity to which any loans and grants were made during the year for which the report is made; and

(7) for any year in which Federal funds have been received under this title, make available for audit all records pertaining to the expenditure of such funds and any matching funds, and require, for all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available for audit all records pertaining to the expenditure of such funds.

If a management plan is not submitted to the Secretary as required under paragraph (1) within the specified time, the Heritage Area shall no longer qualify for Federal funding.

(c) PROHIBITION ON THE ACQUISITION OF REAL PROPERTY.—The management entity may not use Federal funds received under this title to acquire real property or an interest in real property. Nothing in this title shall preclude any management entity from using Federal funds from other sources for their permitted purposes.

SEC. 407. DUTIES AND AUTHORITIES OF FEDERAL AGENCIES.

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary may, upon request of the management entity, provide technical and financial assistance to the Heritage Area to develop and implement the management plan. In assisting the Heritage Area, the Secretary shall give priority to actions that in general assist in—

(A) conserving the significant natural, historic, and cultural resources which support its themes; and

(B) providing educational, interpretive, and recreational opportunities consistent with its resources and associated values.

(2) SPENDING FOR NONFEDERALLY OWNED PROPERTY.—The Secretary may spend Federal funds directly on nonfederally owned property to further the purposes of this title, especially in assisting units of government in appropriate treatment of districts, sites, buildings, structures, and objects listed or eligible for listing on the National Register of Historic Places. The Historic American Building Survey/Historic American Engineering Record shall conduct those studies necessary to document the industrial, engineering, building, and architectural history of the region.

(b) APPROVAL AND DISAPPROVAL OF COMPACTS AND MANAGEMENT PLANS.—

(1) IN GENERAL.—The Secretary, in consultation with the Governor of Pennsylvania shall approve or disapprove a compact or management plan submitted under this title not later than 90 days after receiving such compact or management plan.

(2) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves a submitted compact or management plan, the Secretary shall advise the management entity in writing of the reasons therefor and shall make recommendations for revisions in the compact or plan. The Secretary shall approve or disapprove a proposed revision within 90 days after the date it is submitted.

(c) APPROVING AMENDMENTS.—The Secretary shall review substantial amendments to the management plan for the Heritage Area. Funds appropriated pursuant to this title may not be expended to implement the changes made by such amendments until the Secretary approves the amendments.

SEC. 408. SUNSET.

The Secretary may not make any grant or provide any assistance under this title after September 30, 2012.

SEC. 409. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated under this title not more than $1,000,000 for any fiscal year. Not more than a total of $10,000,000 may be appropriated for the Heritage Area under this title.

(b) 50 PERCENT MATCH.—Federal funding provided under this title, after the designation of this Heritage Area, may not exceed 50 percent of the total cost of any assistance or grant provided or authorized under this title.

TITLE V—ESSEX NATIONAL HERITAGE AREA

SEC. 501. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) Essex County, Massachusetts, was host to a series of historic events that influenced the course of the early settlement of the United States, its emergence as a maritime power, and its subsequent industrial development;

(2) the North Shore of Essex County and the Merrimack River valley in Essex County contain examples of significant early American architecture and significant Federal-period architecture, many sites and buildings associated with the establishment of the maritime trade in the United States, the site of the witchcraft trials of 1692, the birthplace of successful iron manufacture, and the establishment of the textile and leather industries in and around the cities of Peabody, Beverly, Lynn, Lawrence, and Haverhill;

(3) Salem, Massachusetts, has a rich heritage as one of the earliest landing sites of the English colonists, the first major world harbor for the United States, and an early thriving hub of American industries;

(4) the Saugus Iron Works National Historic Site is the site of the first sustained, integrated iron works in Colonial America, and the technology employed at the Iron Works was dispersed throughout the Colonies and was critical to the development of industry and technology in America;

(5) the Salem Maritime National Historic Site contains nationally significant resources that explain the manner in which the Nation was settled, its evolution into a maritime power, and its development as a major industrial force;

(6) the story told at the Salem Maritime and Saugus Iron Works National Historic Sites would be greatly enhanced through the interpretation of significant theme-related resources in Salem and Saugus and throughout Essex County;

(7) partnerships between the private and public sectors have been created and additional partnerships will be encouraged to preserve the rich cultural heritage of the region, which will stimulate cultural awareness, preservation, and economic development through tourism;

(8) a visitors' center that has already been constructed at Salem Maritime National

Historic Site in Salem, Massachusetts, will be available to interpret the themes of the Essex National Heritage Area established by this title and to coordinate the interpretive and preservation activities of the Area; and

(9) the resident and business communities of the region have formed the Essex Heritage Ad Hoc Commission for the preservation, interpretation, promotion, and development of the historic, cultural, and natural resources of the region and are investing significant private funds and energy to develop a plan to preserve the nationally significant resources of Essex County.

(b) PURPOSE.—It is the purpose of this title—

(1) to establish the Essex National Heritage Area to recognize, preserve, promote, interpret, and make available for the benefit of the public the historic, cultural, and natural resources of the North Shore and lower Merrimack River valley in Essex County, Massachusetts, which encompass the three primary themes of the Salem Maritime National Historic Site and Saugus Iron Works National Historic Site (the histories of early settlement, maritime trade, and the textile and leather industries);

(2) to implement the appropriate alternative as described in the document entitled "The Salem Project: A Study of Alternatives", dated January 1990, within the boundaries of Essex County; and

(3) to provide a management framework to assist the Commonwealth of Massachusetts and its units of local government in the development and implementation of an integrated cultural, historical, and land resource management program in order to retain, enhance, and interpret the significant values of the lands, waters, and structures located in the Essex National Heritage Area.

SEC. 502. DEFINITIONS.

For purposes of this title:

(1) The terms "Area" and "National Heritage Area" mean the Essex National Heritage Area established by section 503.

(2) The term "Secretary" means the Secretary of the Interior.

SEC. 503. DESIGNATION OF NATIONAL HERITAGE AREA.

(a) DESIGNATION.—For the purpose of preserving and interpreting, for the educational and inspirational benefit of present and future generations, the unique and significant contributions to our national heritage of certain historic and cultural lands, natural waterways, and structures within the County of Essex in the Commonwealth of Massachusetts, there is hereby established the Essex National Heritage Area.

(b) BOUNDARIES.—The Area shall comprise the lands generally depicted on the map numbered NAR-51-80,000 and dated August 1994. The map shall be on file and available for public inspection in the office of the Director of the National Park Service.

(c) ADMINISTRATION.—The Area shall be administered in accordance with the provisions of this title.

SEC. 504. MANAGEMENT ENTITY.

(a) IN GENERAL.—The management entity for the National Heritage Area shall be an entity which is selected by the Essex Heritage Ad Hoc Commission or its designee, reflects a broad cross-section of interests within the Area, and includes—

(1) at least 1 representative of one or more units of government in each State in which the National Heritage Area is located; and

(2) private property owners who reside within the National Heritage Area.

(b) DUTIES.—The management entity for the Area shall fulfill each of the following requirements:

(1) HERITAGE PLAN.—Not later than 3 years after the date of the designation of the Area as a National Heritage Area, the management entity shall develop and forward to the Secretary, and to the Governor of Massachusetts, a heritage plan for the Area.

(2) PRIORITIES.—The management entity shall give priority to the implementation of actions, goals, and policies set forth in the compact and heritage plan for the Area, including assisting units of government and others in—

(A) carrying out programs which recognize important resource values within the Area;

(B) encouraging economic viability in the affected communities;

(C) establishing and maintaining interpretive exhibits in the Area;

(D) developing recreational and educational opportunities in the Area;

(E) increasing public awareness of and appreciation for the natural, historical, and cultural resources of the Area;

(F) restoring historic buildings that are located within the boundaries of the Area and relate to the theme of the Area; and

(G) ensuring that clear, consistent, and appropriate signs identifying public access points and sites of interest are put in place throughout the Area.

(3) CONSIDERATION OF INTERESTS OF LOCAL GROUPS.—The management entity shall, in developing and implementing the heritage plan for the Area, consider the interests of diverse units of government, businesses, private property owners, and nonprofit groups within the geographic area.

(4) PUBLIC MEETINGS.—The management entity shall conduct public meetings at least annually regarding the implementation of the heritage plan for the Area. The management entity shall place a notice of each such meeting in a newspaper of general circulation in the Area and shall make the minutes of the meeting available to the public.

SEC. 505. DUTIES OF THE SECRETARY.

(a) IN GENERAL.—To carry out the purpose of this title, the Secretary shall assist the management entity in preparing such studies and plans as the Secretary considers appropriate and in implementing the recommendations contained in a study report prepared by the management entity. The Secretary is authorized to enter into agreements with the Commission or with any owner of property with national historic or cultural significance within the Area for the purpose of facilitating public use and enjoyment of such resources or to otherwise further the objectives of the management entity. Any such agreement shall provide whenever appropriate that—

(1) the public may have access to such resources at specified, reasonable times for the purpose of viewing the property or exhibits or attending programs or other activities, as may be appropriate;

(2) the Secretary may make improvements to such resources as the management entity or the Secretary deem necessary to enhance the public use and enjoyment of the resources, or to render such property usable by the Secretary, the management entity, or any person for the purpose of this title; and

(3) the Secretary may occupy, utilize, and acquire easements or leasehold interests in resources as required to implement the programs and purpose of this title.

(b) TECHNICAL ASSISTANCE AND GRANTS.—The Secretary may provide, upon request, technical assistance and grants to the management entity to assist the management entity in the performance of its powers and functions as authorized under this title. The Secretary may provide to any owner of property within the Area, to the Commonwealth of Massachusetts, to the City of Salem and other participating municipalities, to any other Federal or State entity, to any institution, or to any person such technical assistance and grants as the Secretary considers appropriate to carry out the purpose of this title.

SEC. 506. PRIVATE PROPERTY.

No privately owned property shall be included within the boundaries of the Area unless the government of the county, city, or town in which the property is located agrees to be so included and submits notification of such agreement to the Secretary.

SEC. 507. SUNSET.

The Secretary may not make any grant or provide any assistance under this title after September 30, 2012.

SEC. 508. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated under this title not more than $1,000,000 for any fiscal year. Not more than a total of $10,000,000 may be appropriated for the Area under this title.

(b) 50 PERCENT MATCH.—Federal funding provided under this title, after the designation of the Area, may not exceed 50 percent of the total cost of any assistance or grant provided or authorized under this title.

TITLE VI—SOUTH CAROLINA NATIONAL HERITAGE CORRIDOR

SEC. 601. SHORT TITLE.

This title may be cited as the "South Carolina National Heritage Corridor Act of 1996".

SEC. 602. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the South Carolina National Heritage Corridor, more than 250 miles in length, possesses a wide diversity of significant rare plants, animals, and ecosystems, agricultural and timber lands, shellfish harvesting areas, historic sites and structures, and cultural and multicultural landscapes related to the past and current commerce, transportation, maritime, textile, agricultural, mining, cattle, pottery, and national defense industries of the region, which provide significant ecological, natural, tourism, recreational, timber management, educational, and economic benefits;

(2) there is a national interest in protecting, conserving, restoring, promoting, and interpreting the benefits of the Corridor for the residents of, and visitors to, the Corridor area;

(3) a primary responsibility for conserving, preserving, protecting, and promoting the benefits resides with the State of South Carolina and the units of local government having jurisdiction over the Corridor area; and

(4) in view of the longstanding Federal practice of assisting States in creating, protecting, conserving, preserving, and interpreting areas of significant natural and cultural importance, and in view of the national significance of the Corridor, the Federal Government has an interest in assisting the State of South Carolina, the units of local government of the State, and the private sector in fulfilling the responsibilities described in paragraph (3).

(b) PURPOSES.—The purposes of this title are—

(1) to protect, preserve, conserve, restore, promote, and interpret the significant land and water resource values and functions of the Corridor;

(2) to encourage and support, through financial and technical assistance, the State of South Carolina, the units of local government of the State, and the private sector in

the development of a heritage plan for the Corridor to ensure coordinated public and private action in the Corridor area in a manner consistent with subsection (a);

(3) to provide, during the development of an integrated heritage plan, Federal financial and technical assistance for the protection, preservation, and conservation of land and water areas in the Corridor that are in danger of being adversely affected or destroyed;

(4) to encourage and assist the State of South Carolina and the units of local government of the State to identify the full range of public and private technical and financial assistance programs and services available to implement the heritage plan;

(5) to encourage adequate coordination of all government programs affecting the land and water resources of the Corridor; and

(6) to develop a management framework with the State of South Carolina and the units of local government of the State for—

(A) planning and implementing the heritage plan; and

(B) developing policies and programs that will preserve, conserve, protect, restore, enhance, and interpret the cultural, historical, natural, economic, recreational, and scenic resources of the Corridor.

SEC. 603. DEFINITIONS.

For purposes of this title—

(1) CORRIDOR.—The term "Corridor" means the South Carolina National Heritage Corridor established by section 604.

(2) GOVERNOR.—The term "Governor" means the Governor of the State of South Carolina.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 604. SOUTH CAROLINA NATIONAL HERITAGE CORRIDOR.

(a) ESTABLISHMENT.—There is established in the State of South Carolina the South Carolina National Heritage Corridor.

(b) BOUNDARIES.—

(1) IN GENERAL.—The boundaries of the Corridor are generally the boundaries of the western counties of the State of South Carolina, extending from the western Piedmont along the Savannah Valley to Augusta, Georgia, along the route of the old Southern Railroad, along the Ashley River to Charleston.

(2) INCLUDED COUNTIES.—The Corridor shall consist of the following counties of South Carolina, in part or in whole, as the heritage plan may specify on the recommendations of the units of local government within the Corridor area:

(A) Oconee.
(B) Pickens.
(C) Anderson.
(D) Abbeville.
(E) Greenwood.
(F) McCormick.
(G) Edgefield.
(H) Aiken.
(I) Barnwell.
(J) Orangeburg.
(K) Bamberg.
(L) Dorchester.
(M) Colleton.
(N) Charleston.

(3) DETAIL.—The boundaries shall be specified in detail in the heritage plan.

SEC. 605. MANAGEMENT ENTITY.

(a) IN GENERAL.—The management entity for the National Heritage Corridor shall be an entity selected by the Governor of the State of South Carolina which reflects a broad cross-section of interests within the Corridor and which includes—

(1) at least 1 representative of one or more units of government in South Carolina; and

(2) private property owners who reside within the National Heritage Corridor.

(b) DUTIES.—The management entity for the National Heritage Corridor shall fulfill each of the following requirements:

(1) HERITAGE PLAN.—Not later than 3 years after the date of the designation of the area as a National Heritage Corridor, the management entity shall develop and forward to the Secretary, and to the Governor of South Carolina, a heritage plan.

(2) PRIORITIES.—The management entity shall give priority to the implementation of actions, goals, and policies set forth in the compact and heritage plan for the Corridor, including assisting units of government and others in—

(A) carrying out programs which recognize important resource values within the National Heritage Corridor;

(B) encouraging economic viability in the affected communities;

(C) establishing and maintaining interpretive exhibits in the Corridor;

(D) developing recreational and educational opportunities in the Corridor;

(E) increasing public awareness of and appreciation for the natural, historical, and cultural resources of the Corridor;

(F) restoring historic buildings that are located within the boundaries of the Corridor and relate to the theme of the Corridor; and

(G) ensuring that clear, consistent, and appropriate signs identifying public access points and sites of interest are put in place throughout the Corridor.

(3) CONSIDERATION OF INTERESTS OF LOCAL GROUPS.—The management entity shall, in developing and implementing the heritage plan for the Corridor, consider the interests of diverse units of government, businesses, private property owners, and nonprofit groups within the geographic area.

(4) PUBLIC MEETINGS.—The management entity shall conduct public meetings at least annually regarding the implementation of the heritage plan for the Corridor. The management entity shall place a notice of each such meeting in a newspaper of general circulation in the Corridor and shall make the minutes of the meeting available to the public.

SEC. 606. DUTIES OF THE SECRETARY.

(a) ASSISTANCE.—On request of the management entity, and subject to the availability of funds appropriated specifically for the purpose, or made available on a reimbursable basis, the Secretary shall provide administrative, technical, financial, development, and operations assistance for the purposes of this title. The assistance may include—

(1) general administrative support in planning, finance, personnel, procurement, property management, environmental and historical compliance, and land acquisition;

(2) personnel;

(3) office space and equipment;

(4) planning and design services for visitor use facilities, trails, interpretive exhibits, publications, signs, and natural resource management;

(5) development and construction assistance, including visitor use facilities, trails, river use and access facilities, scenic byways, signs, waysides, and rehabilitation of historic structures; and

(6) operations functions, including interpretation and visitor services, maintenance, and natural resource management services conducted within the boundaries of the Corridor.

(b) LOANS, GRANTS, AND COOPERATIVE AGREEMENTS.—For the purposes of assisting in the development and implementation of the heritage plan, the Secretary may, in consultation with the management entity, make loans and grants to, and enter into cooperative agreements with, the State of South Carolina (or a political subdivision of the State), private nonprofit organizations, corporations, or other persons.

(c) APPROVAL OF HERITAGE PLAN.—

(1) IN GENERAL.—Not later than 180 days after receipt of the plan submitted under section 605(b), the Secretary shall approve or disapprove the plan.

(2) CRITERIA.—In determining whether to approve a plan under this title, the Secretary shall consider—

(A) whether the plan has strong local support from a diversity of landowners, business interests, nonprofit organizations, and governments within the area;

(B) whether the plan is consistent with and complements continued economic activity in the area;

(C) whether the plan has a high potential for effective partnership mechanisms;

(D) whether the plan improperly infringes on private property rights; and

(E) whether the plan will take appropriate action to ensure private property rights are observed.

(3) DISAPPROVAL.—

(A) IN GENERAL.—If the Secretary disapproves the proposed heritage plan, the Secretary shall notify the management entity.

(B) CONTENTS.—A notification under subparagraph (A) shall include—

(i) the reasons for the disapproval; and

(ii) recommendations for revision.

(C) REVISED PLAN.—The management entity shall revise and resubmit the heritage plan to the Secretary for approval. Not later than 180 days after receipt of the revised plan, the Secretary shall approve or disapprove the plan as provided in paragraph (2). The management entity shall revise and submit the heritage plan until the heritage plan is approved by the Secretary.

SEC. 607. SUNSET.

The Secretary may not make any grant or provide any assistance under this title after September 30, 2012.

SEC. 608. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated under this title not more than $1,000,000 for any fiscal year. Not more than a total of $10,000,000 may be appropriated for the Corridor under this title.

(b) 50 PERCENT MATCH.—Federal funding provided under this title, after the designation of this Corridor, may not exceed 50 percent of the total cost of any assistance or grant provided or authorized under this title.

TITLE VII—AMERICA'S AGRICULTURAL HERITAGE PARTNERSHIP

SEC. 701. FINDINGS AND PURPOSES.

(a) The Congress finds that—

(1) the city of Waterloo, Iowa, and northeast Iowa possess many important elements of the nationally significant story of American agriculture, including Native American agriculture, agricultural mechanization, seed hybridization, farm cooperative movements, rural electrification, farm-to-market systems, rural to urban migration, veterinary practice, food processing and preservation, national farm organizations, international hunger relief, and the development of national and international agribusiness;

(2) these resources offer outstanding and unique opportunities to acknowledge and appreciate the development of American agriculture;

(3) the National Park Service has determined that the story of American agriculture is nationally significant, that northeast Iowa is an ideal place to tell that story, and that this story could be divided into 4 principal topics for interpretation in northeast Iowa: the Amazing Science of Agriculture, Agriculture as a Way of Life, Organizing for Survival, and Crops from Field to Table;

(4) the responsibility for interpreting, retaining, enhancing, and promoting the resources, values, and amenities of Waterloo, Iowa and northeast Iowa resides with volunteer associations, private businesses, political subdivisions of the State, and the State of Iowa; and

(5) despite the efforts by volunteer associations, private businesses, political subdivisions of the State, and the State of Iowa, the cultural and historical resources of the area have not realized full potential and may be lost without some assistance from the Federal Government.

(b) PURPOSES.—The purposes of this title are—

(1) to interpret, retain, enhance, and promote the unique and significant contributions to national and international agriculture of certain natural, historic, and cultural resources within Waterloo, Iowa, and northeast Iowa;

(2) to provide a partnership management framework to assist volunteer associations, private businesses, political subdivisions of the State, and the State of Iowa in developing and implementing Management Plan policies and programs that will assist in the interpretation, retention, enhancement, and promotion of the cultural, natural, and recreational resources of northeast Iowa;

(3) to allow for local, State, and Federal contributions through limited grants and technical assistance to create America's Agricultural Heritage Partnership through cooperative agreements among volunteer associations, private businesses, political subdivisions of the State, the State of Iowa, and residents of the area; and

(4) to provide for an economically self-sustaining Partnership for the educational and inspirational benefit of current and future generations concerning the story of American agriculture.

SEC. 702. DEFINITIONS.

As used in this title:

(1) PARTNERSHIP.—The term "Partnership" means the America's Agricultural Heritage Partnership as established by section 703(a).

(2) MANAGEMENT ENTITY.—The term "management entity" means the management entity as established by section 704(a).

(3) POLITICAL SUBDIVISION.—The term "political subdivision" means a political subdivision of the State of Iowa, any part of which is located in or adjacent to the area in which the Partnership's activities occur, including a county, city, or town.

(4) STATE.—The term "State" means the State of Iowa.

(5) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(6) PARTNERSHIP MANAGEMENT PLAN.—The term "Partnership Management Plan" means the plan approved pursuant to section 705(a).

(7) ACTIVITIES.—The term "activities" means the activities referred to in section 703(b).

SEC. 703. ESTABLISHMENT OF THE AMERICA'S AGRICULTURAL HERITAGE PARTNERSHIP.

(a) ESTABLISHMENT.—To carry out this title, there is established in the State of Iowa the "America's Agricultural Heritage Partnership" (in this title referred to as the "Partnership"), upon publication by the Secretary in the Federal Register of notice that a Partnership Management Plan has been approved by the Secretary under this title.

(b) ACTIVITIES.—The Partnership's activities shall be limited to the counties of northeast Iowa that are generally depicted in "Alternatives #2 and #3" described in the 1995 National Park Service "Special Resource Study, Cedar Valley, Iowa.".

(c) PARTICIPATION.—Nothing in this title shall require any resident located in the area in which the Partnership's activities occur to participate in or be associated with the Partnership or the Partnership's activities.

(d) AFFILIATIONS.—Nothing in this title shall prohibit future affiliations or designations of the Partnership or Partnership Management Entity.

(e) GRANTS, TECHNICAL ASSISTANCE, AND COOPERATIVE AGREEMENTS.—

(1) GRANTS AND TECHNICAL ASSISTANCE.—The Secretary may make grants and provide technical assistance to America's Agricultural Heritage Partnership to assist it in carrying out its purposes.

(2) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with private entities, the State of Iowa, any political subdivision thereof, and other Federal entities, to further the purposes of this title, the Partnership, or the Partnership Management Entity.

SEC. 704. ESTABLISHMENT OF THE AMERICA'S AGRICULTURAL HERITAGE PARTNERSHIP MANAGEMENT ENTITY.

(a) ESTABLISHMENT.—There is established a management entity for the Partnership based on the "Management Option #5" outlined in the 1995 National Park Service "Special Resource Study, Cedar Valley, Iowa" and subject to the approval of the Secretary.

(b) PARTNERSHIP MANAGEMENT PLAN.—The Partnership management entity shall be established in accordance with the Partnership Management Plan referred to in section 705(a).

(c) COMPOSITION.—The members of the management entity may include persons affiliated with the following entities: the American Association of Museums, American Farm Bureau, American Farmland Trust, Effigy Mounds National Monument and Herbert Hoover National Historic Site, Iowa Department of Agriculture and Land Stewardship, Iowa Department of Corrections, Iowa Department of Cultural Affairs, Iowa Department of Economic Development, National Trust for Historic Preservation, the Smithsonian Institution, the State Historic Preservation Office of the State of Iowa, the United States Department of Agriculture, the United States Department of Transportation, and the America's Agricultural/Industrial Heritage Landscape, Inc.

SEC. 705. PARTNERSHIP MANAGEMENT PLAN.

(a) PREPARATION OF PARTNERSHIP MANAGEMENT PLAN.—A Partnership Management Plan shall be submitted to the Secretary for approval no later than three years after the date of the enactment of this title.

(b) ASSISTANCE.—The Secretary may provide technical assistance in the preparation of the Partnership Management Plan.

SEC. 706. LAND USE REGULATION AND PRIVATE PROPERTY PROTECTION.

(a) REGULATION.—Nothing in this title shall be construed to modify, enlarge, or diminish any authority of Federal, State, and local governments to regulate any use of privately owned land provided by law or regulation.

(b) LAND USE.—Nothing in this title shall be construed to grant the powers of zoning, land use, or condemnation to the Partnership Management Entity, the Secretary or any other Federal, State, or local government entity.

SEC. 707. SUNSET.

The Secretary may not make any grant or provide any assistance under this title after September 30, 2012.

SEC. 708. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated under this title not more than $1,000,000 for any fiscal year. Not more than a total of $10,000,000 may be appropriated for the Partnership under this title.

(b) 50 PERCENT MATCH.—Federal funding provided under this title, after the designation of this Partnership, may not exceed 50 percent of the total cost of any assistance or grant provided or authorized under this title.

TITLE VIII—OHIO & ERIE CANAL NATIONAL HERITAGE CORRIDOR

SEC. 801. SHORT TITLE.

This title may be cited as the "Ohio & Erie Canal National Heritage Corridor Act of 1996".

SEC. 802. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The Ohio & Erie Canal, which opened for commercial navigation in 1832, was the first inland waterway to connect the Great Lakes at Lake Erie with the Gulf of Mexico via the Ohio and Mississippi Rivers and a part of a canal network in Ohio that was one of America's most extensive and successful systems during a period in history when canals were essential to the Nation's growth.

(2) The Ohio & Erie Canal spurred economic growth in the State of Ohio that took the State from near bankruptcy to the third most economically prosperous State in the Union in just 20 years.

(3) A 4-mile section of the Ohio & Erie Canal was designated a National Historic Landmark in 1966 and other portions of the Ohio & Erie Canal and many associated structures were placed on the National Register of Historic Places.

(4) In 1974, 19 miles of the Ohio & Erie Canal were declared nationally significant under National Park Service new area criteria with the designation of Cuyahoga Valley National Recreation Area.

(5) The National Park Service found the Ohio & Erie Canal nationally significant in a 1975 study entitled "Suitability/Feasibility Study, Proposed Ohio & Erie Canal".

(6) A 1993 Special Resources Study of the Ohio & Erie Canal Corridor conducted by the National Park Service entitled "A Route to Prosperity" has concluded that the corridor is eligible as a National Heritage Corridor.

(7) Local governments, the State of Ohio, and private sector interests have embraced the heritage corridor concept and desire to enter into partnership with the Federal Government to preserve, protect, and develop the corridor for public benefit.

(b) PURPOSES.—The purposes of this title are—

(1) to preserve and interpret for the educational and inspirational benefit of present and future generations the unique and significant contributions to our national heritage of certain historic and cultural lands, waterways, and structures within the 87-mile Ohio & Erie Canal Corridor between Cleveland and Zoar;

(2) to encourage within the corridor a broad range of economic opportunities enhancing the quality of life for present and future generations;

(3) to provide a management framework to assist the State of Ohio, its political subdivisions, and nonprofit organizations, or combinations thereof, in preparing and implementing an integrated Corridor Management Plan and in developing policies and programs that will preserve, enhance, and interpret the cultural, historical, natural, recreation, and scenic resources of the corridor; and

(4) to authorize the Secretary to provide financial and technical assistance to the State of Ohio, its political subdivisions, and nonprofit organizations, or combinations thereof, in preparing and implementing a Corridor Management Plan.

SEC. 803. DEFINITIONS.

For the purposes of this title:

(1) The term "corridor" means the Ohio & Erie Canal National Heritage Corridor established by section 804.

(2) The term "Committee" means the Ohio & Erie Canal National Heritage Area Committee established by section 805.

(3) The term "Corridor Management Plan" means the management plan developed under section 808.

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "technical assistance" means any guidance, advice, help, or aid, other than financial assistance, provided by the Secretary of the Interior.

(6) The term "financial assistance" means funds appropriated by Congress and made available to the management entity for the purposes of preparing and implementing a Corridor Management Plan.

(7) The term "management entity" means the entity recognized by the Secretary pursuant to section 807(a) to receive, distribute, and account for Federal funds appropriated for the purposes of this title.

SEC. 804. OHIO & ERIE CANAL NATIONAL HERITAGE CORRIDOR.

(a) ESTABLISHMENT.—There is established in the State of Ohio the Ohio & Erie Canal National Heritage Corridor.

(b) BOUNDARIES.—

(1) IN GENERAL.—The boundaries of the corridor shall be composed of the lands that are generally the route of the Ohio & Erie Canal from Cleveland to Zoar, Ohio, as depicted in the 1993 National Park Service Special Resources Study, "A Route to Prosperity", subject to paragraph (2). The specific boundaries shall be those specified in the management plan submitted under section 808. The Secretary shall prepare a map of the corridor which shall be on file and available for public inspection in the office of the Director of the National Park Service.

(2) CONSENT OF LOCAL GOVERNMENTS.—No privately owned property shall be included within the boundaries of the corridor unless the municipality in which the property is located agrees to be so included and submits notification of such agreement to the Secretary.

(c) ADMINISTRATION.—The corridor shall be administered in accordance with the provisions of this title.

SEC. 805. THE OHIO & ERIE CANAL NATIONAL HERITAGE CORRIDOR COMMITTEE.

(a) ESTABLISHMENT.—There is hereby established a Committee to be known as the "Ohio & Erie Canal National Heritage Corridor Committee", whose purpose shall be to assist Federal, State, and local authorities and the private sector in the preparation and implementation of an integrated Corridor Management Plan.

(b) MEMBERSHIP.—The Committee shall be comprised of 21 members, as follows:

(1) Four individuals, appointed by the Secretary after consideration of recommendations submitted by the Greater Cleveland Growth Association, the Akron Regional Development Board, the Stark Development Board, and the Tuscarawas County Chamber of Commerce, who shall include one representative of business and industry from each of the Ohio counties of Cuyahoga, Summit, Stark, and Tuscarawas.

(2) One individual, appointed by the Secretary after consideration of recommendations submitted by the Director of the Ohio Department of Travel and Tourism, who is a director of a convention and tourism bureau within the corridor.

(3) One individual, appointed by the Secretary after consideration of recommendations submitted by the Ohio Historic Preservation Officer, with knowledge and experience in the field of historic preservation.

(4) One individual, appointed by the Secretary after consideration of recommendations submitted by the Director of the National Park Service, with knowledge and experience in the field of historic preservation.

(5) Three individuals appointed by the Secretary after consideration of recommendations submitted by the county or metropolitan park boards in the Ohio counties of Cuyahoga, Summit, and Stark.

(6) Eight individuals appointed by the Secretary after consideration of recommendations submitted by the county commissioners or county chief executive of the Ohio counties of Cuyahoga, Summit, Stark and Tuscarawas, including—

(A) from each county, one representative of the planning offices of the county; and

(B) from each county, one representative of a municipality in the county.

(7) Two individuals appointed by the Secretary after consideration of recommendations submitted by the Governor of Ohio, who shall be representatives of the Directors of the Ohio Department of Natural Resources and the Ohio Department of Transportation.

(8) The Superintendent of the Cuyahoga Valley National Recreation Area, ex officio.

(c) APPOINTMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Committee shall be appointed for terms of three years and may be reappointed.

(2) INITIAL APPOINTMENTS.—The Secretary shall appoint the initial members of the Committee within 30 days after the date on which the Secretary has received all recommendations pursuant to subsection (b). Of the members first appointed—

(A) the members appointed pursuant to subsection (b)(6)(B) shall be appointed to a term of two years and may not be reappointed to a consecutive term; and

(B) the member appointed pursuant to subsection (b)(2) shall be appointed to a term of two years and may not be reappointed to a consecutive term.

(d) CHAIR AND VICE CHAIR.—The chair and vice chair of the Committee shall be elected by the members of the Committee. The terms of the chair and vice chair shall be two years.

(e) VACANCY.—A vacancy in the Committee shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which their predecessor was appointed shall be appointed only for the remainder of such term. Any member of the Committee appointed for a definite term may serve after the expiration of their term until their successor has taken office.

(f) COMPENSATION AND EXPENSES.—Members of the Committee shall serve without compensation for their service on the Committee.

(g) QUORUM.—Eleven members of the Committee shall constitute a quorum.

(h) MEETINGS.—The Committee shall meet at least quarterly at the call of the chairperson or 11 of its members. Meetings of the Committee shall be subject to section 552b of title 5, United States Code (relating to open meetings).

(i) NOT TREATED AS ADVISORY COMMITTEE.—The Committee shall not be treated as an Advisory Committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 806. POWERS AND DUTIES OF THE NATIONAL HERITAGE CORRIDOR COMMITTEE.

(a) HEARINGS.—The Committee may, for the purpose of carrying out this title, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Committee considers appropriate. The Committee may not issue subpoenas or exercise any subpoena authority.

(b) BYLAWS.—The Committee may make such bylaws and rules, consistent with this title, as it considers necessary to carry out its functions under this title.

(c) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Committee, if so authorized by the Committee, may take any action which the Committee is authorized to take by this title.

(d) CORRIDOR MANAGEMENT PLAN.—Upon submission of a draft Corridor Management Plan to the Committee from the management entity, the Committee shall, within 60 days, review such plan for consistency with the purposes of this title and endorse the plan or return it to the management entity for revision. Upon endorsement of the Corridor Management Plan, the Committee shall submit such plan to the Secretary for approval pursuant to section 808.

(e) REVIEW OF BUDGET.—The Committee shall review on an annual basis the proposed expenditures of Federal funds by the management entity for consistency with the purpose of this title and the Corridor Management Plan.

SEC. 807. MANAGEMENT ENTITY.

(a) ENTITY.—Upon petition, the Secretary is authorized to recognize the Ohio & Erie Canal Association as the management entity for the Heritage Corridor.

(b) ELIGIBILITY.—To be eligible for designation as the management entity of the corridor, an entity must possess the legal ability to—

(1) receive Federal funds for use in preparing and implementing the management plan for the corridor;

(2) disburse Federal funds to other units of government or other organizations for use in preparing and implementing the management plan for the corridor;

(3) account for all Federal funds received or disbursed; and

(4) sign agreements with the Federal Government.

(c) FEDERAL FUNDING.—

(1) AUTHORIZATION TO RECEIVE.—The management entity is authorized to receive appropriated Federal funds.

(2) DISQUALIFICATION.—If a management plan for the corridor is not submitted to the Secretary as required under section 808 within the time specified herein, the management entity shall cease to be eligible for Federal funding under this title until such a plan regarding the corridor is submitted to the Secretary.

(d) AUTHORITIES OF MANAGEMENT ENTITY.—The management entity of the corridor may, for purposes of preparing and implementing the management plan for the corridor, use Federal funds made available under this title—

(1) to make grants and loans to the State of Ohio, its political subdivisions, nonprofit organizations, and other persons;

(2) to enter into cooperative agreements with, or provide technical assistance to Federal agencies, the State of Ohio, its political subdivisions, nonprofit organizations, and other persons;

(3) to hire and compensate staff;

(4) to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money; and

(5) to contract for goods and services.

(e) PROHIBITION OF ACQUISITION OF REAL PROPERTY.—The management entity for the corridor may not use Federal funds received under this title to acquire real property or any interest in real property.

SEC. 808. DUTIES OF THE MANAGEMENT ENTITY.

(a) CORRIDOR MANAGEMENT PLAN.—

(1) SUBMISSION FOR REVIEW BY COMMITTEE.—Within 3 years after the date on which the Secretary has recognized the management entity for the corridor, the management entity shall develop and submit for review to the Committee a management plan for the corridor.

(2) PLAN REQUIREMENTS.—A management plan submitted under this title shall present comprehensive recommendations for the conservation, funding, management, and development of the corridor. The plan shall be prepared with public participation. The plan shall take into consideration existing Federal, State, county, and local plans and involve residents, public agencies, and private organizations in the corridor. The plan shall include a description of actions that units of government and private organizations are recommended to take to protect the resources of the corridor. The plan shall specify existing and potential sources of funding for the conservation, management, and development of the corridor. The plan also shall include the following, as appropriate:

(A) An inventory of the resources contained in the corridor, including a list of property in the corridor that should be conserved, restored, managed, developed, or maintained because of the natural, cultural, or historic significance of the property as it relates to the themes of the corridor.

(B) A recommendation of policies for resource management that consider and detail the application of appropriate land and water management techniques, including (but not limited to) the development of intergovernmental cooperative agreements to manage the historical, cultural, and natural resources and recreational opportunities of the corridor in a manner consistent with the support of appropriate and compatible economic viability.

(C) A program, including plans for restoration and construction, for implementation of the management plan by the management entity and specific commitments, for the first six years of operation of the plan by the partners identified in said plan.

(D) An analysis of means by which Federal, State, and local programs may best be coordinated to promote the purposes of this title.

(E) An interpretive plan for the corridor.

(2) APPROVAL AND DISAPPROVAL OF THE CORRIDOR MANAGEMENT PLAN.—

(A) IN GENERAL.—Upon submission of the Corridor Management Plan from the Committee, the Secretary shall approve or disapprove said plan not later than 60 days after receipt of the plan. If the Secretary has taken no action after 60 days upon receipt, the plan shall be considered approved.

(B) DISAPPROVAL AND REVISIONS.—If the Secretary disapproves the Corridor Management Plan, the Secretary shall advise the Committee, in writing, of the reasons for the disapproval and shall make recommendations for revision of the plan. The Secretary shall approve or disapprove proposed revisions to the plan not later than 60 days after receipt of such revision. If the Secretary has taken no action for 60 days after receipt, the plan shall be considered approved.

(b) PRIORITIES.—The management entity shall give priority to the implementation of actions, goals, and policies set forth in the management plan for the corridor, including—

(1) assisting units of government, regional planning organizations, and nonprofit organizations—

(A) in conserving the corridor;

(B) in establishing and maintaining interpretive exhibits in the corridor;

(C) in developing recreational opportunities in the corridor;

(D) in increasing public awareness of and appreciation for the natural, historical, and cultural resources of the corridor;

(E) in the restoration of historic buildings that are located within the boundaries of the corridor and relate to the themes of the corridor; and

(F) in ensuring that clear, consistent, and environmentally appropriate signs identifying access points and sites of interest are put in place throughout the corridor; and

(2) consistent with the goals of the management plan, encouraging economic viability in the affected communities by appropriate means.

(c) CONSIDERATION OF INTERESTS OF LOCAL GROUPS.—The management entity shall, in preparing and implementing the management plan for the corridor, consider the interest of diverse units of government, businesses, private property owners, and nonprofit groups within the geographic area.

(d) PUBLIC MEETINGS.—The management entity shall conduct public meetings at least quarterly regarding the implementation of the Corridor Management Plan.

(e) ANNUAL REPORTS.—The management entity shall, for any fiscal year in which it receives Federal funds under this title or in which a loan made by the entity with Federal funds under section 807(d)(1) is outstanding, submit an annual report to the Secretary setting forth its accomplishments, its expenses and income, and the entities to which it made any loans and grants during the year for which the report is made.

(f) COOPERATION WITH AUDITS.—The management entity shall, for any fiscal year in which it receives Federal funds under this title or in which a loan made by the entity with Federal funds under section 807(d)(1) is outstanding, make available for audit by the Congress, the Secretary, and appropriate units of government all records and other information pertaining to the expenditure of such funds and any matching funds, and require, for all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available for such audit all records and other information pertaining to the expenditure of such funds.

SEC. 809. DUTIES AND AUTHORITIES OF FEDERAL AGENCIES.

(a) TECHNICAL ASSISTANCE AND GRANTS.—

(1) IN GENERAL.—The Secretary may provide technical assistance and grants to units of government, nonprofit organizations, and other persons, upon request of the management entity of the corridor, and to the management entity, regarding the management plan and its implementation.

(2) PROHIBITION OF CERTAIN REQUIREMENTS.—The Secretary may not, as a condition of the award of technical assistance or grants under this section, require any recipient of such technical assistance or grant to enact or modify land use restrictions.

(3) DETERMINATIONS REGARDING ASSISTANCE.—The Secretary shall decide if the corridor shall be awarded technical assistance or grants and the amount of that assistance. Such decisions shall be based on the relative degree to which the corridor effectively fulfills the objectives contained in the Corridor Management Plan and achieves the purposes of this title. Such decisions shall give consideration to projects which provide a greater leverage of Federal funds.

(b) PROVISION OF INFORMATION.—In cooperation with other Federal agencies, the Secretary shall provide the general public with information regarding the location and character of the corridor.

(c) OTHER ASSISTANCE.—Upon request, the Superintendent of Cuyahoga Valley National Recreation Area may provide to public and private organizations within the corridor (including the management entity for the corridor) such operational assistance as appropriate to support the implementation of the Corridor Management Plan, subject to the availability of appropriated funds. The Secretary is authorized to enter into cooperative agreements with public and private organizations for the purposes of implementing this subsection.

(d) DUTIES OF OTHER FEDERAL AGENCIES.—Any Federal entity conducting any activity directly affecting the corridor shall consider the potential effect of the activity on the Corridor Management Plan and shall consult with the management entity of the corridor with respect to the activity to minimize the adverse effects of the activity on the corridor.

SEC. 810. LACK OF EFFECT ON LAND USE REGULATION AND PRIVATE PROPERTY.

(a) LACK OF EFFECT ON AUTHORITY OF GOVERNMENTS.—Nothing in this title shall be construed to modify, enlarge, or diminish any authority of Federal, State, or local governments to regulate any use of land as provided for by law or regulation.

(b) LACK OF ZONING OR LAND USE POWERS.—Nothing in this title shall be construed to grant powers of zoning or land use control to the Committee or management entity of the corridor.

(c) LOCAL AUTHORITY AND PRIVATE PROPERTY NOT AFFECTED.—Nothing in this title shall be construed to affect or to authorize the Committee to interfere with—

(1) the rights of any person with respect to private property; or

(2) any local zoning ordinance or land use plan of the State of Ohio or a political subdivision thereof.

SEC. 811. SUNSET.

The Secretary may not make any grant or provide any assistance under this title after September 30, 2012.

SEC. 812. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated under this title not more than $1,000,000 for any fiscal year. Not more than a total of $10,000,000 may be appropriated for the corridor under this title.

(b) 50 PERCENT MATCH.—Federal funding provided under this title, after the designation of this corridor, may not exceed 50 percent of the total cost of any assistance or grant provided or authorized under this title.

TITLE IX—HUDSON RIVER VALLEY NATIONAL HERITAGE AREA

SEC. 901. SHORT TITLE.

This title may be cited as the "Hudson River Valley National Heritage Area Act of 1996".

SEC. 902. FINDINGS.

The Congress finds the following:

(1) The Hudson River Valley between Yonkers, New York, and Troy, New York, possesses important historical, cultural, and natural resources, representing themes of settlement and migration, transportation, and commerce.

(2) The Hudson River Valley played an important role in the military history of the American Revolution.

(3) The Hudson River Valley gave birth to important movements in American art and architecture through the work of Andrew Jackson Downing, Alexander Jackson Davis, Thomas Cole, and their associates, and played a central role in the recognition of the esthetic value of the landscape and the development of an American esthetic ideal.

(4) The Hudson River Valley played an important role in the development of the iron, textile, and collar and cuff industries in the 19th century, exemplified in surviving structures such as the Harmony Mills complex at Cohoes, and in the development of early men's and women's labor and cooperative organizations, and is the home of the first women's labor union and the first women's secondary school.

(5) The Hudson River Valley, in its cities and towns and in its rural landscapes—

(A) displays exceptional surviving physical resources illustrating these themes and the social, industrial, and cultural history of the 19th and early 20th centuries; and

(B) includes many National Historic Sites and Landmarks.

(6) The Hudson River Valley is the home of traditions associated with Dutch and Huguenot settlements dating to the 17th and 18th centuries, was the locus of characteristic American stories such as "Rip Van Winkle" and the "Legend of Sleepy Hollow", and retains physical social, and cultural evidence of these traditions and the traditions of other more recent ethnic and social groups.

(7) New York State has established a structure for the Hudson River Valley communities to join together to preserve, conserve, and manage these resources, and to link them through trails and other means, in the Hudson River Greenway Communities Council and the Greenway Conservancy.

SEC. 903. PURPOSES.

The purposes of this title are the following:

(1) To recognize the importance of the history and the resources of the Hudson River Valley to the Nation.

(2) To assist the State of New York and the communities of the Hudson River Valley in preserving, protecting, and interpreting these resources for the benefit of the Nation.

(3) To authorize Federal financial and technical assistance to serve these purposes.

SEC. 904. HUDSON RIVER VALLEY AMERICAN HERITAGE AREA.

(a) ESTABLISHMENT.—There is hereby established a Hudson River Valley National Heritage Area (in this title referred to as the "Heritage Area").

(b) BOUNDARIES.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (2), the Heritage Area shall be comprised of the counties of Albany, Rensselaer, Columbia, Greene, Ulster, Dutchess, Orange, Putnam, Westchester, and Rockland, New York, and the Village of Waterford in Saratoga County, New York.

(2) AREAS EXCLUDED.—The Heritage Area shall not include any of the following:

(A) The counties of Greene and Columbia.

(B) Those portions of the counties of Rensselaer and Dutchess located entirely within the 22d Congressional District of New York (as such district exists on the date of the enactment of this Act).

(c) MANAGEMENT ENTITIES.—The management entities for the Heritage Area shall be the Hudson River Valley Greenway Communities Council and the Greenway Conservancy (agencies established by the State of New York in its Hudson River Greenway Act of 1991, in this title referred to as the "management entities"). The management entities shall jointly establish a Heritage Area Committee to manage the Heritage Area.

SEC. 905. COMPACT.

To carry out the purposes of this title, the Secretary of the Interior (in this title referred to as the "Secretary") shall enter into a compact with the management entities. The compact shall include information relating to the objectives and management of the area, including the following:

(1) A discussion of the goals and objectives of the Heritage Area, including an explanation of a proposed approach to conservation and interpretation, and a general outline of the protection measures committed to by the parties to the compact.

(2) A description of the respective roles of the management entities.

(3) A list of the initial partners to be involved in developing and implementing a management plan for the Heritage Area, and a statement of the financial commitment of such partners.

(4) A description of the role of the State of New York.

SEC. 906. MANAGEMENT PLAN.

The management entities shall develop a management plan for the Heritage Area that presents comprehensive recommendations for the Heritage Area's conservation, funding, management and development. Such plan shall take into consideration existing State, county, and local plans and involve residents, public agencies, and private organizations working in the Heritage Area. It shall include actions to be undertaken by units of government and private organizations to protect the resources of the Heritage Area. It shall specify the existing and potential sources of funding to protect, manage and develop the Heritage Area. Such plan shall include specifically as appropriate the following:

(1) An inventory of the resources contained in the Heritage Area, including a list of any property in the Heritage Area that is related to the themes of the Heritage Area and that should be preserved, restored, managed, developed, or maintained because of its natural, cultural, historic, recreational, or scenic significance.

(2) A recommendation of policies for resource management which consider and detail application of appropriate land and water management techniques, including but not limited to, the development of intergovernmental cooperative agreements to protect the Heritage Area's historical, cultural, recreational, and natural resources in a manner consistent with supporting appropriate and compatible economic viability.

(3) A program for implementation of the management plan by the management entities, including plans for restoration and construction, and specific commitments of the identified partners for the first 5 years of operation.

(4) An analysis of ways in which local, State, and Federal programs may best be coordinated to promote the purposes of this title.

(5) An interpretation plan for the Heritage Area.

SEC. 907. AUTHORITIES AND DUTIES OF MANAGEMENT ENTITIES.

(a) AUTHORITIES OF THE MANAGEMENT ENTITIES.—The management entities may, for purposes of preparing and implementing the management plan under section 906, use Federal funds made available through this title—

(1) to make loans and grants to, and enter into cooperative agreements with, States and their political subdivisions, private organizations, or any person; and

(2) to hire and compensate staff.

(b) DUTIES OF THE MANAGEMENT ENTITIES.—The management entities shall—

(1) develop and submit to the Secretary for approval a management plan as described in section 906 within 5 years after the date of the enactment of this title.

(2) give priority to implementing actions as set forth in the compact and the management plan, including taking steps to—

(A) assist units of government, regional planning organizations, and nonprofit organizations in preserving the Heritage Area;

(B) assist units of government, regional planning organizations, and nonprofit organizations in establishing, and maintaining interpretive exhibits in the Heritage Area;

(C) assist units of government, regional planning organizations, and nonprofit organizations in developing recreational resources in the Heritage Area;

(D) assist units of government, regional planning organizations, and nonprofit organizations in increasing public awareness of and appreciation for the natural, historical and architectural resources and sites in the Heritage Area;

(E) assist units of government, regional planning organizations and nonprofit organizations in the restoration of any historic building relating to the themes of the Heritage Area;

(F) encourage by appropriate means economic viability in the corridor consistent with the goals of the Plan;

(G) encourage local governments to adopt land use policies consistent with the management of the Heritage Area and the goals of the plan; and

(H) assist units of government, regional planning organizations and nonprofit organizations to ensure that clear, consistent, and environmentally appropriate signs identifying access points and sites of interest are put in place throughout the Heritage Area;

(3) consider the interests of diverse governmental, business, and nonprofit groups within the Heritage Area;

(4) conduct public meetings at least quarterly regarding the implementation of the management plan;

(5) submit substantial changes (including any increase of more than 20 percent in the cost estimates for implementation) to the management plan to the Secretary for the Secretary's approval;

(6) for any year in which Federal funds have been received under this title, submit an annual report to the Secretary setting forth its accomplishments, its expenses and income, and the entities to which any loans and grants were made during the year for which the report is made; and

(7) for any year in which Federal funds have been received under this title, make available for audit all records pertaining to the expenditure of such funds and any matching funds, and require, for all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available for audit all records pertaining to the expenditure of such funds.

If a management plan is not submitted to the Secretary as required under paragraph (1) within the specified time, the Heritage Area shall no longer qualify for Federal funding.

(c) PROHIBITION ON THE ACQUISITION OF REAL PROPERTY.—The management entities may not use Federal funds received under this title to acquire real property or an interest in real property. Nothing in this title shall preclude any management entity from using Federal funds from other sources for their permitted purposes.

(d) ELIGIBILITY FOR RECEIVING FINANCIAL ASSISTANCE.—

(1) ELIGIBILITY.—The management entities shall be eligible to receive funds appropriated through this title for a period of 10 years after the day on which the compact under section 905 is signed by the Secretary and the management entities, except as provided in paragraph (2).

(2) EXCEPTION.—The management entities' eligibility for funding under this title may be extended for a period of not more than 5 additional years, if—

(A) the management entities determine such extension is necessary in order to carry out the purposes of this title and notify the Secretary not later than 180 days prior to the termination date;

(B) the management entities, not later than 180 days prior to the termination date, present to the Secretary a plan of their activities for the period of the extension, including provisions for becoming independent of the funds made available through this title; and

(C) the Secretary, with the advice of the Governor of New York, approves such extension of funding.

SEC. 908. DUTIES AND AUTHORITIES OF FEDERAL AGENCIES.

(a) DUTIES AND AUTHORITIES OF THE SECRETARY.—

(1) TECHNICAL AND FINANCIAL ASSISTANCE.—

(A) IN GENERAL.—The Secretary may, upon request of the management entities, provide technical and financial assistance to the Heritage Area to develop and implement the management plan. In assisting the Heritage Area, the Secretary shall give priority to actions that in general assist in—

(i) conserving the significant natural, historic, and cultural resources which support its themes; and

(ii) providing educational, interpretive, and recreational opportunities consistent with its resources and associated values.

(B) SPENDING FOR NONFEDERALLY OWNED PROPERTY.—The Secretary may spend Federal funds directly on nonfederally owned property to further the purposes of this title, especially in assisting units of government in appropriate treatment of districts, sites, buildings, structures, and objects listed or eligible for listing on the National Register of Historic Places.

(2) APPROVAL AND DISAPPROVAL OF COMPACTS AND MANAGEMENT PLANS.—

(A) IN GENERAL.—The Secretary, in consultation with the Governor of New York, shall approve or disapprove a compact or management plan submitted under this title not later than 90 days after receiving such compact or management plan.

(B) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves a submitted compact or management plan, the Secretary shall advise the management entities in writing of the reasons therefor and shall make recommendations for revisions in the compact or plan. The Secretary shall approve or disapprove a proposed revision within 90 days after the date it is submitted.

(3) APPROVING AMENDMENTS.—The Secretary shall review substantial amendments to the management plan for the Heritage Area. Funds appropriated pursuant to this title may not be expended to implement the changes until the Secretary approves the amendments.

(4) PROMULGATING REGULATIONS.—The Secretary shall promulgate such regulations as are necessary to carry out the purposes of this title.

(b) DUTIES OF FEDERAL ENTITIES.—Any Federal entity conducting or supporting activities directly affecting the Heritage Area, and any unit of government acting pursuant to a grant of Federal funds or a Federal permit or agreement conducting or supporting such activities, shall to the maximum extent practicable—

(1) consult with the Secretary and the management entities with respect to such activities;

(2) cooperate with the Secretary and the management entities in carrying out their duties under this title and coordinate such activities with the carrying out of such duties; and

(3) conduct or support such activities in a manner consistent with the management plan unless the Federal entity, after consultation with the management entities, determines there is no practicable alternative.

SEC. 909. AUTHORIZATION OF APPROPRIATIONS.

(a) COMPACTS AND MANAGEMENT PLAN.—There is authorized to be appropriated to the Secretary, for grants for developing a compact under section 905 and providing assistance for a management plan under section 906, not more than $300,000, to remain available until expended, subject to the following conditions:

(1) No grant for a compact or management plan may exceed 75 percent of the grantee's cost for such study or plan.

(2) The total amount of Federal funding for the compact for the Heritage Area may not exceed $150,000.

(3) The total amount of Federal funding for a management plan for the Heritage Area may not exceed $150,000.

(b) MANAGEMENT ENTITY OPERATIONS.—There is authorized to be appropriated to the Secretary for the management entities, amounts as follows:

(1) For the operating costs of each management entity, pursuant to section 907, not more than $250,000 annually.

(2) For technical assistance pursuant to section 908 not more than $50,000 annually.

The Federal contribution to the operations of the management entities shall not exceed 50 percent of the annual operating costs of the entities.

(c) IMPLEMENTATION.—There is authorized to be appropriated to the Secretary, for grants (and the administration thereof) for the implementation of the management plans for the Heritage Area pursuant to section 908, not more than $10,000,000, to remain available until expended, subject to the following conditions:

(1) No grant for implementation may exceed 50 percent of the grantee's cost of implementation.

(2) Any payment made shall be subject to an agreement that conversion, use, or disposal of the project so assisted for purposes contrary to the purposes of this title, as determined by the Secretary, shall result in a right of the United States of reimbursement of all funds made available to such project or the proportion of the increased value of the project attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

SEC. 910. SUNSET.

The Secretary may not make any grant or provide any assistance under this title after September 30, 2012.

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 Member (at the request of Mr. MONTGOMERY) to revise and extend his remarks and include extraneous material:)

Mr. LAFALCE, for 5 minutes, today.

(The following Members (at the request of Mr. SOLOMON) to revise and extend their remarks and include extraneous material:)

Mr. SENSENBRENNER, for 5 minutes, today.

Mr. SOLOMON, for 5 minutes, today.

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3610. An act making omnibus consolidated appropriations for the fiscal year ending September 30, 1997, and for other purposes.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on the following date present to the President, for his approval, bills and a joint resolution of the House of the following titles:

On September 30, 1996:

H.R. 2967. An act to extend the authorization of the Uranium Mill Tailings Radiation Control Act of 1978, and for other purposes;

H.R. 3660. An act to make amendments to the Reclamation Wastewater and Groundwater Study and Facilities Act, and for other purposes;

H.R. 3458. An act to increase, effective as of December 1, 1996, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes;

H.R. 2988. An act to amend the Clean Air Act to provide that traffic signal synchronization projects are exempted from certain requirements of Environmental Protection Agency Rules;

H.R. 2779. An act to provide for appropriate implementation of the Metric Conversion

Act of 1975 in Federal construction projects, and for other purposes;

H.R. 2700. An act to designate the building located at 8302 FM 327, Elmendorf, Texas, which houses operations of the United States Postal Service, as the "Amos F. Longoria Post Office Building";

H.R. 1514. An act to authorize and facilitate a program to enhance safety, training, research and development, and safety education in the propane gas industry for the benefit of propane consumers and the public, and for other purposes;

H.R. 1031. An act for relief of Oscar Salas-Velazquez;

H.R. 1011. An act to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Ohio;

H.R. 3916. An act to make available certain Voice of America and radio Marti multilingual computer readable text and voice recordings;

H.R. 4138. An act to authorize the hydrogen research, development, and demonstration programs of the Department of Energy, and for other purposes;

H.R. 4168. An act to amend the Helium Act to authorize the Secretary to enter into agreements with private parties for the recovery and disposal of helium on Federal lands, and for other purposes;

H.R. 3610. An act making omnibus consolidated appropriations for the fiscal year ending September 30, 1997, and for other purposes;

H.R. 3973. An act to provide for a study of the recommendations of the Joint Federal-State Commission on Policies and Programs Affecting Alaska Natives;

H.R. 1823. An act to amend the Central Utah Project Completion Act to direct the Secretary of the Interior to allow for prepayment of repayment contracts between the United States and the Central Utah Water Conservancy District dated December 28, 1965, and November 26, 1985, and for other purposes;

H.R. 3871. An act to waive temporarily the Medicaid enrollment composition rule for certain health maintenance organizations;

H.R. 3074. An act to amend the United States-Israel Free Trade Area Implementation Act of 1985 to provide the President with additional proclamation authority with respect to articles of the West Bank or Gaza Strip or a qualifying industrial zone;

H.R. 3166. An act to amend title 18, United States Code, with respect to the crime of false statement in a Government matter;

H.R. 4167. An act to provide for the safety of journeymen boxers, and for other purposes; and

H.J. Res. 197. Joint resolution waiving certain enrollment requirements with respect to any bill or joint resolution of the One Hundred Fourth Congress making general or continuing appropriations for fiscal year 1997.

ADJOURNMENT

Mr. SOLOMON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 9 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, October 2, 1996, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5398. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule—Management Official Interlocks (12 CFR Part 348) received October 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5399. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule—Interagency Guidelines Establishing Standards for Safety and Soundness (RIN: 3064–AB13) received October 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5400. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule—Applications for a Stay or Review of Actions of Bank Clearing Agencies; Rules of Practice and Procedure (RIN: 3064–AB81) received October 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5401. A letter from the Executive Director, National Education Goals Panel, transmitting the Panel's fiscal year 1996 year-end reports, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

5402. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

5403. A letter from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Atlantic Tuna Fisheries; Adjustment [I.D. 092496A] received October 1, 1996, pursuant to U.S.C. 801(a)(1)(A); to the Committee on Resources.

5404. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; Back River and Foster Creek; Charleston, SC (U.S. Coast Guard) [COTP Charleston 96–052] (RIN: 2115–AA97) received October 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5405. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Pipeline Safety Rulemaking Procedures (RIN: 2137–AC94) received October 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5406. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Technical Amendments; Organizational Changes; Miscellaneous Editorial Changes and Conforming Amendments (U.S. Coast Guard) [CGD 96–041] (RIN: 2115–AF34) received October 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5407. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Proposed Tip Reporting Agreement for Use in the Gaming Industry (Announcement 96–106) received October 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5408. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Proposed Tip Reporting Agreement for Use in the Hairstyling Industry (Announcement 96–105) received October 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

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. ROBERTS:

H.R. 4336. A bill to restore the authority of the Secretary of Agriculture to extend existing and expiring contracts under the conservation reserve program; to the Committee on Agriculture.

By Mr. LAFALCE.

H.R. 4337. A bill to amend the Truth in Lending Act to prohibit extensions of credit under any open end consumer credit plan the proceeds of which the creditor knows or has reason to believe are being used or will be used by the consumer to make any form of wager or bet, to play any game of chance, or use any gambling device, and for other purposes; to the Committee on Banking and Financial Services.

H.R. 4338. A bill to provide relief for domestic producers of tailored wool apparel from increased imports of such apparel from Canada; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1317: Mr. LARGENT.

H.R. 3654: Mr. HILLIARD.

H.R. 3714: Mr. MORAN.

H.R. 3939: Mr. ENSIGN.

H.R. 4102: Mr. HAMILTON and Mr. NEY.

H.R. 4131: Mr. TALENT.

H.R. 4145: Mr. WALSH.

H.R. 4148: Ms. NORTON and Mr. DIAZ-BALART.

H.R. 4204: Mr. NEAL of Massachusetts.

H. Res. 555: Mr. BISHOP, Mr. FLANAGAN, Mr. JACKSON, Ms. KAPTUR, Mr. LEACH, Mr. MINGE, Mr. TORRICELLI, and Mrs. MINK of Hawaii.

EXTENSIONS OF REMARKS

HONORING THE POLISH AMERICAN JOURNAL

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 1, 1996

Mr. QUINN. Mr. Speaker, I rise today to recognize the 85th anniversary of the Polish American Journal.

As Representatives from Polish-American districts are sure to recognize, the Polish American Journal is the largest independent monthly English language newspaper in the United States and carries on the tradition of preserving Polish culture and customs in our country. Founded in 1911 as Zorza, The Dawn, it was subsequently renamed Republika before combining with another newspaper under the ownership of John Dende, 1920, and to become known as Republika-Gornik Pennsylwanski (Republic-Miner of Pennsylvania). The paper was influential in providing anthracite coal miners with information about working conditions, wages, and mine safety. John Dende's editorials won wide acclaim and were often reprinted in other Polish language newspapers. Indeed, John Dende became a highly respected activist for his work on behalf of his Polish-American compatriots.

Following John Dende's passing, the paper was published by his sons, Henry and Richard. In 1948 the Dende brothers made the difficult decision of changing from strictly Polish to mostly English to meet the needs of the nearly 5 million U.S.-born Polish-Americans and reach directly into the English-speaking community. Renamed Polish American Journal, the paper acquired national stature as the voice of Polish-Americans. Members of Congress, government officials, civic and political leaders, free Poles of the cold-war era, and anti-Communist crusaders throughout the world all turned to the Journal as a freedom forum and information source.

Henry and Richard Dende remained publishers of the Polish American Journal until 1983, ever true to their mission of promoting and preserving Polish and Polish-American culture, customs, traditions, and interests. In August of that year, however, Henry and Richard Dende agreed to have the Journal published by Panagraphics Corp. of Buffalo which is located in the 30th Congressional District of New York. And Panagraphics continues the work begun by the hearty Polish immigrants 85 years ago.

It is fitting to enter these remarks in anticipation of Polish-American Heritage Month, for the Polish American Journal is a familiar voice in these halls. It was this publication that gave us firsthand accounts of a war-ravaged Poland and the plight of the Poles who were forced to live behind the Iron Curtain. During that period, the Journal became the most quoted ethnic newspaper in the CONGRESSIONAL RECORD, as its headlines were cited by many of our former colleagues and their constituents.

Since that time, the Polish American Journal has fought hard to see freedom restored in Poland, a dream that was realized with the election of Lech Walesa to Poland's presidency.

While the Polish American Journal has demonstrated its role as a voice for Poland here in the United States, it more importantly serves as witness to the countless contributions Americans of Polish descent make to the United States. From Revolutionary War heroes Thaddeus Kosciuszko and Casimir Pulaski to World War II flying ace Col. Francis Gabreski and the highly decorated late Col. Matt Urban, Poles and Polish-Americans have long demonstrated their deep commitment to America's liberty.

The pages of the Polish American Journal are a record of the achievements of Polish-Americans in all fields, from academia and politics to science and the arts. This gives all citizens of the United States a deeper understanding and respect for the lives of the sons and daughters of self-sacrificing immigrants whose stories proudly shin in the colorful ethnic mosaic we call America.

Since its founding, the Polish American Journal has been dedicated to the promotion and continuation of Polish-American culture in the United States, a heritage rich in the joys of the family, church, and country. Its anniversary is a milestone by which all can be proud, for its success mirrors the achievements of all Polish-Americans whose virtues and ethics have contributed to American society.

Mr. Speaker, I congratulate the paper on its anniversary and commend its staff, writers, contributors, and subscribers who take pride in their economic roots and who willingly share the ideals of their ancestors with Americans of all backgrounds.

HONORING REPRESENTATIVE PATRICIA SCHROEDER OF COLORADO AND REPRESENTATIVE CARDISS COLLINS OF ILLINOIS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 1, 1996

Mr. DINGELL. Mr. Speaker, I rise today to add voice to those who want to recognize two wonderful public servants and truly special people, my colleagues PAT SCHROEDER and CARDISS COLLINS. It has been an honor for me to serve with these two distinguished Members, who have worked hard to help the people of Colorado, Illinois, and the United States. Their dedication, passion, and commitment to the betterment of our country will be missed.

For 11 terms, Pat Schroeder, my friend from Colorado, has been an active and influential leader on behalf of women's and children's issues, health care, educational opportunity, constitutional rights, and foreign and military policy. In doing so, she has shaped legislation that has affected every American and has earned the respect of legislators on both sides of the aisle.

By holding strong to her convictions and by keeping an unwavering commitment to help America, PAT SCHROEDER has become one of the best-known Members of this body. To many Americans, PAT SCHROEDER has become synonymous with women's rights, and rightfully so. Allies on important issues are always thankful to have PAT fight on their behalf, while foes on issues fear her powerful voice.

PAT SCHROEDER's legislative accomplishments are countless. Some of her most recent bills that are now law include the Violence Against Women Act, the Economic Equity Act, the Breast and Cervical Cancer Prevention Act, the Child Support Responsibility Act, and the National Child Care Protection Act.

PAT SCHROEDER has won recognition from a wide range of groups because of her dedication, including the National Women's Hall of Fame. We'll all remember PAT, though, for some of the every day things she does, like the smiley faces in her signature, the bunny suits and her flair for language and the art of debate. As I told her earlier this year, without PAT we never would have know whether Presidents were Teflon or Velcro, or which hawks were really chickens in disguise.

My colleague from Illinois, CARDIS COLLINS, also has had a most distinguished career of service to her constituents, and significant legislative contributions during her tenure here. Since arriving in 1973, CARDIS COLLINS not only has been a remarkable congresswoman, but has been a leader. CARDISS COLLINS has led the charge on minority, women's, children's, and safety issues. By doing so, she has enhanced equality and helped our Nation become stronger and safer.

I have had the honor to serve with CARDISS on the Commerce Committee, where I was able to witness her hard work and commitment to not only the people of Illinois, but to all Americans.

During her tenure as chair of the Subcommittee on Commerce, Consumer Protection, and Competitiveness, CARDISS COLLINS was instrumental in enacting the Child Abuse Prevention Act, the Child Safety Protection Act, the Gender Equity in Athletics Disclosure Act, and many, many other bills. She also conducted investigations which helped triple the number of child care centers in the General Services Administration.

CARDISS COLLINS' tireless efforts have also resulted in increased safety standards for America's airline passengers, tougher safety standards in the transport of toxic materials, and an increased African-American participation in advertising. She has led a dedicated

staff both in the Government Reform Committee, and before that in the Energy and Commerce Subcommittee on Commerce, Consumer Protection and Competitiveness. It was on this panel that Chairwoman COLLINS led hearings on gender equity, insurance redlining, and deceptive practices in the sale of life insurance.

Mr. Speaker, I am proud to have served with such noble individuals. PAT SCHROEDER and CARDISS COLLINS will not be forgotten. America owes them both a debt of gratitude. I urge all my colleagues to salute PAT and CARDISS for their exceptional accomplishments as Members of the House. They both will be greatly missed, but I know they will both find great satisfaction in their future endeavors.

TRIBUTE TO CONGRESSWOMEN SCHROEDER AND COLLINS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 1, 1996

Mr. CLAY. Mr. Speaker, when the 105th Congress convenes next year, this body will regrettably be absent two of its most dedicated and distinguished public servants, the Honorable PAT SCHROEDER and the Honorable CARDISS COLLINS. It is with mixed feelings of pleasure and sadness that I rise today in tribute to these two extraordinary leaders.

Congresswoman SCHROEDER and Congresswoman COLLINS have served the Congress longer and with greater dedication than few others. Among women Members, their longevity is virtually unmatched. As cofounders of the Congressional Women's Caucus they have shared in the historic mission of elevating this body's awareness and understanding of legislative issues of greatest concern to women. Both have served selflessly and tirelessly in the struggle for social justice and equality.

PAT SCHROEDER and CARDISS COLLINS represent very different constituencies. Their legislative styles are distinct and they speak in somewhat different voices, but they have consistently spoken in unison on behalf of those who have been traditionally under-represented in the halls of Congress. The achievements of these two legislative giants are too numerous to recount and too phenomenal to address adequately in these few minutes. They each leave a legacy of achievements fulfilled. PAT has performed some miraculous feats as a member of the National Security Committee while CARDISS has left her signature on the business of the Commerce Committee. And both of these great Members of Congress has left her personal imprimatur on issues like health care, education, employment security, environmental protection, consumer safety, and civil rights and humanitarian causes.

These two gentlewomen have made countless personal sacrifices and enormous contributions to this body and to the Nation. No truer advocates of peace, justice, and equality I have known in my 28 years in Congress. Congresswoman CARDISS COLLINS acts from the heart and steadfastly nurtures policies of fairness and virtue. Congresswoman PAT SCHROEDER speaks eloquently from her soul and illuminates the path to truth and justice.

Mr. Speaker, the Congresswoman from Denver and the Congresswoman from Chicago have played magnificent roles in redirecting our future. They have moved our Nation closer toward realizing those principles of freedom and equality of which our Nation's founders paid lip service but to which they failed miserably in their shameless defense of racism and sexism. Our Nation and this institution have changed for the better by the dedicated contributions of these exceptional legislators.

Representatives SCHROEDER and COLLINS have demonstrated the kind of faith and dedication that inspire the best in others. I will PAT's humor and I will miss CARDISS' determination, and I will especially miss their generous support and friendship. My memories of service with PAT SCHROEDER and CARDISS COLLINS are long and fond. I wish them each good health and good fortune as they leave us and move on to new challenges. I know they will continue to spread the faith. May triumph and victory be with them on the path that lies ahead.

CELEBRATING THE CAREER OF CARDISS COLLINS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 1, 1996

Mr. CONYERS. Mr. Speaker, I rise today to pay tribute to my friend and highly distinguished colleague, Congresswoman CARDISS COLLINS of Illinois' Seventh Congressional District. As the longest serving African-American female in Congress, she has been a true inspiration and mentor to those who have followed in her footsteps. Her legacy, including her tenure as chair of the Subcommittees on Commerce, Consumer Protection, and Competitiveness and Government Activities and Transportation, as well as the Congressional Black Caucus, are part of a permanent record that will ensure the importance of her 23 years in the House of Representatives.

Public service has become an important part of CARDISS' life. She honorably stepped in to fill her late husband's, the Honorable George W. Collins, seat when asked and has served faithfully since. Congresswoman COLLINS has truly represented her district throughout the years. Her skillful leadership during her 11 terms will be missed by many.

I would like to take this opportunity to remember some of the important achievements attributed to Representative COLLINS. She has consistently devoted her energy to improving health care for women and minorities. CARDISS spent several years during this decade promoting the research of breast cancer. She sponsored legislation that expanded Medicare coverage for mammography screenings and Medicaid coverage for Pap smears to detect cervical and uterine cancers. COLLINS has also continuously authored a resolution that designates October as National Breast Cancer Awareness Month.

Her concern for women extends beyond health care. She pressured colleges to follow the requirements of title IX of the Education Amendments Act of 1972 when she chaired the Subcommittee on Commerce, Consumer Protection, and Competitiveness. The result has been a dramatic increase in the participation of women in sports, as evidenced by the number of American women participants this year in the Centennial Olympic Games in Atlanta.

CARDISS has been especially concerned about the fate of our country's children. She is responsible for increasing the funding and research into minority health issues and establishing the National Institutes of Health's Office on Minority Health. Representative COLLINS was the force behind the Child Abuse Prevention Act, which resulted in the training of teachers in child abuse prevention. Additionally, CARDISS increased child safety by enacting legislation that requires warning labels on toys with small parts and standards for bicycle helmets.

CARDISS has also focused her energy on increasing diversity in advertising. The lack of a presence of African-Americans sparked her to introduce several bills to strike more of a balance throughout this medium. She worked tirelessly to ensure that privately owned firms and the Federal Government did not discriminate against minority owned agencies.

The Congressional Black Caucus is the strong organization it is today, due, in part, to the leadership Representative COLLINS showed when she chaired the Caucus. She also chaired the Congressional Black Caucus Foundation for two terms, beginning in 1994. She was an important member to both bodies, and they miss her contributions.

I will miss CARDISS' intelligence and insight which she has shared throughout the years we spent in Congress. I know she will spend many fulfilling years with her son and granddaughter. I am honored to have served with her and I wish her continued success and happiness.

CONGRESSWOMAN CARDISS COLLINS HONORED

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 1, 1996

Mr. MOAKLEY. Mr. Speaker, I rise today to pay tribute to my colleague and neighbor, Congresswoman CARDISS COLLINS, who will be leaving the house after 24 years of very distinguished service.

CARDISS COLLINS has been an exemplary Member and a true Democrat. She has fought long and hard to improve health care for women and minorities and to improve diversity in advertising.

Thanks to her work making sure female college athletes are treated fairly in our Nation's colleges and universities, CARDISS was inducted into the Women and Girls' Sports Hall of Fame.

And that is just one of her many awards, distinctions, and honorary degrees.

I had the great pleasure of working with CARDISS on an issue that we both believe is very important—the issue of cigarette-caused

fires and how to stop them. CARDISS and I worked together for years to promote fire-safe cigarettes and considering the powerful companies we've been up against, I believe we have made great strides.

CARDISS has also been ahead of her times in terms of fighting for airline safety. It is tragic that it took this year's airline accidents to bring other people around to her point of view.

At a time when it cannot have been easy to be an African-American woman in Congress, CARDISS has made tremendous strides on behalf of women and minorities.

I hope very much that her tenure as longest serving African-American woman in the Congress, will serve as an inspiration to young people, particularly people of color, as they consider their careers. She is indeed a wonderful role model for all young people.

The seventh Congressional District of Illinois is lucky to have had her as its representative and we are lucky to have had her as our colleague.

TRIBUTE TO THE HONORABLE PAT SCHROEDER ON HER RETIREMENT

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 1, 1996

Mr. MONTGOMERY. Mr. Speaker, I would like to take this opportunity to wish Congresswoman SCHROEDER farewell. She will be retiring at the end of this session, but she will not soon be forgotten in Washington.

For the last 16 years, I have had the good fortune to sit next to Pat on the National Security Committee. She has worked hard during her time in Congress, and not only in this committee. She gives everything 100 percent of her time and attention.

During the time that I have known her, I have had the opportunity to meet her wonderful family. I know them well and have enjoyed our association. I wish them all good luck in the future.

HONORING PAT SCHROEDER

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 1, 1996

Mr. MOAKLEY. Mr. Speaker, I rise today to pay tribute to a truly great Member of Congress, my classmate PAT SCHROEDER.

PAT and I joined the House of Representatives together in 1973, and ever since that time I have watched her impressive accomplishments with great respect.

I only regret that I never got to see her chair the Judiciary Subcommittee on Courts and Intellectual Property because I know if she ever did she'd do a wonderful job.

During her 24 years in Congress PAT has been an outspoken and extremely effective advocate for children, women, and families.

She never lost her sense of joy and honor in serving in the most respected legislative body in the world, and it infected everyone around her. Even people who disagreed with her politically recognized her profound dedication to this country.

PAT has been a true Colorado pioneer—she is the longest serving woman in the U.S. House, and a former candidate for Vice President of the United States. She has set a great example and been a great inspiration for young women throughout the United States for many many years.

Despite her impressive tenure, PAT leaves here as spunky and optimistic as when we first started, but she will certainly be leaving this place a quieter, a bit less feisty, and bit less family friendly.

I am honored to have served with her and I will miss her very much.

Thank you Mr. Speaker.

TRIBUTE TO THE HONORABLE PATRICIA SCHROEDER

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 1, 1996

Mr. CONYERS. Mr. Speaker, I rise today to pay tribute to our distinguished colleague, PATRICIA SCHROEDER. PAT is retiring at the end of this term after a remarkable 24-year career in the House of Representatives. She began her career in Denver as a lawyer and women's rights activist. She brought an activist's passion and commitment to the Congress where she has fought for the rights of women, children, families, and all Americans for nearly a quarter of a century. PAT has been a friend and colleague and she will be sorely missed.

PAT has left an indelible mark on the Congress which has allowed all women who have followed her to enter with greater equality and respect. She is the most senior woman Member of the House and one of the original founders of the Congressional Caucus for Women's Issues. She cochaired the caucus from 1979 until 1995. She has been called an icon of the women's movement and has even been named to the National Women's Hall of Fame. One of her own personal favorite claims to fame, however, is that Oliver North has labeled her as one of the country's 25 most dangerous politicians.

PAT has authored and overseen the passage of some of the most important legislation affecting the lives of all Americans. Such legislation includes several which I am honored to have cosponsored: the Violence Against Women Act, the Economic Equity Act, the Breast and Cervical Cancer Mortality Prevention Act, and the National Child Protection Act. PAT was also one of the original cosponsors of the landmark Family and Medical Leave Act.

I have been particularly honored to work with PAT on the Judiciary Committee. Together we have worked to stem the tide of Republican assaults against the rights of the American public. PAT has brought her profound knowledge of the law and policy to her work as the ranking Democrat on the Subcommittee on Courts and Intellectual Property and as a member of the Subcommittee on the Constitution. She has used her position on the Judiciary Committee to fight for the passage of the equal rights amendment, to expand the access of women to quality health care and reproductive services, to combat employment discrimination, and to protect intellectual property rights here and abroad. She is a wise and formidable associate and I will greatly miss her working at my side.

PAT has also paved the way for women in the Congress by opening the door to the once male bastion of military defense. PAT has been a strong and sometimes lone progressive voice on national security issues since taking office. She joined the National Security Committee in 1973 as an antiwar activist and has provided votes of reason ever since against such measures as Reagan's Strategic Defense Initiative, the B–2 bomber, the MX missile and other nuclear weapons systems. She has been a proponent of nuclear test ban laws, defense burdensharing, and the base closings of 1989. In 1991, PAT led the inquiry into the now infamous Tailhook Scandal which resulted in the resignation of Navy Secretary H. Lawrence Garrett. Her long struggle to see women soldiers in combat roles came to fruition when the Pentagon announced that women aviators were allowed to fly combat missions for the first time in 1993.

PAT's wit and quick tongue have changed the nature of political dialog in America. Her nickname for Ronald Reagan, the Teflon President, has become infamous. She is leaving the House with this same passion and vigor. In the past few weeks she has strongly defended the record of progressives in Congress, she has fought vigorously against the attempt to override President Clinton's veto of the partial birth abortion ban, and she has introduced a package of new legislation on safe motherhood. PAT's wit, intellect, dedication, and passion for what is right will be greatly missed in the Judiciary Committee, the Democratic Party, the House of Representatives, and the Congress as a whole. I have greatly enjoyed working with her for these past 24 years and I wish her luck in all her future endeavors.

NAFTA PARITY FOR U.S. WOOL APPAREL INDUSTRY

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 1, 1996

Mr. LAFALCE. Mr. Speaker, today I am introducing legislation that will redress a wrong inflicted on an important segment of the U.S. textile and apparel industry during NAFTA negotiations.

During NAFTA negotiations with Canada, changes were made in the original United States-Canada Free Trade Agreement [CFTA] with respect to imports of men's and boys' wool suits, jackets, and slacks—changes which both injure United States manufactures in this sector and give no avenue for relief from this injury. My legislation will correct this oversight and return to provisions that were originally intended in the CFTA.

When the United States and Canada negotiated the textile and apparel provisions of the CFTA, special duty allowances were made for

tailored men's and boys' wool apparel made from foreign fabric, i.e., fabric not produced in either the United States or Canada. A temporary tariff preference level [TPL] was established for this category of imported apparel for items made from textiles that were not available in either the United States or Canada—hence, the special treatment for wool apparel made from non-United States or Canadian textiles. At the time, Canadian manufacturers of tailored wool apparel constituted only a small portion of the Canadian apparel industry, and the TPL was intended only to ensure that they had an adequate supply of wool fabric. Under the CFTA, renegotiation of the tariff preference level was mandated by January 1, 1998.

During NAFTA negotiations, the CFTA monitoring and renegotiation requirements were dropped. Indeed, the Office of the U.S. Trade Representative has said that NAFTA negotiations constituted a fulfillment of the CFTA mandate. The result of this retention of tariff preference levels—and indeed the increase of levels rather than a lowering—has resulted in an unacceptable surge in imports of this product from Canada. United States industry believes this provision has been used by Canadian producers for "wholesale circumvention of the rule of origin"—and the rule of origin is the foundation of a free trade agreement. The legislation I am introducing today would restore the mandate to monitor and renegotiate the schedule of tariff preference levels by January 1, 1998.

Since 1988, the surge of tailored-wool-apparel imports from Canada has devastated the United States industry. U.S. production of men's and boy's wool suits has drooped more than 40 percent, and employment has fallen almost 50 percent. At the time of CFTA negotiations, United States industry voiced concern about establishing tariff preference levels for goods made from nonoriginating fabric, but Canada assured United States negotiators that preexisting trade patterns would not be altered. Clearly, this has not happened. Yet, U.S. industry does not have normal access to safeguard actions that would allow it to petition the U.S. Government for temporary relief from injurious imports. Instead, the wool apparel industry was excluded from NAFTA safeguard provisions. The legislation I am introducing would allow the U.S. industry for tailored wool apparel to have normal access to safeguard provisions under the NAFTA.

Mr. Speaker, I believe Congress must take corrective action when it becomes aware that a major piece of legislation unfairly excludes and injuries a sector of U.S. industry, especially when this effect was not intended. We owe it to U.S. workers in the tailored wool apparel sector to restore legislation to its original intent and to provide for a normal avenue under U.S. trade law to redress injury from imports.

TRIBUTE TO TOBY ROTH

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 1, 1996

Mr. SOLOMON. Mr. Speaker, I rise today to pay tribute to a fellow classmate, colleague, and friend. TOBY ROTH came to this body in the same class as I did over 18 years ago. When we arrived in this House, our Nation faced unprecedented inflation and unemployment rates and a stagnating economy at home and faced an expanding and powerful Evil Empire of communism abroad. With the election of Ronald Reagan in 1980, this economic slide and the rampant spread of communism began to turn. While I fought hard in this body to assist President Reagan in fighting the spread of communism around the world, TOBY ROTH was right at my side as we served many years together on the Foreign Affairs Committee. From his position on the Foreign Affairs Committee, TOBY was instrumental in working to bring the Communist bear to its knees. The fact that democracy instead of communism is now breaking out all over this world in is large part due to the efforts of our colleague TOBY ROTH. America owes its gratitude to this man for his unswerving dedication.

TOBY has also served his country well in his defense and support of our English language. He has taken the inspirational words of Winston Churchill to heart when Churchill stated that "the gift of a common language is a priceless inheritance." TOBY's leadership on this issue has motivated many of us to stand up and recognize that as Toqueville said "the tie of language is, perhaps the strongest and the most durable that can unite mankind." His dedication to principle, his love for his country, and his commitment to democracy enable me to proudly stand on this floor today and declare that he is my colleague and my friend. Statesmen of his character are why America deserves to be proud of our representative democracy and our hard-earned freedom. America will miss TOBY ROTH in this body and I hope for our country's sake that TOBY will return to Washington in the future to share with us his sage advice on those issues to which he holds so dear.

HAPPY 50TH ANNIVERSARY; REALTOR ASSOCIATION OF BAY COUNTY

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 1, 1996

Mr. BARCIA. Mr. Speaker, honesty and integrity are elusive commodities in today's business world but are ever present in our hard-working realtors. Over the years I have had the privilege of working with many real estate agents, chief among them the very professional members of the Realtor Association of Bay County. I rise today to pay tribute to this association that, for half a century, has been dedicated to promoting ethics and caring in the business world. On October 19, at the Consistory Cathedral in Bay City, the Realtor Association will celebrate its 50th anniversary.

First chartered on July 9, 1946, the Realtor Association of Bay County is a professional association of real estate brokers and their agents. Originally created not only to protect and promote private ownership of real property, and establish professional standards of practice, the association has remained true to its original goals while expanding outreach into the community.

Through the years, the association has actively monitored State and Federal legislation regarding private property rights and has provided educational programs, keeping members informed on the numerous changes in the laws and creating forms necessary to comply with them. One such service, created in 1962 and computerized in 1972, is the Multiple Listing Service which assists members in their endeavor to list and sell properties for their clients and customers.

The Realtor Association of Bay County is a member of the world's largest trade association, the National Association of Realtors, which consists of over 750,000 members and the Michigan Association of Realtors, which consists of over 25,000 members.

With a membership that has grown to over 300, the association is involved in 12 diverse community service projects. Groups such as Junior Achievement, American Home Week, Women's Center, and Safety Through songs for Kindergartners have all benefited from their relationship with the Realtors Association.

Mr. Speaker, realtors adhere to a strict code of ethics and level of professional conduct that benefit us all. Couple that with their dedicated involvement to the community and you have an organization which exemplifies the professionalism and caring to which all business and business associations should aspire. Please join me in congratulating the Realtor Association of Bay County on its 50th anniversary, with best wishes for many more.

LEGISLATION EXTENDING CONSERVATION RESERVE PROGRAM CONTRACTS

HON. PAT ROBERTS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 1, 1996

Mr. ROBERTS. Mr. Speaker, today, I am introducing legislation to restore to the Secretary of Agriculture the optional authority to extend existing Conservation Reserve Program [CRP] contracts. This action is necessitated by a provision contained in the 1997 agricultural appropriations law that rescinded that longstanding authority at a time when the Secretary is attempting to implement a revised CRP that currently does not have final regulations in place.

Contracts covering 24 million acres, or two-thirds of the existing enrolled acres, are scheduled to expire next September and must be considered for re-enrollment before that time. Congress devoted considerable time and resources during the farm bill to insuring the continuation of the CRP with its important conservation and environmental benefits. The administration was tasked with proposing new regulations for the CRP by early June of this year to give farmers sufficient time to understand the revised program and make decisions on their participation.

Unfortunately, USDA's proposed regulations did not appear until mid-September. The proposed changes are so massive and so many factors are still unknown, it is unlikely that

farmers will have the final details well into next year. If the proposed changes are contained in the final rules, it is clear that many weeks of intensive work by USDA will be needed to apply the general rules to each individual farmer's land before the producer will know whether he is eligible and whether he wants to make a bid to enter the program.

It was the clear intent of Congress to give the producer the maximum flexibility in making the decision on whether or not to continue his land in the CRP. Farmers cannot sensibly make that decision until all the information is available to them. The slightest delay in USDA's schedule will create chaos on the farm with an arbitrary deadline forcing a decisions for which the producer has insufficient information.

If this situation arises, which in the mind of this Member is a probability rather than a possibility, it is imperative that the Secretary of Agriculture retain the authority to extend existing contracts so that properly thoughtful decisions can be made that will affect farmers and our environment for a decade to come.

By eliminating the limitation on the Secretary's authority contained in this year's agricultural appropriations law, this bill will insure that USDA has the flexibility to implement the Conservation Reserve Program successfully and avoid a train wreck next August.

A SPECIAL THANK YOU TO MY FRIENDS AND COLLEAGUES

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 1, 1996

Mr. MONTGOMERY. Mr. Speaker, as I prepare to retire at the end of this Congress, there are many people that I want to express my appreciation. I would like to take this opportunity to thank my colleagues for the great help and respect they have given me through out the years. In the recent months, they have made a special effort to tell me how much they enjoyed serving with me. My fellow Representatives wished me well in my future endeavors, and I do appreciate all the warm regards and kind thoughts.

Additionally, I owe the staffs on Capitol Hill my thanks. The staffers have given my office a great deal of help and assistance over the many years. Because of them, my job was made much easier.

Finally, a special thanks to all the different organizations that have honored me in the last few months: National Guard Association of the United States, Mississippi State University, the veterans organizations, the armed services YMCA, and the Mississippi Society, just to name a few, have given me receptions, dinners, and many wonderful memories.

Thank you all.

TRIBUTES TO CONGRESSMEN JACOBS AND MYERS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 1, 1996

Mr. HAMILTON. Mr. Speaker, I am inserting these statements into the CONGRESSIONAL RECORD. They were to be given as part of a Special Order for Congressman JACOBS and MYERS last week:

STATEMENT OF THE HONORABLE JOHN CONYERS, JR., PRAISING THE CAREER OF ANDREWS JACOBS, JR.

There have been a number of colleagues with whom I have become friends as well as legislators, but none as close to me as Andy Jacobs. On January 4, 1965, we began an intermittent association that makes me feel able to say that I have a dear friend leaving Congress.

Andy will be known and remembered for his unfailing ability to bring a smile to your face no matter what is happening in the Congress or in your lift. He believes that a laugh can lift you, and I have come to believe it too. After all, he has practiced more jokes on me than perhaps any other member of the House within the course of our friendship.

Now that he is ending his legislative career, may I reflect upon several achievements that may not have been covered during the course of our discussion. The first is the Viet Nam War debates that were conceived by Representative Jacobs. He led the fight to end the war in 1969, in an all night session on the House floor. Andy's efforts led to the beginning of the end of the Viet Nam War.

The second matter is the Adam Clayton Powell Committee, to which then Speaker John McCormack appointed us both. Through his ability to persuade people, Andy was able to at least have a hearing that afforded then Chairman Powell a modicum of due process. He was skillful at it, and he was able to turn away some of the intense emotion that led many members to want to make short shrift of our jobs on the committee. But Jacobs predicted with a usual clarity that any attempt to ouster Chairman Powell would be rebuffed by a Supreme Court which would be reluctant to allow us to determine who should represent the people from a congressional district.

The third matter was the impeacement hearings of Richard Milhouse Nixon. And here again, Andy Jacobs was helping to lead us to a decision that was inescapable in terms of our duty; to recommend impeachment proceedings against a sitting president.

The years have been good to both Andy and myself. His support on the homefront and in the family setting is a beautiful one. I know his wife, Kimberly, and his children, and Andy has never been happier; and I have never been happier for him. He has truly been a man of the people, and I can say that he has never compromised his beliefs in the political arena or anywhere else. He is a leader, an unusually forceful speaker, and a mental giant both in his writing and his lawmaking. I wish him every continued happiness from this day forward.

STATEMENT OF THE HONORABLE MICHAEL BILIRAKIS

A FOND FAREWELL TO JOHN MYERS

I rise today to say farewell to a dear friend and colleague who will be retiring at the end of this Congress—the honorable John Myers from Indiana.

Calling John Myers honorable is an understatement. He is much more than that, and has served the citizens of the 7th District of Indiana superbly since coming to Congress in 1967.

John is one of the most well-liked and respected members of the House of Representatives, and his departure will not only be a loss for his constituents, but also for this venerable institution that he devoted so much of his life to.

In his time in Congress, John has been known as a staunch fiscal conservative, and has backed up his words with action—never voting to raise taxes. Since the day be began his service until today, John has maintained his passion and enthusiasm about debating the issues that affect his constituents and our country.

As Chairman of the Appropriations Subcommittee on Energy and Water Development, he has provided critical flood control relief to his largely rural district. He has also been instrumental in the continued funding of high-tech research projects, such as new cancer treatments, at several state universities in Indiana.

As the third most senior member in the first GOP congress in over forty years, John has been a forceful and influential voice in determining the direction of important policy initiatives. He has provided leadership and exuberance in moving power and influence out of Washington and back to the people where it belongs. His legacy of integrity and legislative achievement has won him the respect, praise and admiration of members from both parties, political pundits and members of the media.

Mr. Speaker, I am pleased to add my voice to those who are bidding farewell to John Myers. John—congratulations on your outstanding record of service, and best of luck to you and your wonderful wife Carol in the future. You'll be missed.

STATEMENT OF THE HONORABLE MICHAEL BILIRAKIS OF FLORIDA

BEST WISHES TO ANDY JACOBS UPON HIS RETIREMENT

I rise today to pay tribute and say goodbye to a close friend and colleague who I have had the honor of serving with in the House of Representatives, Andy Jacobs.

Andy is one of the true gentlemen in Congress, and has served admirably and with great fervor since coming to Congress in 1965. He wasted no time getting into critical legislation, and as a member of the Judiciary Committee, helped write the historic Voting Rights Act of 1965.

In 1969, Andy led a night long debate on the Vietnam War, which the Washington Post described as "the first serious congressional discussion of U.S. policy in Vietnam."

As Chairman of the Ways and Means Subcommittee on Health, Andy has also played an integral role in shaping the Medicare and Social Security programs. He has also been a leading proponent of pre-school programs for educationally-disadvantaged children.

Andy has been an exceedingly effective legislator in his years in Congress, and had been praised by two Indianapolis mayors for protecting the city's interests.

Mr. Speaker, I will certainly miss Andy, and especially his good humor. He could always brighten a dismal day with a joke. In fact, he has been described as having a "Lincolnesque" sense of humor.

Congress is losing a fine man and a terrific legislator. I am thankful for having served with such a fine man.

LEST WE FORGET

HON. JON D. FOX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 1, 1996

Mr. FOX of Pennsylvania. Mr. Speaker, I rise today to submit for the RECORD the following tribute to our veterans which was written by Rev. B. Robert Gillis of the Gloria Dei Church, Huntingdon Valley, PA, in the 13th Congressional District. It is a stirring testament to the debt our Nation owes to its veterans.

LEST WE FORGET

Lest We Forget.—That our country was founded on the principles of freedom and justice for all.

That our forefathers were people of vision who exhibited unswerving faith in the worth of both people and principles.

And that God has been an integral part of the foundation and fabric of our nation.

Lest We Forget.—That freedom and justice carry a substantial price tag that is non-negotiable.

That the price tag has been very high.

And that sacrifices have been made with little regard for personal comfort, safety or recognition.

Lest We Forget.—That people of vision and passion saw beyond themselves to a larger, better world for all.

That our forefathers have exchanges the security of what is for what might be.

Lest We Forget.—That freedom and justice are never guaranteed.

That there are always those intent upon infringing on the rights and responsibilities of others.

That both freedom and justice must be defended.

And that each successive generation must continue to pay the price to keep our dreams * * * alive * * *

Lest We Forget, We Must.—Build on the foundation of the past and follow the example of our predecessors.

Embrace a simplicity of purpose that turn confusion to commitment/diversity into unity.

And invest our effort and energy without regard for convenience or self-serving ends.

We Must.—Dream of a future that honors a heritage of commitment.

Value people over programs—principles over practicality.

And renew our faith in God as we explore the opportunities for our future together.

Must We.—Be "One Nation Under God With Liberty And Justice For All."

May We.—Never forget!

INTRODUCTION OF THE COMMODITY EXCHANGE ACT AMENDMENTS OF 1996

HON. THOMAS W. EWING

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 1, 1996

Mr. EWING. Mr. Speaker, as a point of departure as the 104th Congress passes into the historical record, today I am introducing legislation to reform the Commodity Exchange Act [CEAct], the law governing the regulation of futures and options on our Nation's commodity exchanges and other risk management financial instruments that are traded in over-the-counter markets.

Although this legislation is not massive in size, it is sizable in scope. This area of Federal regulation—the importance of our futures and option markets—demands new treatment. Although the Commodity Futures Trading Commission [CFTC] was just reauthorized through the year 2000 last April, the Congress took more than 3 years to agree on the Futures Trading Practices Act of 1992—1992 FTPA. Needless to say, that law was a contentious debate; this bill may be similarly contentious. For that reason, it should be viewed as a discussion document. We will have several months to think about it and discuss it prior to the introduction of a new bill in the 105th Congress.

The purpose of the bill is to reestablish the concept of self-regulation with CFTC oversight. The commodity exchanges are self-regulatory organizations; they regulate their members and the trade and financial practices of their members. The National Futures Association [NFA], at this time the sole registered futures association, regulates the professional futures community, setting industry-wide standards of sales and trade practice conduct.

The aim is to keep the U.S. futures industry competitive as it enters the next century. The price discovery and hedging functions of our futures markets still are paramount. The law, however, must recognize that technology is constantly changing and that our commodity exchanges serve a sophisticated, mostly institutional clientele these days, not small, retail traders.

With that in mind, let me briefly outline the contents of the bill I am introducing.

Section 2(a)(1)(A)(ii), is known commonly as the Treasury amendment and was enacted as a part of the Commodity Futures Trading Commission Act of 1974. Unfortunately, this language has created numerous legal problems the courts have dealt with inconsistently.

Title II of the bill offers a solution to these problems. It is one solution. Obviously, there are others. Attempting to deal with a controversy of this magnitude is not easy. The solution in the legislation will be disputed and argued. I welcome all interest groups, including Members of the other body, to help to solve this matter in the next Congress.

Section 3 of the CEAct describes the reasons for Federal regulation of futures and option markets and a great deal of this section is simply outdated and does not fit today's regulatory requirements or needs. The bill substantially restates the purposes of Federal regulation.

Section 4 is amended to include specifically an exemption for certain professional markets whose participants are recognized under current law. These appropriate persons are described in sec. 4(c)(3) of the CEAct and include futures commission merchants, floor brokers, and floor traders. In light of the exemptions afforded other professional traders by the 1992 FTPA, I believe this language is consistent with congressional intent in this area.

Sections 103 and 104 of the bill enhance the self-regulation of exchange institutions by providing simplified and streamlined contract market designation and rule submission procedures. These are necessary in my view to maintain the competitiveness of our commodity exchanges in a world that has come to understand the importance of risk management on exchanges with sound, but limited, regulatory programs.

These amendments presume a commodity exchange develops sound contracts with economic purposes that are widely recognized and will be used by commercial and speculative interests for price discovery and risk-shifting that have long been viewed in this country and by the Congress as beneficial to our Nation's economy.

Section 105 of the bill seeks to improve commodity exchange audit trails without impairing the functions of the markets. Audit trail issues date from the establishment of the CFTC but have been actively debated in the CFTC's regulatory programs since 1986, when the CFTC proposed a 1-minute, verifiable standard.

Understanding that each commodity exchange has different trade customs and systems unique to each institution means there are numerous ways to obtain adequate, verifiable audit trails. These trade recordation systems have changed dramatically over the years, and U.S. commodity exchanges constantly are improving and upgrading their audit trail systems. The amendment seeks to develop standards that are objective and reasonable.

Section 106 of the legislation provides benefit-cost analysis to the CFTC's regulatory program. Regulation under Republican administrations and new law under this Republican Congress has moved us further in that direction. There is no reason we cannot bring similar sound, reasonable, and fair regulation to our commodity exchanges and preserve the public interest.

Finally, section 107 is a housekeeping matter of interest to the Committee on Agriculture. An objective of the committee during the reform of U.S. agriculture embodied in the Federal Agriculture Improvement and Reform Act of 1996 [FAIR Act] was to use fewer words. The FAIR Act is literally one-half the volume of the 1990 farm bill. With that in mind—and there may be further improvements later—section 107 repeals section 8e dealing with CFTC oversight and deficiency orders. It is my understanding that after the nearly 4 years this section has been law it has never been used. That makes it unnecessary in my view.

I look forward to comments on the legislation and working with interested parties as we proceed with this necessary reform in the 105th Congress.

GAMBLING CREDIT REFORM ACT

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 1, 1996

Mr. LAFALCE. Mr. Speaker, I am today introducing legislation to protect consumers, financial institutions, and taxpayers from the unwarranted use of credit cards for gambling. My legislation the Gambling Credit Reform Act, would prohibit the extension of credit under

any open-end consumer credit plan where a creditor knows or has reason to believe that such credit will be used to make a bet or wager, or to play any game of chance in a casino or other gambling establishment.

I was appalled to read recently that the New Jersey Casino Control Commission had approved the use of credit cards for the purchase of playing chips and slot tokens in casinos at Atlantic City. This means that gamblers who run out of cash can obtain more playing chips or tokens with the wave of their hand without even leaving a playing table. Gambling industry experts see this as one of the "most potentially dramatic" changes in gambling in years and one that will result in more impulse gambling and higher revenues for casinos.

The use of credit cards directly to make bets or wagers has never been permitted in this country and with good reason. Allowing gamblers to use credit cards to obtain more chips without leaving a gambling table removes one of the last remaining checks on compulsive or problem gambling—the need to walk away to find more cash to gamble. Permitting the use of credit cards will make it significantly easier for problem gamblers not only to bet all their disposable income, but to tap into available credit lines on one or more credit cards.

This is particularly troubling at a time when our Nation's financial institutions, and credit card banks in particular, are threatened with unprecedented levels of consumer debt and personal bankruptcies. Consumer debt has increased at double-digit rates since 1994 while personal incomes have stagnated. Accumulated consumer debt is now estimated at nearly 85 percent of the Nation's disposable income. Consumer debt service is at a near-record level of 17 percent of disposable income and loan delinquencies are at record levels.

With consumer debt continuing to grow nearly three times faster than income, it is no surprise that a record number of American families will declare bankruptcy this year. If current trends continue, more than 1 million families—or 1 percent of all U.S. households—will file for bankruptcy this year. This represents a 26-percent increase over 1995 and a bankruptcy filing rate equal to one bankruptcy filing every 2 minutes throughout the year.

By almost every account, the primary contributor to these problems has been what Federal Reserve Chairman Alan Greenspan described as the "extraordinary rise" in credit card issuances and debt. Outstanding credit card debt increased 16 percent in 1995, to a total debt of $454 billion. However, a far greater potential problem comes from the vast, still untapped credit lines already granted to consumers on existing credit cards. Available credit lines increased by 30 percent in 1995, providing consumers with an additional potential debt of $1.1 trillion.

It is clear that existing credit card balances are already becoming too much for consumers to handle. More people are late in making their credit card payments than at any time in the past 15 years. And the American Bankers Association reported in mid-September that credit card delinquencies had reached the highest level on record.

Allowing gamblers to use credit cards directly for gambling will only exacerbate these trends. It will lead to greater financial strain and anguish for many American families, increase credit delinquencies and losses at financial institutions, and contribute to potential losses to our deposit insurance system that, conceivably, would have to be covered by taxpayers.

No responsible financial institution would grant a loan to an individual for the purpose of going to Atlantic City to gamble. But this is exactly what we are condoning and encouraging with the use of credit cards. It accentuates the already serious problems of consumer debt and rising bankruptcies and it presents additional and unwarranted risks for financial institutions. My bill will stop these developments before they spread to all forms of gambling throughout the country.

Mr. Speaker, I recognize that there is little chance that this legislation can be considered this year. My purpose in introducing the bill is to give notice that there are Members of the Congress who consider this misuse of credit cards to be unacceptable. I intend to refine this legislation and reintroduce a similar proposal early next year and I hope that, upon its return, the Congress will consider this legislation and enact it into law promptly.

VETERANS' BENEFITS IMPROVEMENTS ACT OF 1996

HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 1, 1996

Mr. EVERETT. Mr. Speaker, I rise today in support of the Veterans' Benefits Improvements Act of 1996. This House-Senate compromise bill contains program improvements for several veterans benefits, and these provisions will make a difference in the lives of thousands of veterans and their survivors. It is a bipartisan bill and I thank all the Members on both sides of the aisle and both sides of the Chamber for their support.

Section 211 would amend the statute governing burial eligibility to incorporate the regulatory definition of "minor child."

Section 212 would provide burial benefits for approximately 300 of the 2,500 veterans who die in State nursing homes yearly, but do not qualify for priority care in Veterans Health Administration facilities.

Section 213 would authorize VA to issue a voucher equal to the average cost of a grave liner to survivors who elect a burial vault other than the national cemetery system's provided grave liner.

Title four makes change to the administrative functions within the VA Life Insurance Program. Provisions include merging the Retired Reserve Servicemembers' Group Life Insurance and Veterans' Group Life Insurance programs and extending Veterans' Group Insurance to members of the ready reserve; allowing veterans' group-insureds to convert to a commercial policy at any time; and renaming the Servicemen's Group Life Insurance Program to Servicemembers' Group Life Insurance to make it more gender neutral.

Section 502 would limit the clothing allowance for veterans incarcerated for more than 60 days in a penal institution where they receive clothing at no cost to them.

Section 503 would authorize an additional $150,000 to the Veterans' Claims Adjudication Commission and extend their final report date to December 31, 1996.

Section 504 would establish a pilot program under which contract physicians would provide disability examinations to applicants for VA benefits. The pilot program is anticipated to speed up the examination-gathering process for the adjudication of claims.

Section 505 would expand the time period that currently defines the beginning of the Vietnam era from August 5, 1964 to February 28, 1961. Benefits would be granted to those eligible veterans that served in theater only from February 1961 thru August 1964 and limit Agent Orange benefits to those who served from January 9, 1962.

Section 506 would allow a surviving spouse to retain compensation or pension payments for the full month instead of the end of the month before the veteran died.

Section 507 would increase the period of time for which accrued benefits are payable to a surviving spouse from 1 year to 2 years. These are spouses of veterans who die while their claim is being adjudicated. This provision is the result of the committee recognizing the length of time it takes VA to adjudicate claims.

Section 508 clarifies that a power of attorney applies to a veterans service organization as a whole unless the veteran designates one person specifically.

Section 509 would allow the Board of Veterans' Appeals to provide a copy of a decision to a veteran or veterans' representative by any means where delivery would be at least as fast as it would be if mailed via the U.S. Postal Service.

Section 602 would authorize the American Battle Monuments Commission to accept private funds to help maintain those overseas war memorials that are transferred to their care.

I am very pleased with the program improvements we are able to offer today. During these fiscally conservative times, we must not forget our veterans and the sacrifices they made on our behalf. I thank the ranking member LANE EVANS, for his hard work on behalf of this impressive benefits package and urge my colleagues to support the bill.

Lastly, I would like to take this final opportunity of the 104th Congress to publicly commend Chairman BOB STUMP and ranking Member SONNY MONTGOMERY for providing the sound bipartisan leadership that is always evident on the VA Committee. The reputation the two of you have within the veterans' community is stellar and one I hope to live up to.

A TRIBUTE TO PRESIDENT LEE AND TAIWAN

HON. DAVID FUNDERBURK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 1, 1996

Mr. FUNDERBURK. Mr. Speaker, President Lee Teng-hui of the Republic of China is a

modern day giant. He is the first popularly elected President in the history of the Republic of China and has introduced and implemented a number of political reforms in Taiwan.

In the area of his country's foreign relations, President Lee has developed official ties whenever possible, upgraded existing nonofficial relations, and sought to participate in major organizations. In the early 1990's, President Lee deputized his former Foreign Minister Fredrick Chien to devise a strategy known as pragmatic diplomacy, the exercise of which was so successful that it culminated in President Lee's visit to Cornell University in June 1995.

The People's Republic of China was so alarmed by President Lee's visit that it staged a series of missile tests around the island, the most serious being conducted right before Taiwan's Presidential elections in March 1996.

Pragmatic diplomacy paid off for President Lee Teng-hui. In a paper presented at the 14th International Conference on Asian Studies at St. John's University, NY, Professor Nathan Mao gave a detailed analysis of President Lee Teng-hui's visit to the United States and his Presidential diplomacy. I hereby submit the conclusion of Professor Mao's article in the CONGRESSIONAL RECORD for the future reference of students of Chinese history and politics.

In the ever changing post Cold War period, Taipei has been changing with the world. It has banished its old rigid inflexibility. Mainland China too must learn to bend, to change its old mindset about Taiwan being a province. Taiwan has never been under People's Republic of China's jurisdiction.

Lee Teng-hui's presidential diplomacy has proven successful beyond anyone's imagination. It has earned him a strong mandate from his people and firmed up his image as a strong leader, undaunted by China's threats. he enjoys firm United States support and even grudging respect from a few mainland Chinese leaders. His pragmatic diplomacy has brought Taiwan many visible and concrete rewards. But events are also rapidly changing in China. No one can give an accurate assessment about the power struggle in the Mainland. China shows evidence of instability. It has numerous corruption problems and there is a power struggle among the leadership. There are conflicts between the central and provincial governments and conflicts between rich and poor provinces. China has its own daunting problems.

Since pragmatic diplomacy has worked for Taiwan so far, there is no real reason to abandon or radically modify it. Using Foreign Minister John H. Chang's counsel, President Lee has gained sufficient wisdom to deal with Taiwan's untractable adversary: Jiang Zemin and company in Beijing.

TRIBUTE TO THE HONORABLE STEVEN GUNDERSON ON HIS RETIREMENT

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 1, 1996

Mr. MONTGOMERY. Mr. Speaker, today I would like to recognize one of my good friends, the Honorable STEVE GUNDERSON. His office is just down the hall from mine and we have often passed each other in the hallways on our way to the House floor for votes.

His time spent on the Agriculture Committee and as chairman for the Dairy and Poultry Subcommittee has not gone unnoticed. He is widely respected in the House for his stand on agriculture issues. He worked hard to see that the 1995 farm bill that passed this year would be beneficial to all, and over the years, I have come to depend on the advice of Representative GUNDERSON in these matters.

He has spent his 14 years in Washington trying to find a balance between cutting expenses and ensuring the future of our children. As a member of the Economic and Educational Opportunities Committee, he has been successful in seeing that our children receive an education that will help them throughout their life.

So, good luck in all your future endeavors. Washington and the House of Representatives will miss you.