United States relating to border security, illegal immigration, alien eligibility for Federal financial benefits and services, criminal activity by aliens, alien smuggling, fraudulent document use by aliens, asylum, terrorist aliens, and for other purposes; to the Committee on the Judiciary.

By Mr. BURNS (for himself, Mr. NICKLES, Mr. HATCH, Mr. MURKOWSKI, Mr. BREAUX, Mr. D'AMATO, Mr. MACK, Mr. GRAMS, and Mr. INHOFE):

S. 1000. A bill to amend the Internal Revenue Code of 1986 to provide that the depreciation rules which apply for regular tax purposes shall also apply for alternative minimum tax purposes, to allow a portion of the tentative minimum tax to be offset by the minimum tax credit, and for other purposes; to the Committee on Finance.

By Mr. GLENN (for himself, Mr. CHAFEE, Mr. LEVIN, Mr. LIEBERMAN, Mr. COHEN, Mr. PRYOR, Mr. KERRY, Mr. LAUTENBERG, Mr. DASCHLE, Mrs. BOXER, Mr. KOHL, Mr. SIMON, Mrs. MURRAY, Mr. AKAKA, Mr. KENNEDY, Mr. DODD, Mr. DORGAN, Mr. JEFFORDS, and Mr. BIDEN):

S. 1001. A bill to reform regulatory procedures, and for other purposes; to the Committee on Governmental Affairs.

By Mr. CHAFEE (for himself, Mr. GRAHAM, Mr. PRYOR, Mr. JOHNSTON, and Mr. SIMON):

S. 1002. A bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence; to the Committee on Finance.

By Mr. PRESSLER:

S. 1003. A bill to suspend temporarily the duty on certain motorcycles brought into the United States by participants in the Sturgis Motorcycle Rally and Races, and for other purposes; to the Committee on Finance.

By Mr. STEVENS (for himself, Mr. PRESSLER, Mr. HOLLINGS, and Mr. KERRY):

S. 1004. A bill to authorize appropriations for the U.S. Coast Guard, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BAUCUS:

S. 1005. A bill to amend the Public Buildings Act of 1959 to improve the process of constructing, altering, purchasing, and acquiring public buildings, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DASCHLE (for himself, Mr. DOLE, Mr. FORD, Mr. LOTT, Mr. BYRD, Mr. THURMOND, Mr. ABRAHAM, Mr. AKAKA, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. BRYAN, Mr. BUMPERS, Mr. BURNS, Mr. CAMPBELL, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. EXON, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FRIST, Mr. GLENN, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HATCH, Mr. HATFIELD, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. NUNN, Mr. PACKWOOD, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. WARNER, and Mr. WELLSTONE):

S. Res. 143. A resolution commending C. Abbot Saffold (Abby) for her long, faithful, and exemplary service to the U.S. Senate; considered and agreed to.

By Mr. WELLSTONE (for himself and Mr. FEINGOLD):

S. Res. 144. A resolution to express the sense of the Senate that, by the end of the 104th Congress, the Senate should pass health care legislation to provide all Americans with coverage that is at least as good as the Senate provides for itself; to the Committee on Labor and Human Resources.

By Mr. DASCHLE:

S. Res. 145. A resolution to elect Martin P. Paone secretary for the minority; considered and agreed to.

By Mr. DOLE:

S. Con. Res. 20. A concurrent resolution providing for a conditional recess or adjournment of the Senate on Thursday, June 29, 1995, or Friday, June 30, 1995, until Monday, July 10, 1995, and a conditional adjournment of the House on the legislative day of Friday, June 30, 1995, until Monday, July 10, 1995; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KYL (for himself, Mr. LEAHY, and Mr. GRASSLEY):

S. 982. A bill to protect the national information infrastructure, and for other purposes; to the Committee on the Judiciary.

THE NATIONAL INFORMATION INFRASTRUCTURE PROTECTION ACT OF 1995

• Mr. KYL. Mr. President, I introduce the Kyl-Leahy National Information Infrastructure Protection Act of 1995. I thank Senator LEAHY for his sponsorship of this bill, and his leadership in combating computer crime. I am pleased to introduce this bill, which will strengthen current public law on computer crime and protect the national information infrastructure. My fear is that our national infrastructure—the information that bonds all Americans—is not adequately protected. I addressed this issue in the terrorism bill and I offer this bill as a protection to one of America's greatest commodities—information.

Although there has never been an accurate nationwide reporting system for computer crime, specific reports suggest that computer crime is rising. For example, the computer emergency and response team [CERT] a Carnegie-Mellon University reports that computer intrusions have increased from 132 in 1989 to 2,341 last year. A June 14 Wall Street Journal article stated that a Rand Corp. study reported 1,172 hacking incidents occurred during the first 6 months of last year. A report commissioned last year by the Department of Defense and the CIA stated that ''[a]ttacks against information systems are becoming more aggressive, not only seeking access to confidential information, but also stealing and degrading service and destroying data.'' Clearly there is a need to reform the current criminal statutes covering computers.

Many computer offenses have found their origin in our new technologies. For example, the horrific damage caused by inserting a virus into a global computer network cannot be prosecuted adequately by relying on common law criminal mischief statutes. The need to reevalute our computer statues on a continual basis is inevitable; and protecting our nation's information is vital. I, therefore, introduce the National Information Infrastructure Protection of 1995.

Mr. President, the Internet is a worldwide system of computers and computer networks that enables users to communicate and share information. The system is comparable to the worldwide telephone network. According to a Time magazine article, the Internet connects over 4.8 million host systems, including educational institutions, government facilities, military bases, and commercial businesses. Millions of private individuals are connected to the Internet through their personal computers and modems.

Computer criminals have quickly recognized the Internet as a haven for criminal possibilities. During the 1980's, the development and broadbased appeal of the personal computer sparked a period of dramatic technological growth. This has raised the stakes in the battle over control of the Internet and all computer systems. Computer criminals know all the ways to exploit the Internet's easy access, open nature, and global scope. From the safety of a telephone in a discrete location, the computer criminal can anonymously access personal, business, and government files. And because these criminals can easily gain access without disclosing their identities, it is extremely difficult to apprehend and prosecute them successfully.

Prosecution of computer criminals is complicated further by continually changing technology, lack of precedence, and weak or nonexistent State and Federal laws. And the costs are passed on to service providers, the judicial system, and most importantly—the victims.

Because computers are the nerve centers of the world's information and communication system, there are catastrophic possibilities. Imagine an international terrorist penetrating the Federal Reserve System and bringing

to a halt every Federal financial transaction. Or worse yet, imagine a terrorist who gains access to the Department of Defense, and gains control over NORAD. The June 14 Wall Street Journal article reported that security experts were used to hack into 12,000 Defense Department computer systems connected to the Internet. The results are astounding. The experts hacked their way into 88 percent of the systems, and 4 percent of the attacks went undetected.

An example of the pending threat is illustrated in the Wednesday, May 10 headline from the Hill entitled ''Hired Hackers Crack House Computers.'' Auditors from Price Waterhouse managed to break into House Members' computer systems. According to the article, the auditors' report stated that they could have changed documents, passwords, and other sensitive information in those systems. What is to stop international terrorists from gaining similar access, and obtaining secret information relating to our national security?

In a September 1994 Los Angeles Times article about computer intrusion, Scott Charney, chief of the computer crime unit for the U.S. Department of Justice, stated, ''the threat is an increasing threat,'' and ''[i]t could be a 16-year-old kid out for fun or it could be someone who is actively working to get information from the United States.''

He added, there is a ''growing new breed of digital outlaws who threaten national security and public safety.'' For example, the Lo Angeles Times article reported that, in Los Angeles alone, there are at least four outlaw computer hackers who, in recent years, have demonstrated they can seize control of telephones and break into government computers.

The article also mentioned that government reports further reveal that foreign intelligence agencies and mercenary computer hackers have been breaking into military computers. For example, a hacker is awaiting trial in San Francisco on espionage charges for cracking an Army computer system and accessing files on an FBI investigation of former Philippine President Ferdinand Marcos. According to the 1993 Department of Defense report, such a threat is very real: ''The nature of this changing motivation makes computer intruders' skills high-interest targets for criminal elements and hostile adversaries.''

Mr. President, the September 1993 Department of Defense report added that, if hired by terrorists, these hackers could cripple the Nation's telephone system, ''create significant public health and safety problems, and cause serious economic shocks.'' The hackers could bring an entire city to a standstill. The report states that, as the world becomes wired for computer networks, there is a greater threat the networks will be used for spying and terrorism. In a 1992 report, the President's National Security Telecommunications Advisory Committee warned, ''known individuals in the hacker community have ties with adversary organizations. Hackers frequently have international ties.''

A 1991 Chicago Tribune article detailed the criminal activity of a group of Dutch teenagers who were able to hack into Defense Department computers which contained sensitive national security information, including one system which directly supported Operation Desert Storm. According to the article, Jack L. Brock, former Director of Government Information for the General Accounting Office, said that ''this type of information could be very useful to a foreign intelligence operation.''

These startling examples illustrate the necessity for action. Mr. President, that is why I am here today—to take action. I would, at this time, like to highlight a few provisions of the bill. This bill strengthens the language currently in section 1030 of title 18 of the United States Code. I would eliminate the ambiguity surrounding the definition of ''trespassing'' in a government computer. This bill toughens penalties in current law to ensure that felony level sanctions apply when unauthorized use of the computer is significant. Current law does not adequately address the act of trespassing into a computer. But a breach of a computer security system alone can have a significant impact. For example, an intruder may trespass into a computer system and view information —without stealing or destroying it. The administrator of the system will spend time, money, and resources to restore security to the system. Damage occurs simply by trespassing. We can no longer accept mere trespass into computers, and regard these intrusions as incidental.

This bill redefines a protected computer to include those computers used in foreign communications. The best known international case of computer intrusion is detailed in the book, ''The Cuckoo's Egg.'' In March 1989, West German authorities arrested computer hackers and charged them with a series of intrusions into United States computer systems through the University of California at Berkeley. Eastern bloc intelligence agencies had sponsored the activities of the hackers beginning in May 1986. The only punishment the hackers were given was probation.

This bill deters criminal activity by strengthening the penalties on computer crime. It will elevate to felony status, the reckless damage of computer trespassers and it will criminalize computer trespassers who cause negligent damage. A new subsection is added in section 1030 of title 18, United States Code to respond to the interstate transmission of threats directed against computers and computer networks. In certain cases, according to the Department of Justice, individuals have threatened to crash a computer system unless they are granted access to the system and given an account. The provision will protect the data and programs of computers and computer networks against any interstate or international transmission of threats. The statutory language will be changed to ensure that anyone who is convicted twice of committing a computer offense will be subject to enhanced penalties. This bill will make the criminals think twice before illegally accessing computer files.

Everybody recognizes that it is wrong for an intruder to enter a home and wander around; it doesn't make sense to view a criminal who breaks into a computer system differently. We have a national antistalking law to protect citizens on the street, but it doesn't cover stalking on the communications network. We should not treat these criminals differently simply because they possess new weapons.

These new technologies, which so many Americans enjoy, were developed over many years. I understand that policy can't catch up with technology overnight, but we can start filling in the gaps created by these tremendous advancements. We cannot allow complicated technology to paralyze us into inactivity. It is vital that we protect the information and infrastructure of this country.

Because not everyone is computer literate, there is a tendency to view those who are computer literate as somewhat magical and that the normal rules don't apply. Hackers have developed a cult following with their computer antics, which are regarded with awe. These criminals disregard computer security and authority. In 1990, a hacker cracked the NASA computer system and gained access to 68 computer systems linked by the Space Analysis Network. He even came across the log on screen for the U.S. Controller of the Currency. After being caught, the hacker's comment about NASA officials was, ''I still think they're bozos,'' and he added ''[i]f they had done a halfway competent job, this wouldn't have happened.''

Mr. President, the Kyl-Leahy National Information Infrastructure Protection Act of 1995 will deter criminal activity and protect our Nation's infrastructure. I urge my colleagues to support this bill.●

Mr. LEAHY. Mr. President, I am pleased to introduce with Senators KYL and GRASSLEY the ''National Information Infrastructure Protection Act of 1995'' [NIIPA]. This bill will increase protection for both government and private computers, and the information on those computers, from the growing threat of computer crime.

We increasingly depend on the availability, integrity, and confidentiality of computer systems and information to conduct our business, communicate with our friends and families, and even to be entertained. With a modem and a

computer, a business person can communicate with his or her office, a student can access an on-line encyclopedia at home, or researcher can get weather information from Australia over the Internet. Unfortunately, computer criminals can also use this technology to pry into our secrets, steal confidential Government information, and damage important telecommunications systems. With the advances in global communication, these criminals can do this virtually anywhere in the world.

The facts speak for themselves—computer crime is on the rise. The computer emergency and response team at Carnegie–Mellon University reports that, since 1991, there has been a 498 percent increase in the number of computer intrusions, and a 702 percent rise in the number of sites affected. About 40,000 Internet computers were attacked in 2,460 incidents in 1994 alone. We need to increase protection for this vital information infrastructure to stem the online crime epidemic.

The NII Protection Act seeks to improve the Computer Fraud and Abuse Act by providing more protection to computerized information and systems, by designating new computer crimes, and by extending protection to computer systems used in foreign or interstate commerce or communications. The bill closes a number of gaps in our current laws to strengthen law enforcement's hands in fighting crimes targeted at computers, computer systems, and computer information.

First, the bill would bring the protection for classified national defense or foreign relations information maintained on computers in line with our other espionage laws. While existing espionage laws prohibit the theft and peddling of Government secrets to foreign agents, the bill would specifically target those persons who deliberately break into a computer to obtain the Government secrets that they then try to peddle.

Second, the bill would increase protection for the privacy and confidentiality of computer information. Recently, computer hackers have accessed sensitive data regarding Operation Desert Storm, penetrated NASA computers, and broken into Federal courthouse computer systems containing confidential records. Others have abused their privileges on Government computers by snooping through confidential tax returns, or selling confidential criminal history information from the National Crime Information Center.

The bill would criminalize these activities by making all those who misuse computers to obtain Government information and, where appropriate, information held by the private sector, subject to prosecution. The harshest penalties would be reserved for those who obtain classified information that could be used to injur the United States or assist a foreign state. Those who break into a computer system, or insiders who intentionally abuse their computer access privileges, to secret information off a computer system for commercial advantage, private financial gain or to commit any criminal or tortious act would also be subject to felony prosecution. Individuals who intentionally break into, or abuse their authority to use, a computer and thereby obtain information of minimal value, would be subject to a misdemeanor penalty.

Third, the bill would protect against damage to computers caused by either outside hackers or malicious insiders. Computer crime does not just put information is at risk, but also the computer networks themselves. Hackers, or malicious insiders, can destroy crucial information with a carefully placed code or command. Hackers, like Robert Morris, can bring the Internet to its knees with computer ''viruses'' or ''worms.'' This bill would protect our Nation's computer systems from such intentional damage, regardless of whether the perpetrator was an insider or outside hacker.

Under the bill, insiders, who are authorized to access a computer, face criminal liability only if they intend to cause damage to the computer, not for recklessly or negligently causing damage. By contrast, hackers who break into a computer could be punished for any intentional, reckless, or negligent damages they cause by their trespass.

Fourth, the bill would expand the protection of the Computer Fraud and Abuse Act to cover those computers used in interstate or foreign commerce or communications. The law already gives special protection to the computer systems of financial institutions and consumer reporting agencies, because of their significance to the economy of our Nation and the privacy of our citizens. Yet, increasingly computer systems provide the vital backbone to many other industries, such as the telecommunications network.

Current law falls short of protecting this infrastructure. Generally, hacker intrusions that do not cross State lines are not Federal offenses. The NII Protection Act would change that limitation and extend Federal protection to computers or computer systems used in interstate or foreign commerce or communications.

Fifth, this bill addresses a new and emerging problem of computer-age blackmail. In a recent case, an individual threatened to crash a computer system unless he was granted access to the system and given an account. The bill adds a new provision to the law that would ensure law enforcement's ability to prosecute these modern day blackmailers, who threaten to harm or shut down computer networks unless their extortionate demands are met.

Finally, the statutory scheme provided in this bill will provide a better understanding of the computer crime problem. By consolidating computer crimes in one section of title 18, reliable crime statistics can be generated. Moreover, by centralizing computer crimes under one statute, we may better measure existing harms, anticipate trends, and determine the need for legislative reform. Additionally, as new computer technologies are introduced, and new computer crimes follow, reformers need only look to section 1030 to update our criminal laws, without parsing through the entire United States Code.

The Kyl-Leahy NII Protection Act would provide much needed protection for our Nation's important information infrastructure. It will help ensure the confidentiality of sensitive information and protect computer networks from those who would seek to damage these networks.

I commend the Department of Justice for their diligent work on this bill, and their continued assistance in addressing this critical area of our criminal law. I look forward to working with my colleagues on refining and improving this bill, as necessary.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

NATIONAL INFORMATION INFRASTRUCTURE PROTECTION ACT OF 1995—SECTION-BY-SECTION ANALYSIS

The National Information Infrastructure Protection Act of 1995 amends the Computer Fraud and Abuse Act, 18 U.S.C. §1030, to increase protection for the confidentiality, integrity and security of computer systems and the information on such systems.

Sec. 1. Short Title. The Act may be cited as the ''National Information Infrastructure Protection Act of 1995.''

Sec. 2. Computer Crime. (1) The bill amends five of the prohibited acts in, and adds a new prohibited act to, 18 U.S.C. §1030(a).

(A) Subsection 1030(a)(1)—Protection of Classified Government Information.

The bill amends 18 U.S.C. §1030(a)(1) to increase protection for computerized classified data. The statute currently provides that anyone who knowingly accesses a computer without, or in excess of, authorization and obtains classified information ''with the intent or reason to believe that such information so obtained is to be used to the injury of the United States, or to the advantage of any foreign nation'' is subject to a fine or a maximum of ten years' imprisonment. The amendment would modify the scienter requirement to conform to the knowledge requirement in 18 U.S.C. §793(e), which provides a maximum penalty of ten years' imprisonment for obtaining from any source information connected with the national defense. Unlike §793(e), however, §1030(a)(1) would require proof that the individual knowingly used a computer without, or in excess of, authority in obtaining the classified information.

As amended, §1030(a)(1) would prohibit anyone from knowingly accessing a computer, without, or in excess of, authorization, and obtaining classified national defense, foreign relations information, or restricted data under the Atomic Energy Act, with reason to believe the information could be used to the injury of the United States or the advantage of a foreign country, and willfully communicating, delivering or transmitting, or causing the same, or willfully retaining the information and failing to deliver it

to the appropriate government agent. The amendment specifically covers the conduct of a person who deliberately breaks into a computer without authority, or an insider who exceeds authorized access, and thereby obtains classified information and then communicates the information to another person, or retains it without delivering it to the proper authorities.

(B) Subsection 1030(a)(2)—Protection of Financial, Government and Other Computer Information.

The bill amends 18 U.S.C. §1030(a)(2) to further protect the confidentiality of computer data by extending the protection for computerized financial records in current law to protecting information from any department and agency of the United States and on computers subject to unauthorized access involving interstate or foreign communications.

This amendment is designed to protect against the interstate or foreign theft of information by computer. This provision is necessary in light of United States v. Brown, 925 F.2d 1301, 1308 (10th Cir. 1991), where the court held that purely intangible intellectual property, such as computer programs, cannot constitute goods, wares, merchandise, securities, or monies which have been stolen, converted, or taken within the meaning of 18 U.S.C. §2314.

The seriousness of a breach in confidentiality depends on the value of the information taken or on what is planned for the information after it is obtained. The statutory penalties are structured to reflect these considerations. Specifically, first-time offenses for obtaining, without or in excess of authorization, information of minimal value from government or protected computers is a misdemeanor. The crime becomes a felony, subject to a fine and up to five years' imprisonment, if the offense was committed for purposes of commercial advantage or private financial gain, for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or of any State, or if the value of the information obtained exceeds $5,000.

(C) Subsection 1030(a)(3)—Protection for Government Computer Systems.

The bill would make two changes to §1030(a)(3), which currently prohibits intentionally accessing, without authorization, computers used by or for any department or agency of the United States and thereby ''adversely'' affecting ''the use of the Government's operation of such computer.'' First, the amendment would delete the word ''adversely'' since this term suggests, inappropriately, that trespassing in a government computer may be benign. Second, the amendment would replace the phrase ''the use of the Government's operation of such computer'' with the term ''that use by or for the Government.'' When a computer is used for the government, the government is not necessarily the operator, and the old phrase may lead to confusion. The amendment would make a similar change to the definition of ''protected computer'' in §1030(e)(2)(A).

(D) Subsection 1030(a)(4)—Increased Penalties for Significant Unauthorized Use of Computers.

The bill amends 18 U.S.C. §1030(a)(4) to insure that felony level sanctions apply when the fraudulent use of a computer without, or in excess of, authority is significant. The current statute penalizes, with fines and up to five years' imprisonment, knowingly and with intent to defraud, accessing a computer without, or in excess of, authorization to further the fraud or obtain anything of value, unless the object of the fraud and the thing obtained is only the use of the computer. The blanket exception for computer use is too broad since trespassing in a computer and using computer time may cause large expense to the victim. Hackers, for example, have broken into Cray supercomputers for the purpose of running password cracking programs, sometimes amassing computer time worth far more than $5,000. The amendment would restrict the exception for trespassing, in which only computer use is obtained, to cases involving less than $5,000 during any one-year period.

(E) Subsection 1030(a)(5)—Protection from Damage to Computers.

The bill amends 18 U.S.C. §1030(a)(5) to further protect computers and computer systems covered by the statute from damage both by outsiders, who gain access to a computer without authorization, and by insiders, who intentionally damage a computer. Subsection 1030(a)(5)(A) of the bill would penalize with a fine and up to five years' imprisonment anyone who knowingly causes the transmission of a program, information, code or command and intentionally causes damage without authorization to a protected computer. This would cover anyone who intentionally damages a computer, regardless of whether they were authorized to access the computer.

Subsection 1030(a)(5)(B) of the bill would penalize with a fine and up to five years' imprisonment anyone who intentionally accesses a protected computer without authorization and, as a result of that trespass, recklessly causes damage.

Finally, subsection 1030(a)(5)(C) of the bill would impose a misdemeanor penalty of a fine and no more than one year imprisonment for intentionally accessing a protected computer without authorization and, as a result of that trespass, causing damage.

The bill would punish anyone who knowingly invades a computer system without authority and causes significant losses to the victim, even when the damage caused is not intentional. In such cases, it is the intentional act of computer trespass that makes the conduct criminal. Otherwise, hackers could break into computers or computer systems, safe in the knowledge that no matter how much damage they cause, it is no crime unless the damage was intentional or reckless. By contrast, persons who are authorized to access the computer are criminally liable only if they intend to cause damage to the computer without authority, not for recklessly or negligently causing damage.

As discussed more fully below, the bill adds a definition of ''damage'' to encompass significant financial loss of more than $5,000 during any one year period, potential impact on medical treatment, physical injury to any person, and threats to public health and safety.

(F) Subsection 1030(a)(7)—Protection from Threats Directed Against Computers.

The bill adds a new section to 18 U.S.C. §1030(a) to provide penalties for the interstate transmission of threats directed against computers and computer systems. It is not clear that such threats would be covered under existing laws, such as the Hobbs Act, 18 U.S.C. §1951 (interference with commerce by extortion), or 18 U.S.C. §875(d) (interstate communication of threat to injure the property of another). The ''property'' protected under these statutes does not clearly include the operation of a computer, the data or programs stored in a computer or its peripheral equipment, or the decoding keys to encrypted data.

The new subsection (a)(7) covers any interstate or international transmission of threats against computers, computer systems, and their data and programs, whether the threat is received by mail, telephone, electronic mail, or through a computerized messaging service. Unlawful threats could include interference in any way with the normal operation of the computer or system in question, such as denying access to authorized users, erasing or corrupting data or programs, slowing down the operation of the computer or system, or encrypting data and then demanding money for the key.

(2) Subsection 1030(c)—Increased Penalties for Recidivists and Other Sentencing Changes. The bill amends 18 U.S.C. 1030(c) to increase penalties for those who have previously violated any subsection of §1030. The current statute subjects recidivists to enhanced penalties only if they violated the same subsection twice. For example, a person who violates the current statute by committing fraud by computer under §1030(a)(4) and later commits another computer crime offense by intentionally destroying medical records under §1030(a)(5), is not treated as a recidivist because his conduct violated two separate subsections of §1030. The amendment would provide that anyone who is convicted twice of committing a computer offense under §1030 would be subjected to enhanced penalties.

The penalty provisions in §1030(c) are also changed to reflect modifications to the prohibited acts, as discussed above.

(3) Subsection 1030(d)—Jurisdiction of Secret Service. The bill amends 18 U.S.C. §1030(d) to grant the United States Secret Service authority to investigate offenses only under subsections (a)(2) (A) and (B), (a)(3), (a)(4), (a)(5) and (a)(6). The current statute grants the Secret Service authority to investigate any offense under §1030, subject to agreement between the Attorney General and the Secretary of the Treasury. The new crimes proposed in the bill, however, do not fall under the Secret Service's traditional jurisdiction. Specifically, proposed §1030(a)(2)(C) addresses gaps in 18 U.S.C. §2314 (interstate transportation of stolen property), and proposed §1030(a)(7) addresses gaps in 18 U.S.C. §§1951 (the Hobbs Act) and 875 (interstate threats). These statutes are within the jurisdiction of the FBI, which should retain exclusive jurisdiction over these types of offenses, even when they are committed by computer.

(4) Subsection 1030(e)—Definitions. The bill contains three new definitions for ''protected computer,'' ''damage,'' and ''government entity.''

The term ''protected computer'' would replace the term ''federal interest computer'' used currently in §1030. The new definition of ''protected computer'' would slightly modify the current description in §1030(e)(2)(A) of computers used by financial institutions or the United States Government, to make it clear that if the computers are not exclusively used by those entities, the computers are protected if the offending conduct affects the use by or for a financial institution or the Government.

The new definition of ''protected computer'' would also replace the current description in §1030(e)(2)(B) of a covered computer being ''one of two or more computers used in committing the offense, not all of which are located in the same State.'' Instead, ''protected computer'' would include computers ''in interstate or foreign commerce or communication.'' Thus, hackers who attack computers in their own State would be subject to this law, if the requisite damage threshold is met and the computer is used in interstate commerce or foreign commerce or communications.

The tern ''damage,'' as used in new §1030(a)(5), would mean any impairment to the integrity or availability of data, information, program or system which (A) causes loss of more than $5,000 during any one-year period; (B) modifies or impairs the medical examination, diagnosis or treatment of a

person; (C) causes physical injury to any person; or (D) threatens the public health or safety. Computers are increasingly being used for access to critical services, such as emergency response systems and air traffic control. ''Damage'' is therefore broadly defined to encompass the types of harms against which people should be protected from any computer hacker or those insiders who intentionally cause harm.

The term ''government entity,'' as used in new §1030(a)(7), would be defined to include the United States government, any State or political subdivision thereof, any foreign country, and any state, provincial, municipal or other political subdivision of a foreign country.

(5) Subsection 1030(g)—Civil Actions. The bill amends the civil penalty provision in §1030(g) to reflect the proposed changes in §1030(a)(5). The 1994 amendments to the Act authorized victims of certain computer abuse to maintain civil actions against violators to obtain compensatory damages, injunctive relief, or other equitable relief, with damages limited to economic damages, unless the violator modified or impaired the medical examination, diagnosis or treatment of a person.

Under the bill, damages recoverable in civil actions would be limited to economic losses for violations causing losses of $5,000 or more during any one-year period. No limit on damages would be imposed for violations that modified or impaired the medical examination, diagnosis or treatment of a person; caused physical injury to any person; or threatened the public health or safety.

By Mr. FEINGOLD (for himself and Mr. MCCAIN):

S. 983. A bill to reduce the number of executive branch political appointees; to the Committee on Governmental Affairs.

EXECUTIVE BRANCH POLITICAL APPOINTEES LEGISLATION

Mr. FEINGOLD. Mr. President, along with my good friend the senior Senator from Arizona [Mr. MCCAIN], I am introducing legislation today to reduce the number of political employees who are appointed by the President. Specifically, the bill caps the number of political appointees at 2,000. The Congressional Budget Office [CBO] estimates the current number averages 2,800. Thus an estimated 800 of these positions would be saved. The measure, based on one of the options outlined by the CBO in its publication ''Reducing the Deficit: Spending and Revenue Options,'' is estimated to save $363 million over the next 5 years. The savings for fiscal year 1996 is estimated to be $45 million.

Mr. President, this proposal is consistent with the recommendations of the Vice President's National Performance Review, which called for reduction in the number of Federal managers and supervisors, arguing that ''over-control and micromanagement'' not only ''stifle the creativity of line managers and workers, they consume billions per year in salary, benefits, and administrative costs.''

That argument may be particularly true will respect to political appointees, whose numbers grew by over 17 percent between 1980 and 1992, over three times as fast as the total number of executive branch employees. And if we look back further, to 1960, the growth is even more dramatic. In his recently published book, ''Thickening Government: Federal Government and the Diffusion of Accountability,'' author Paul Light reports a startling 430-percent increase in the number of political appointees and senior executives in Federal Government between 1960 and 1992.

The sentiments expressed in the National Performance Review were also reflected in the 1989 report of the National Commission on the Public Service, chaired by former Federal Reserve Board Chairman Paul Volcker. Arguing that the growing number of Presidential appointees may ''actually undermine effective Presidential control of the executive branch,'' the Volcker Commission recommended limiting the number of political appointees to 2,000, as this legislation does. Mr. President, it is essential that any administration be able to implement the policies that brought it into office in the first place. Government must be responsive to the priorities of the electorate. But as the Volcker Commission noted, the great increase in the number of political appointees in recent years has not made Government more effective or more responsive to political leadership.

The Commission report cited three reasons. First, it noted that the large number of Presidential appointees simply cannot be managed effectively by any President or White House. This lack of control is aggravated by the often competing political agendas and constituencies that some appointees might bring with them to their new positions. Altogether, the Commission argued that this lack of control and political focus ''may actually dilute the President's ability to develop and enforce a coherent, coordinated program and to hold cabinet secretaries accountable.''

Second, the report argued that the excessive number of appointees are a barrier to critical expertise, distancing the President and his principal assistants from the most experienced career officials. Though bureaucracies can certainly impede needed reforms, they can also be a source of unbiased analysis. Adding organizational layers of political appointees can restrict access to important resources, while doing nothing to reduce bureaucratic impediments.

Author Paul Light says, ''As this sediment has thickened over the decades, presidents have grown increasingly distant from the lines of government, and the front lines from them.'' Light adds that ''Presidential leadership, therefore, may reside in stripping government of the barriers to doing its job effectively . . .''

Finally, the Volcker Commission asserted that this thickening barrier of temporary appointees between the President and career officials can undermine development of a proficient civil service by discouraging talented individuals from remaining in Government service or even pursuing a career in Government in the first place.

Mr. President, former Attorney General Elliot Richardson put it well when he noted:

> But a White House personnel assistant sees the position of deputy assistant secretary as a fourth-echelon slot. In his eyes that makes it an ideal reward for a fourth-echelon political type—a campaign advance man, or a regional political organizer. For a senior civil servant, it's irksome to see a position one has spent 20 or 30 years preparing for preempted by an outsider who doesn't know the difference between an audit exception and an authorizing bill.

Mr. President, many will recall the difficulties the current administration has had in filling even some of the more visible political appointments.

A story in the National Journal in November 1993, focusing upon the delays in the Clinton administration in filling political positions, noted that in Great Britain, the transition to a new government is finished a week after it begins, once 40 or so political appointments are made. That certainly is not the case in the United States, recognizing, of course, that we have a quite different system of government from the British Parliament form of government.

Nevertheless, there is little doubt that the vast number of political appointments that are currently made creates a somewhat cumbersome process, even in the best of circumstances. The long delays and logjams created in filling these positions under the Clinton administration simply illustrates another reason why the number of positions should be cut back.

The consequences of having so many critical positions unfilled when an administration changes can be serious. In the first 2 years of the Clinton administration, there were a number of stories of problems created by delays in making these appointments. From strained relationships with foreign allies over failures to make ambassadorship appointments to the 2-year vacancy at the top of the National Archives, the record is replete with examples of agencies left drifting while a political appointment was delayed. Obviously, there are a number of situations were the delays were caused by circumstances beyond control of the administration. The current case involving the position of Surgeon General of the United States is a clear example.

Nonetheless, it is clear that with a reduced number of political appointments to fill, the process of selecting and appointing individuals to key positions in a new administration is likely to be enhanced.

Mr. President, let me also stress that the problem is not simply the initial filling of a political appointment, but keeping someone in that position over time. In a report released last year, the General Accounting Office reviewed a portion of these positions for the period of 1981 to 1991, and found high levels of turnover—7 appointees in 10

years for one position—as well as delays, usually of months but sometimes years, in filling vacancies.

Mr. President, I recognize that this legislative proposal is not likely to be popular with many people, both within this administration and perhaps among members of the other party who hope to win back the White House in the next election.

I want to stress that I do not view efforts to reduce the number of political appointees to be a partisan issue. Indeed, I think it adds to the credibility and merits of this proposal that a Democratic Senator is proposing to cut back these appointments at a time when there is a Democratic administration in place.

The legislation has been drafted to take effect as of October 1, 1995. It provides for reduction in force procedures to accomplish this goal. In other words, this administration would be required to reduce the number of political appointees to comply with this legislation. It would obviously apply to any further administration as well.

The sacrifices that deficit reduction efforts require must be spread among all of us. This measure requires us to bite the bullet and impose limitations upon political appointments that both parties may well wish to retain. The test of commitment to deficit reduction, however, is not simply to propose measures that impact someone else.

As we move forward to implement the NPR recommendations to reduce the number of Government employees, streamline agencies, and make Government more responsive, we should also right size the number of political appointees, ensuring a sufficient number to implement the policies of any administration without burdening the Federal budget with unnecessary, possibly counterproductive political jobs.

Mr. President, when I ran for the U.S. Senate in 1992, I developed an 82-point plan to reduce the Federal deficit and achieve a balanced budget. Since that time, I have continued to work toward enactment of many of the provisions of that plan and have added new provisions on a regular basis.

The legislation I am introducing today reflects one of the points included on the original 82-point plan calling for streamlining various Federal agencies and reducing agency overhead costs. I am pleased to have this opportunity to continue to work toward implementation of the elements of the deficit reduction plan.

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

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

S. 983

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

SECTION 1. REDUCTION IN NUMBER OF POLITICAL APPOINTEES.

(a) DEFINITION.—For purposes of this section the term ''political appointee'' means any individual who—

(1) is employed in a position on the executive schedule under sections 5312 through 5316 of title 5, United States Code;

(2) is a limited term appointee, limited emergency appointee, or noncareer appointee in the senior executive service as defined under section 3232(a) (5), (6), and (7) of title 5, United States Code, respectively; or

(3) is employed in a position in the executive branch of the Government of a confidential or policy-determining character under Schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.

(b) LIMITATION.—The President, acting through the Office of Management and Budget and the Office of Personnel Management, shall take such actions as necessary (including reduction in force actions under procedures established under section 3595 of title 5, United States Code) to ensure that the total number of political appointees shall not exceed 2,000.

(c) EFFECTIVE DATE.—This section shall take effect on October 1, 1995.

By Mr. GRASSLEY (for himself, Mr. LOTT, Mr. HELMS, and Mr. COCHRAN):

S. 984. A bill to protect the fundamental right of a parent to direct the upbringing of a child, and for other purposes; to the Committee on the Judiciary.

THE PARENTAL RIGHTS AND RESPONSIBILITIES ACT OF 1995

Mr. GRASSLEY. Mr. President, today I am introducing the Parental Rights and Responsibilities Act of 1995 to reaffirm the right of parents to direct the upbringing of their children. While most parents assume this right is protected, some lower courts and Government bureaucrats have acted to limit this basic freedom. The bill I am introducing will protect the family from unwarranted intrusions by the Government. Congressmen STEVE LARGENT and MIKE PARKER have joined me to pursue this initiative.

While the Constitution does not explicitly address the parent-child relationship, the Supreme Court clearly regards the right of parents to direct the upbringing of their children as a fundamental right under the 14th amendment to the Constitution. Fundamental rights, such as freedom of speech and religion receive the highest legal protection.

Two cases in the 1920's affirmed the Court's high regard for the integrity of the parent-child relationship. In Meyer versus Nebraska, the Court declared that the 14th amendment,

> [W]ithout doubt, . . . denotes not merely freedom from bodily restraint but also the right of the individual to . . . marry, establish a home and bring up children, to worship God according to the dictates of his own conscience. . . .

The second important case was Pierce versus. Society of Sisters. In this case, the Court declared that:

> [In] this day and under our civilization, the child of man is his parent's child and not the state's . . . It is not seriously debatable that the parental right to guide one's child intellectually and religiously is a most substantial part of the liberty and freedom of the parent.

The Court went on to hold that parents are chiefly responsible for the education and upbringing of their children.

While the Supreme Court's intent to protect parental rights is unquestionable, lower courts have not always followed this high standard to protect the parent-child relationship. The recent lower court assault on the rights of parents to direct their children's education, health care decisions, and discipline is unprecedented.

Several examples of lower court cases will demonstrate the need for this bill. A group of parents in Chelmsford, MA, sued when their children were required to sit through a 90-minute AIDS awareness presentation by ''Hot, Sexy, and Safer Productions, Inc.'' In this so-called group sexual experience students were instructed to engage in activities which some parents considered outrageous and pornographic. When the parents challenged the propriety of the school's actions, the court held that the parents, who were never told about the presentation, did not have a right to know and consent to this sexually explicit program before their children were required to attend.

The Washington State Supreme Court ruled that it was not a violation of parents' rights to remove an eighth-grade child from her family because she objected to the ground rules established in the home. The parents in this case grounded their daughter because she wanted to smoke marijuana and sleep with her boyfriend. She objected, and the courts removed her from the home. Most parents would consider these rules imminently reasonable. But the court held that although the family structure is a fundamental institution of our society, and parental prerogatives are entitled to considerable legal deference, they are not absolute and must yield to fundamental rights of the child or important interests of the state.

Recent news accounts reported of a father who was accused of child abuse because he publicly spanked his 4-year-old daughter. When she deliberately slammed the car door on her brother's hand, her father acted promptly to discipline her by a reasonably administered spanking. A passer-by called the police and the father had to defend against the charge of child abuse. While the father won his case, it is amazing to most parents that they could be dragged into court against their will to defend against such an outrageous charge as child abuse for disciplining their child for open rebellion.

Unfortunately, these cases are only a few of the many examples of parents' rights being violated when trying to direct the training and nurturing of their children. Recent public debate has also contributed to the movement to violate parental rights.

Dr. Jack Westman of the University of Wisconsin-Madison proposes that the State license parents as a means of conveying the seriousness of the parental responsibility. While there is no question of the awesome responsibility to raise and nurture a child, the proposal to have the State license potential parents for the right to have children raises many serious questions. Who will decide what will be the appropriate standards for parenthood? These and other questions stretch the imagination of freedom loving American parents.

With recent lower court cases and the flow of public debate around ''Parental licensing'', it is easy to see the need for the Parental Rights Act of 1995.

The goal of the PRA is to reaffirm the parental right to direct the upbringing of their children in four major areas: First, Directing or providing for the education of the child; two, making health care decisions for the child; three, disciplining the child, including reasonable corporal discipline; and four, directing or providing for the religious teaching of the child.

The PRA accomplishes this goal by simply clarifying for lower courts and administrative tribunals that the proper standard to use in disputes between the Government and parents is the highest legal standard available. This standard, known as ''The Compelling Interest Standard'' means that before the Government can interfere in the parent-child relationship, it must demonstrate that there is a compelling interest to protect and that the means the Government is using to protect this interest is the least restrictive means available.

Practically speaking, this means that the law in question is not so broad in application that it sweeps in more than is necessary to protect the interest in question.

An example will help to clarify this point. Unfortunately, there are parents who abuse and neglect their children. Clearly, protecting children from abuse and neglect would fit into any reasonable person's definition of a compelling interest of the State. One of the stated purposes of the PRA is to protect children from abuse and neglect.

Another stated goal is to recognize that protecting children in these circumstances is a compelling Government interest. Abusing or neglecting your child has never been considered a protected parental right.

Using the least restrictive means available to protect children from abuse and neglect means that a parents who are appropriately meeting their child's needs could not fall victim to an overzealous State law. The law would be written in such a way that it would cover parents who are abusing or neglecting their children but it would not cover parents who are not.

If the law is written so poorly that even good, loving parents could be accused of child abuse, it would not pass the test of being the least restrictive means available and would have to be modified.

You might ask, ''How is the PRA going to work?'' It uses the traditional four-step process to evaluate fundamental rights which balances the interests of parents, children and the Government. First, parents are required to demonstrate that the actions being questioned are within their fundamental right to direct the upbringing of their child.

Second, they must show that the Government interfered with this right. If the parents are able to prove these two things, then the burden shifts to the Government to show that the interference was essential to accomplish a compelling Government interest and that the Government's method of interfering was the least restrictive means to accomplish its goal.

In these cases, the court would balance the parents' right to make decisions on behalf of their children against the Government's right to intervene in the family relationship and decide what was the proper balance.

While it would be better if lower courts and administrative agencies would use the appropriate legal standard outlined by the Supreme Court without Congress having to clarify the standard, the history shows this is not likely to occur. My bill will clarify this standard with finality.

Two specific concerns were raised that I want to address. The first is from child abuse prosecutors and advocates. As we moved through discussions on the early drafts of this bill, I made clear that I firmly believed child abuse and neglect is a compelling Government interest.

With this in mind, I incorporated suggestions from prosecutors and advocates on this issue. I am comfortable that the changes made address their concerns.

The second issue was infanticide and abortion. The National Right to Life Committee was concerned that the bill would overturn the baby doe laws protecting handicapped children after birth. After consultation with other attorneys who agreed that this was a concern, I changed my draft to clarify that the PRA could not be used in this way.

The second point that NRL raised was that the PRA would somehow empower parents to coerce a young woman to have an abortion against her wishes. This is because the PRA allows parents to make health care decisions for their child unless the parents' neglect or refusal to act will risk the life of the child or risk serious physical injury to the child. I have consulted with other pro-life organizations and advocates who do not share this concern and have endorsed the bill.

I urge my colleagues to support this bill. It is critical to the proper balance of parents' rights against the Government's actions. Without the PRA, lower courts, Government bureaucrats, and administrative tribunals will continue to interfere needlessly in the parent-child relationship.

By Mr. CAMPBELL (for himself and Mr. BROWN):

S. 985. A bill to provide for the exchange of certain lands in Gilpin County, CO; to the Committee on Energy and Natural Resources.

THE GILPIN LAND EXCHANGE ACT

• Mr. CAMPBELL. Mr. President, I, and my colleague, Senator BROWN, are introducing legislation to exchange approximately 300 acres of fragmented Bureau of Land Management lands near Black Hawk, CO, for approximately 4,000 acres that will be added to Rocky Mountain National Park and to other Department of the Interior holdings in Colorado, while dedicating any remaining equalization funds to the purchase of land and water rights for the Blanca Wetlands Management Area near Alamosa, CO.

This legislation is supported by local governments, environmental groups, and land developers in Colorado. More specifically, the bill: Will enable Rocky Mountain National Park to obtain an adjacent 40-acre parcel known as the Circle C Ranch. The Park Service has long sought to acquire the ranch to avoid its subdivision and development; will result in the public acquisition of approximately 4,000 acres of elk winter range and other important wildlife habitat at the headwaters of La Jara Canyon and Fox Creek, approximately 10 miles from Antonito, CO; and will create a fund from cash equalization moneys that may be paid to the United States as a result of the exchange, with the fund to be used to augment fish and wildlife habitat in the BLM's Blanca Wetlands Management Area. The BLM has wanted funds for these purposes for many years.

In exchange for picking up over 4,000 acres of land, 130 parcels of highly fragmented BLM land totalling about 300 acres will be made available for private acquisition. Of these 130 parcels, 88 are less than 1 acre in size. The BLM, through its established land use planning process, has already identified these lands as appropriate for disposal.

I hope my colleagues will support this effort, and I ask unanimous consent that the text of the bill, along with letters of support from the city of Central, the city of Blackhawk, the Gilpin County Board of County Commissioners, and the Huerfano County Board of County Commissioners be printed in the RECORD.

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

S. 985

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

SECTION 1. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) certain scattered parcels of Federal land in Gilpin County, Colorado, are administered by the Secretary of the Interior as

part of the Royal Gorge Resource Area, Canon City District, Bureau of Land Management;

(2) these land parcels, which comprises approximately 133 separate tracts of land, and range in size from approximately 38 acres to much less than an acre have been identified as suitable for disposal by the Bureau of Land Management through its resource management planning process and are appropriate for disposal; and

(3) even though the Federal land parcels in Gilpin County, Colorado, are scattered and small in size, they nevertheless by virtue of their proximity to existing communities appear to have a fair market value which may be used by the Federal Government to exchange for lands which will better lend themselves to Federal management and have higher values for future public access, use and enjoyment, recreation, the protection and enhancement of fish and wildlife and fish and wildlife habitat, and the protection of riparian lands, wetlands, scenic beauty and other public values.

(b) PURPOSE.—It is the purpose of this Act to authorize, direct, facilitate and expedite the land exchange set forth herein in order to further the public interest by disposing of Federal lands with limited public utility and acquire in exchange therefor lands with important values for permanent public management and protection.

SEC. 2. LAND EXCHANGE.

(a) IN GENERAL.—The exchange directed by this Act shall be consummated if within 90 days after enactment of this Act, Lake Gulch, Inc., a Colorado Corporation (as defined in section 4 of this Act) offers to transfer to the United States pursuant to the provisions of this Act the offered lands or interests in land described herein.

(b) CONVEYANCE BY LAKE GULCH.—Subject to the provisions of section 3 of this Act, Lake Gulch shall convey to the Secretary of the Interior all right, title, and interest in and to the following offered lands—

(1) certain lands comprising approximately 40 acres with improvements thereon located in Larimer County, Colorado, and lying within the boundaries of Rocky Mountain National Park as generally depicted on a map entitled ''Circle C Church Camp'', dated August 1994, which shall upon their acquisition by the United States and without further action by the Secretary of the Interior be incorporated into Rocky Mountain National Park and thereafter be administered in accordance with the laws, rules and regulations generally applicable to the National Park System and Rocky Mountain National Park;

(2) certain lands located within and adjacent to the United States Bureau of Land Management San Luis Resource Area in Conejos County, Colorado, which comprise approximately 3,993 acres and are generally depicted on a map entitled ''Quinlan Ranches Tract'', dated August 1994; and

(3) certain lands located within the United States Bureau of Land Management Royal Gorge Resource Area in Huerfano County, Colorado, which comprise approximately 4,700 acres and are generally depicted on a map entitled ''Bonham Ranch-Cucharas Canyon'', dated June 1995: *Provided, however,* That it is the intention of Congress that such lands may remain available for the grazing of livestock as determined appropriate by the Secretary in accordance with applicable laws, rules, and regulations: *Provided further,* That if the Secretary determines that certain of the lands acquired adjacent to Cucharas Canyon hereunder are not needed for public purposes they may be sold in accordance with the provisions of section 203 of the Federal Land Policy and Management Act of 1976 and other applicable law.

(c) SUBSTITUTION OF LANDS.—If one or more of the precise offered land parcels identified above is unable to be conveyed to the United States due to appraisal or other problems, Lake Gulch and the Secretary may mutually agree to substitute therefor alternative offered lands acceptable to the Secretary.

(d) CONVEYANCE BY THE UNITED STATES.—(1) Upon receipt of title to the lands identified in subsection (a) the Secretary shall simultaneously convey to Lake Gulch all right, title, and interest of the United States, subject to valid existing rights, in and to the following selected lands—

(A) certain surveyed lands located in Gilpin County, Colorado, Township 3 South, Range 72 West, Sixth Principal Meridian, Section 18, Lots 118–220, which comprise approximately 195 acres and are intended to include all federally owned lands in section 18, as generally depicted on a map entitled ''Lake Gulch Selected Lands'', dated July 1994;

(B) certain surveyed lands located in Gilpin County, Colorado, Township 3 South, Range 72 West, Sixth Principal Meridian, Section 17, Lots 37, 38, 39, 40, 52, 53, and 54, which comprise approximately 96 acres, as generally depicted on a map entitled ''Lake Gulch Selected Lands'', dated July 1994; and

(C) certain unsurveyed lands located in Gilpin County, Colorado, Township 3 South, Range 73 West, Sixth Principal Meridian, Section 13, which comprise approximately 11 acres, and are generally depicted as parcels 302–304, 306, and 308–326 on a map entitled ''Lake Gulch Selected Lands'', dated July 1994: *Provided, however,* That a parcel or parcels of land in section 13 shall not be transferred to Lake Gulch if at the time of the proposed transfer the parcel or parcels are under formal application for transfer to a qualified unit of local government. Due to the small and unsurveyed nature of such parcels proposed for transfer to Lake Gulch in section 13, and the high cost of surveying such small parcels, the Secretary is authorized to transfer such section 13 lands to Lake Gulch without survey based on such legal or other description as the Secretary determines appropriate to carry out the basic intent of the map cited in this subparagraph.

(2) If the Secretary and Lake Gulch mutually agree, and the Secretary determines it is in the public interest, the Secretary may utilize the authority and direction of this Act to transfer to Lake Gulch lands in sections 17 and 13 that are in addition to those precise selected lands shown on the map cited herein, and which are not under formal application for transfer to a qualified unit of local government, upon transfer to the Secretary of additional offered lands acceptable to the Secretary or upon payment to the Secretary by Lake Gulch of cash equalization money amounting to the full appraised fair market value of any such additional lands. If any such additional lands are located in section 13 they may be transferred to Lake Gulch without survey based on such legal or other description as the Secretary determines appropriate as long as the Secretary determines that the boundaries of any adjacent lands not owned by Lake Gulch can be properly identified so as to avoid possible future boundary conflicts or disputes. If the Secretary determines surveys are necessary to convey any such additional lands to Lake Gulch, the costs of such surveys shall be paid by Lake Gulch but shall not be eligible for any adjustment in the value of such additional lands pursuant to section 206(f)(2) of the Federal Land Policy and Management Act of 1976 (as amended by the Federal Land Exchange Facilitation Act of 1988) (43 U.S.C. 1716(f)(2)).

(3) Prior to transferring out of public ownership pursuant to this Act or other authority of law any lands which are contiguous to North Clear Creek southeast of the City of Black Hawk, Colorado in the County of Gilpin, Colorado, the Secretary shall notify and consult with the County and City and afford such units of local government an opportunity to acquire or reserve pursuant to the Federal Land Policy and Management Act of 1976 or other applicable law, such easements or rights-of-way parallel to North Clear Creek as may be necessary to serve public utility line or recreation path needs: *Provided, however,* That any survey or other costs associated with the acquisition or reservation of such easements or rights-of-way shall be paid for by the unit or units of local government concerned.

SEC. 3. TERMS AND CONDITIONS OF EXCHANGE.

(a) EQUALIZATION OF VALUES.—(1) The values of the lands to be exchanged pursuant to this Act shall be equal as determined by the Secretary of the Interior utilizing nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Standards for Federal Land Acquisition, the Uniform Standards of Professional Appraisal Practice, 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.

(2) In the event any cash equalization or land sale moneys are received by the United States pursuant to this Act, any such moneys shall be retained by the Secretary of the Interior and may be utilized by the Secretary until fully expended to purchase from willing sellers land or water rights, or a combination thereof, to augment wildlife habitat and protect and restore wetlands in the Bureau of Land Management's Blanca Wetlands, Alamosa County, Colorado.

(3) Any water rights acquired by the United States pursuant to this section shall be obtained by the Secretary of the Interior in accordance with all applicable provisions of Colorado law, including the requirement to change the time, place, and type of use of said water rights through the appropriate State legal proceedings, and to comply with any terms, conditions, or other provisions contained in an applicable decree of the Colorado Water Court. The use of any water rights acquired pursuant to this section shall be limited to water that can be used or exchanged for water that can be used on the Blanca Wetlands. Any requirement or proposal to utilize facilities of the San Luis Valley Project, Closed Basin Diversion, in order to effectuate the use of any such water rights shall be subject to prior approval of the Rio Grande Water Conservation District.

(b) RESTRICTIONS ON SELECTED LANDS.—(1) Conveyance of the selected lands to Lake Gulch pursuant to this Act shall be contingent upon Lake Gulch executing an agreement with the United States prior to such conveyance, the terms of which are acceptable to the Secretary of the Interior, and which—

(A) grant the United States a covenant that none of the selected lands (which currently lie outside the legally approved gaming area) shall ever be used for purposes of gaming should the current legal gaming area ever be expanded by the State of Colorado; and

(B) permanently hold the United States harmless for liability and indemnify the United States against all costs arising from any activities, operations (including the storing, handling, and dumping of hazardous materials or substances) or other acts conducted by Lake Gulch or its employees, agents, successors or assigns on the selected lands after their transfer to Lake Gulch: *Provided, however,* That nothing in this Act shall be construed as either diminishing or increasing any responsibility or liability of the

United States based on the condition of the selected lands prior to or on the date of their transfer to Lake Gulch.

(2) Conveyance of the selected lands to Lake Gulch pursuant to this Act shall be subject to the existing easement for Gilpin County Road 6.

(3) The above terms and restrictions of this subsection shall not be considered in determining, or result in any diminution in, the fair market value of the selected land for purposes of the appraisals of the selected land required pursuant to section 3 of this Act.

(c) REVOCATION OF WITHDRAWAL.—The public Water Reserve established by Executive order dated April 17, 1926 (Public Water Reserve 107), Serial Number Colorado 17321, is hereby revoked insofar as it affects the NW¼SW¼ of Section 17, Township 3 South, Range 72 West, Sixth Principal Meridian, which covers a portion of the selected lands identified in this Act.

SEC. 4. MISCELLANEOUS PROVISIONS.

(a) DEFINITIONS.—As used in this Act:

(1) The term ''Secretary'' means the Secretary of the Interior.

(2) The term ''Lake Gulch'' means Lake Gulch, Inc., a Colorado corporation, or its successors, heirs or assigns.

(3) The term ''offered land'' means lands to be conveyed to the United States pursuant to this Act.

(4) The term ''selected land'' means lands to be transferred to Lake Gulch, Inc., or its successors, heirs or assigns pursuant to this Act.

(5) The term ''Blanca Wetlands'' means an area of land comprising approximately 9,290 acres, as generally depicted on a map entitled ''Blanca Wetlands'', dated August 1994, or such land as the Secretary may add thereto by purchase from willing sellers after the date of enactment of this Act utilizing funds provided by this Act or such other moneys as Congress may appropriate.

(b) TIME REQUIREMENT FOR COMPLETING TRANSFER.—It is the intent of Congress that unless the Secretary and Lake Gulch mutually agree otherwise the exchange of lands authorized and directed by this Act shall be completed not later than 6 months after the date of enactment of this Act. In the event the exchange cannot be consummated within such 6-month-time period, the Secretary, upon application by Lake Gulch, is directed to sell to Lake Gulch at appraised fair market value any or all of the parcels (comprising a total of approximately 11 acres) identified in section 2(d)(1)(C) of this Act as long as the parcel or parcels applied for are not under formal application for transfer to a qualified unit of local government.

(c) ADMINISTRATION OF LANDS ACQUIRED BY UNITED STATES.—In accordance with the provisions of section 206(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(c)), all lands acquired by the United States pursuant to this Act shall upon acceptance of title by the United States and without further action by the Secretary concerned become part of and be managed as part of the administrative unit or area within which they are located.

CITY OF BLACK HAWK, CO.
May 24, 1995.

Senator BEN NIGHTHORSE CAMPBELL,
Russell State Office Building,
Washington, DC.

DEAR SENATOR CAMPBELL: This letter is to reaffirm the City of Black Hawk's support for the land exchange proposal between Lake Gulch, Inc. and the U.S. Bureau of Land Management which you sponsored last year. We support the proposal and hope that you will see fit to seek its reintroduction before the Congress.

As our letter to you last August indicated, the lands which Lake Gulch Inc. is seeking to acquire through the exchange are scattered parcels ranging from 38 acres in size to as little as one-one hundredth of an acre. Because they are mostly interspersed with private lands which are owned or under option to Lake Gulch and its affiliates, it is our belief that there is little rationale for the BLM to retain them, but common sense logic supporting Lake Gulch's acquisition.

We feel the proposed acquisition by Lake Gulch will benefit our area by consolidating land that can be used for future residential and non-gaming purposes. As you may be aware, real estate prices within our existing city limits have escalated so rapidly since the advent of gaming that little land is realistically available at the present time for uses other than gaming and its ancillary facilities such as parking, lodging and restaurants. Therefore, we view it is highly desirable to see additional land consolidation into private ownership in our community so that there will be increased opportunities for the location of affordable housing, stores, gas stations, and other needed services.

We finally note that the legislation which you sponsored last year contained a provision in Section 2(d)(3) giving us the right to acquire easements or rights-of-way through the lands to be conveyed to Lake Gulch as might be necessary to serve future utility line or recreation path needs. We would request that this provision be included in the legislation again this year.

Thank you for your sponsorship of the legislation last year. We hope you will be able to lend your assistance again this year.

Sincerely,

KATHRYN ECCKER,
Mayor.

CITY OF CENTRAL,
Central City, CO., May 25, 1995

Senator BEN NIGHTHORSE CAMPBELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR NIGHTHORSE CAMPBELL: I am writing to reaffirm the City of Central's support, as first expressed to you in our letter of August 5, 1994, for the proposed Gilpin County land exchanged as embodied in bills S. 2470 and H.R. 5016 introduced in Congress last year. It is our understanding that Lake Gulch Inc. and its associates will be seeking reintroduction of the legislation this year, and we are supportive of their efforts provided that the legislation contains, as it did last year, a provision prohibiting the transfer to Lake Gulch of any lands in Section 13 for which we have submitted a formal transfer application.

We have re-examined the proposed land exchange boundaries with representatives of Lake Gulch Inc. and have reached agreement with them that the proposal will exclude the lands known as parcels 310, 305, and 307. The City of Central is currently seeking a land use permit and possible future purchase for those three tracts. With this exclusion, there should be no overlap between their proposal and our current application.

Please let us know if we can provide any assistance in this matter. We hope that the legislation can be reintroduced and moved forward expeditiously.

Yours Truly,

DAVID C. STAHL
Interim City Manager

BOARD OF COUNTY COMMISSIONERS,
GILPIN COUNTY,
Central City, CO., June 6, 1995.

Senator HANK BROWN,
Hart Senate Office Building,
Senator BEN NIGHTHORSE CAMPBELL,
Russell Senate Office Building,
Congressman SCOTT MCINNIS,
Cannon House Office Bldg.,
Congressman DAVID SKAGGS,
Longworth House Office Bldg.,
Washington, D.C.

DEAR CONGRESSMEN AND SENATORS: Last August we contacted your offices indicating the County's support of the proposed land exchange between the U.S. Bureau of Land Management and the Lake Gulch Organization, provided that the conveyance of the BLM lands to Lake Gulch would be subject to the existing easement for Gilpin County Road 6. We understand that the legislation failed due to Congress' adjournment last fall, but that Lake Gulch will be requesting its reintroduction in this Congress.

As we indicated last year, Gilpin County is supportive of the idea of taking any steps that would allow consolidation into private ownership of the land holdings involved in this land exchange. Given the extremely scattered nature of the BLM lands, we do not believe any purpose is served by their continued public ownership under BLM control whereas our County has the need for additional private land near the rapidly expanding communities in Black Hawk and Central City. Lake Gulch and its affiliates have represented that they own or control most of the private land surrounding the land they are seeking to acquire from the BLM, hence the requested land consolidation appears logical.

While we have no detailed knowledge of the principals, resources or objectives associated with Lake Gulch, we agree with the idea of taking any steps that would allow consolidation of land holdings in this area, including the transfer of BLM lands to Lake Gulch or some other entity that could demonstrate an ability to assemble a significant amount of privately held tracts in this area. Without knowing more about the company or its principals, we cannot say whether Lake Gulch is or is not the best entity to accomplish this goal.

Although the proposed bill reserves a right-of-way for County Rd. 6, which now runs through this area, no width is specified. We would expect the recipients of the public lands to recognize a no less than 60 foot right-of-way for County Road 6, in an alignment acceptable to the county.

While the county believes that the type of transfer contemplated in the proposed legislation is appropriate for the BLM lands in question, we also feel that other BLM lands in Gilpin County should be investigated for possible transfer to the county or other public or quasi-public entities for preservation and other uses which could directly benefit the residents of the county and surrounding areas. We look forward to a continuation of the ongoing discussion with BLM representatives on this matter.

Thanking you in advance for your attention to this important matter. Please do not hesitate to contact us if we can be of any assistance to you in your deliberations.

Sincerely,

RALPH H. KNULL,
Chairman

HUERFANO COUNTY BOARD OF COUNTY COMMISSIONERS,
Walsenburg, CO., June 7, 1995.

Senator BEN NIGHTHORSE CAMPBELL,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR CAMPBELL: We understand that you may shortly be considering a land exchange proposal which would involve up to 4700 acres of land in Huerfano County currently belonging to Mr. Orville Bonham being exchanged to the Bureau of Land Management.

Our Board is familiar with the land in question and is aware of BLM's ongoing interest in acquiring all or a portion of Mr. Bonham's land to protect Cucharas Canyon for future public uses such as hunting, fishing and other outdoor recreation. We are also aware that Mr. Bonham is willing to sell or exchange his lands to BLM. We, therefore, believe that public interest, as well as the interests of our County, would be well served by making such an exchange in Cucharas Canyon.

Thank you for your attention to this matter. Cucharas Canyon is a beautiful place where land ownership consolidation is logical to round out BLM's existing holdings.

Sincerely,

WILLIAM REINETS,
Chairman.
XAVIER E. SANDOVAL,
Commissioner.
NEAL J. COCCO,
Commissioner.●

By Mr. D'AMATO (for himself, Mr. MOYNIHAN, Mr. NICKLES, and Mr. INHOFE):

S. 986. A bill to amend the Internal Revenue Code of 1986 to provide that the Federal income tax shall not apply to United States citizens who are killed in terroristic actions directed at the United States or to parents of children who are killed in those terroristic actions; to the Committee on Finance.

THE TERRORISM VICTIMS TAX RELIEF ACT OF 1995

● Mr. D'AMATO. Mr. President, today I am introducing the Terrorism Victims Tax Relief Act of 1995, a bill that was prompted by the recent Oklahoma City bombing, and the 1993 World Trade Center bombing. I am pleased that my distinguished colleagues, Senators MOYNIHAN, INHOFE, and NICKLES join me in introducing legislation that we believe will provide some relief to families of Americans who fall victim to domestic terrorism directed against the U.S. Government.

Mr. President, of February 26, 1993, Americans were shocked when we experienced the most dramatic terrorist attack in our history. On that fateful day, the bombing of the World Trade Center brought international terrorism to this country. It was a heinous act that killed 6 people and injured over 1,000. This bombing was, in part, responsible for legislation recently passed that will provide our Federal law enforcement officials with more effective ways of fighting both domestic and international terrorism.

A little more than 2 years later, on April 19, 1995, in America's heartland, Oklahoma City was the scene of something far more heinous and devastating, the bombing of the Alfred P. Murrah Federal Building. This cold and calculated act ultimately killed 168 Americans, including 19 innocent children. The images of that day will remain with us forever, but most of all, the lives of family members will be forever changed.

Mr. President, it is for this reason that we introduce this legislation today. We believe it is our duty to do what we can, no matter how small, to lessen the emotional and financial burden on the families of the victims of these two horrible tragedies. This legislation would amend Internal Revenue Code section 692(c), which exempts from taxation the wages of military and civilian employees of the United States who die as a result of wounds or injury incurred outside the United States in a terroristic or military action.

This proposed legislation would amend the law to extend the provisions of section 692(c) to U.S. citizens, including the parents of children, who fall victim to either domestic or international terrorism. To take into consideration those American who died in the World Trade Center bombing, the effective date of this legislation would be for tax years beginning after December 31, 1992.

Mr. President, although we in Congress can do nothing to fill the void left by these tragedies, it is our belief that this legislation will help relieve the heavy burden felt by those who lost their husbands, wives and children. I hope that our colleagues on both sides of the aisle will join us in sponsoring this important legislation.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 986

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

SECTION 1. INCOME TAX NOT TO APPLY TO UNITED STATES CITIZENS KILLED BY TERRORISTIC ACTIONS AGAINST THE UNITED STATES OR THEIR PARENTS IN THE CASE OF MINOR CHILDREN.

(a) APPLICATION TO ALL UNITED STATES CITIZENS AND PARENTS OF MINOR CHILDREN.—Section 692(c) of the Internal Revenue Code of 1986 (relating to taxation of the United States employees dying as a result of injuries sustained overseas) is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4) and by inserting after paragraph (1) the following new paragraph:

''(2) EXTENSION TO ALL CITIZENS AND PARENTS OF MINOR CHILDREN.—Paragraph (1) shall also apply to—

''(A) a citizen of the United States who dies as a result of wounds or injury incurred in a terroristic action described in paragraph (3)(A) in which the individual was not a participant, and

''(B) if the individual described in subparagraph (A) has not attained the age of 19 prior to death, the parent of the individual, but only for the taxable year of the parent in which the individual died and only if the parent is allowed a deduction under section 151 for the individual for the taxable year (without regard to this subsection).''

(b) EXTENSION TO ACTIONS WITHIN THE UNITED STATES.—Paragraph (1) of section 692(c) of the Internal Revenue Code of 1986 (relating to taxation of United States employees dying as a result of injuries sustained overseas) is amended by striking ''outside the United States''.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (4) of section 692(c) of the Internal Revenue Code of 1986, as redesignated by subsection (a), is amended by striking ''paragraph (2)'' and inserting ''paragraph (3)''.

(2) The heading for section 692(c) of such Code is amended to read as follows:

''(c) CERTAIN INDIVIDUALS DYING AS A RESULT OF TERRORISTIC OR MILITARY ACTIONS.—''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals dying after December 31, 1992.●

By Mr. HELMS (for himself and Mr. FAIRCLOTH):

S. 987. A bill to provide for the full settlement of all claims of Swain County, NC, against the United States under the agreement dated July 30, 1943, and for other purposes; to the Committee on Energy and Natural Resources.

THE SWAIN COUNTY SETTLEMENT ACT OF 1995

Mr. HELMS. Mr. President, today I introduce the Swain County Settlement Act of 1995, fulfilling a promise I made to the people of tiny Swain County, NC, two decades ago when I promised that I would do everything in my power to require the Federal Government to keep a commitment it made in writing to them back in 1943, more than a half-century ago.

This is the third time this legislation has been introduced. On October 22, 1991, I introduced the Swain County Settlement Act of 1991, and on January 26, 1993, I reintroduced this legislation as the Swain County Settlement Act of 1993. Unfortunately, the Senate did not pass this legislation in the 102d and 103d Congresses.

For those unfamiliar with this legislation, it merely directs the Secretary of the Interior and the Secretary of the Treasury to honor the 1943 contract between the people of western North Carolina and the Federal Government.

Mr. President, at the outset I make this point: At issue here is whether the U.S. Government will keep its word, and live up to a very clear commitment it made in writing 52 years ago in exchange for the right to flood thousands of acres of Swain County to create the Fontana Lake. By what we do, or fail to do, the integrity of the Federal Government, and those of us who serve in Congress today, will be decided in the minds of people who have been waiting for 52 years.

Specifically, the Helms legislation proposes three things: First, it orders the Secretary of the Interior to begin construction of the road promised by the Federal Government in 1943; second, it directs the Secretary of the Treasury to pay Swain County, North Carolina the sum of $16 million to compensate the county for the destruction of North Carolina Highway No. 288; and third, it orders the Park Service to

erect a historical marker at Soco Gap to honor the contributions of the Cherokee Nation to the people of North Carolina and to the United States.

Senators should be aware of what happened 52 years ago to understand why I so vigorously support full settlement of this matter. In 1943, the Federal Government and the Tennessee Valley Authority decided that in order to generate hydroelectric power they needed to flood land taken from the farmers in Swain County. Literally thousands of Swain County residents packed up and left their homes because the Federal Government needed their land. The Government did not relocate them, nor did the Government give North Carolina families additional land. The Government merely offered a few dollars for the land, buy many Swain County citizens never received even one dime for their land.

I don't have to remind Senators, Mr. President, that in 1943, World War II was raging in Europe and the Pacific. Many of the men from the Swain County area were overseas fighting for our freedom—at the very time their land back home was being seized by the Federal Government.

When the Government took the 44,400 acres of land north of Fontana Lake, it agreed: First, to reimburse Swain County for an existing highway that was flooded in order to create Fontana Lake; and second, to build an around-the-park road to, among other things, provide access to gravesites left behind when the people were forced off the land.

In case any Senator cares to see it, I have a copy of the North Shore Road contract signed by FDR's Interior Secretary Harold Ickes and North Carolina's Gov. J. Melville Broughton.

In July 1943, shortly after the agreement was signed, a Tennessee Valley Authority supervisor wrote the families about gravesite removal. The letter stated:

> The construction of Fontana Dam necessitates the flooding of the road leading to the Proctor Cemetery located in Swain County, North Carolina, and to reach this cemetery in the future [it] will be necessary to walk a considerable distance until a road is constructed in the vicinity of the cemetery, which is proposed to be completed after the war has ended. We are informed that you are the nearest surviving relative of a deceased who is buried in this cemetery.

Because of the understanding mentioned in this letter—that the road would be completed shortly after the war—families in Swain County agreed to leave their deceased relatives on the land taken by the Federal Government.

Mr. President, documents dating back to 1943 show that the Government did fulfill its promise to pay for Highway No. 288. In 1943 the Government paid to the State of North Carolina approximately $400,000, an amount which represents the principal which Swain County owed on outstanding bonds.

According to my information, the Federal Government paid that amount to the State of North Carolina as trustee. A letter dated November 22, 1943, from the Treasurer of the Tennessee Valley Authority to the Treasurer of the State of North Carolina confirms that payment was indeed made.

The full payment never reached Swain County because it went into the State's general highway fund account and the Federal Government never fulfilled its obligation to build the road. There were a few false starts. In 1963, the Federal Government built 2.5 miles of the road; in 1965, it built 2.1 miles; and in 1969 it built 1 additional mile and a 1,200-foot tunnel. Then the environmentalists got into the act and the project was shut down.

Now, Mr. President, you can visit one of western North Carolina's best-known sites, the ''Road to Nowhere.'' It is a travesty—a monument to a broken promise by the U.S. Government.

The payment of $16 million to Swain County, which is to compensate the county for the destruction of North Carolina Highway No. 288 in 1943, will certainly help this economically poor county. However, it will never be able to cover all the economic distress that Swain County and most of western North Carolina have suffered because of the increasing amount of land in western North Carolina being acquired by the Federal Government and taken off the tax rolls.

Over the years, people in western North Carolina have watched the Federal Government seize their land for one purpose or another. They have very little industry. They have little tax base. The unemployment rate is high.

No one can fully appreciate how the Government has crippled the economy in western North Carolina until he or she looks at how much land the Federal Government has already seized. In Swain County alone, out of 345,715 acres, the Federal Government has taken 276,577 acres. Nearby Graham County has the same problem. Of the 193,216 acres in that county, the Federal Government has taken 138,813 acres. Of the 353,452 acres in Haywood County, the Federal Government has taken 131,111 acres.

I mention all this to emphasize the frustration in western North Carolina. Meanwhile, in the four Tennessee counties bordering the Great Smoky Mountains National Park for instance, the Federal Government owns less than two fifths of the land. I have no quarrel with our friends in Tennessee, but facts are facts.

Although the Great Smoky Mountains National Park is the most visited national park in the country, few tourists who travel through the Smokies have a place to pause on the North Carolina side of the park. The road in Swain County, promised over 52 years ago, would change that. It would attract industry and tourists—not to the detriment of the scenic beauty of the Smokies but for the betterment of the citizens of western North Carolina. In fact, I would like the road to become a part of the Blue Ridge Parkway system.

The Helms legislation takes care of Department of the Interior regulations and so-called environmental guidelines that would prevent the construction of the road because it orders, notwithstanding any other provision of law, the Secretary of the Interior to build the road.

As Paul Harvey put it, ''Now you know the rest of the story.'' And as I stated at the outset, I made a commitment to the people of western North Carolina years ago. I promised to fight for their interests. If I lose, the Federal Government will lose the respect and confidence of thousands of North Carolinians.

Mr. President, I ask unanimous consent that the full text of S. 987 be printed in the RECORD.

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

S. 987

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 ''Swain County Settlement Act of 1995''.

SEC. 2. SETTLEMENT OF CLAIMS.

(a) FINDINGS.—Congress finds that—

(1) Swain County, North Carolina, claims certain rights acquired pursuant to an agreement dated July 30, 1943, between the Secretary of the Interior, the State of North Carolina, the Tennessee Valley Authority, and Swain County, North Carolina (referred to in this Act as the ''1943 Agreement'');

(2) the 1943 Agreement provided that the Department of the Interior would construct a road along the north shore of the Fontana Reservoir to replace a road flooded by the construction of Fontana Dam and the filling of the reservoir; and

(3) the road has not been completed.

(b) PURPOSE.—The purpose of this section is to settle and quiet all claims arising out of the 1943 Agreement.

(c) SETTLEMENT.—

(1) COMPLETION OF ROAD.—Notwithstanding any other provision of law, the Secretary of the Interior shall complete the road along the north shore of the Fontana Reservoir according to the terms of the 1943 Agreement.

(2) PAYMENT TO SWAIN COUNTY.—

(A) IN GENERAL.—After completion of the road under paragraph (1), the Secretary of the Treasury shall pay Swain County, North Carolina, the sum of $16,000,000, which shall be deposited in an account in accordance with the rules and regulations established by the North Carolina Local Government Commission.

(B) EXPENDITURE.—

(i) PRINCIPAL.—The principal of the sum may be expended by Swain County only under a resolution approved by an affirmative vote of two-thirds of the registered voters of the county.

(ii) INTEREST.—Interest earned on the unexpended principal of the sum may be expended only by a majority vote of the duly elected governing commission of Swain County.

(d) RESTRICTION ON USE OF FUNDS.—Money made available pursuant to this section may not be paid to or received by an agent or attorney on account of services rendered in connection with the claims settled by this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such

sums as are necessary to carry out this section.

SEC. 3. CHEROKEE HISTORICAL MARKER.

The Secretary of the Interior shall allocate the funds and personnel necessary to place a suitable historical marker at or near the approach to the Cherokee Qualls Reservation at Soco Gap, North Carolina, in recognition of the historical importance of Soco Gap and the contribution of the Cherokee Nation to the State of North Carolina and the United States.

By Mr. HELMS:

S. 988. A bill to direct the Secretary of the Interior to transfer administrative jurisdiction over certain land to the Secretary of the Army to facilitate construction of a jetty and sand transfer systems, and for other purposes; to the Committee on Environment and Public Works.

THE OREGON INLET PROTECTION ACT OF 1995

Mr. HELMS. Mr. President, in offering the Oregon Inlet Protection Act of 1995, I would emphasize that this is legislation of vital importance to thousands of citizens of both North Carolina and other States and especially the citizens of the Outer Banks along the northeastern coast of my State. The commercial and recreational fishermen who risk their lives each day attempting to navigate the hazardous waters of Oregon Inlet have been pleading for this legislation for decades. It is, in fact, a matter of life or death for them.

On December 30, 1992, a 31-foot commercial fishing vessel sank in Oregon Inlet—the 20th ship to go down in those waters since 1961. Fortunately, both crewmen were rescued, but the Coast Guard has never found the wreckage. At last count, 20 fisherman have lost their lives in Oregon Inlet in the past 30 years.

This legislation proposes to spend no money, nor authorize new expenditures nor new projects. It requires the Secretary of the Interior to transfer two small parcels of Interior Department land to the Department of the Army so that the Corps of Engineers may begin work on a too long-delayed project authorized by the Congress in 1970, 25 years ago.

This legislation transfers 100 acres of land, adjacent to Oregon Inlet in Dare County, NC, to the Department of Army.

Mr. President, in October 1992, then Interior Secretary Manuel Lujan issued conditional permits for the Corps of Engineers to begin the construction process. However, the Clinton administration revoked those permits. The bill I am offering today serves notice to the self-proclaimed environmentalists who have stalled this project that I will continue to do everything I can to protect the lives and livelihoods of the countless commercial and recreational fisherman who have been denied greater economic opportunities because of the obstinacy of the federal government.

A brief review of the history of this problem may be in order:

In 1970, Congress authorized the stabilization of a 400-foot wide, 20-foot deep channel through Oregon Inlet, and the installation of a system of jetties with a sand-by-pass system. The U.S. Army Corps of Engineers was authorized to design and build the jetties.

Ever since 1970, however, the project has been repeatedly and deliberately delayed by bureaucratic roadblocks contrived by the fringe elements of the environmental movement. As a result, many lives and livelihoods have been lost. North Carolina's once thriving fishing industry has deteriorated, and access to the Pea Island National Wildlife Refuge and the Cape Hatteras National Seashore has been threatened.

Throughout the past 25 years critics of this project have claimed more studies were needed and more time was essential to determine the impact the jetties will have on the Outer Banks. Pure stalling tactics, Mr. President, while men died and livelihoods were lost. Twenty-five years of studies. Is this not enough of bureaucratic stalling?

Mr. President, the proposed Oregon Inlet project surely is the most overstudied project in the history of the Corps of Engineers and the Department of the Interior. Since 1969, the Federal Government has conducted 97 major studies and three full blown environmental impact statements but, of course, the environmentalists demand more. As for the cost/benefit factor, the Office of Management and Budget found—as recently as March 14, 1991—the project to be economically justified. Then, in December 1991, a joint committee of the Corps of Engineers and the Department of the Interior recommended to then Interior Secretary Lujan and then Assistant Secretary of the Army for Civil Works Page that the jetties be built. But the people of the Outer Banks, NC are still waiting.

The time has come to get off the dime. Too many lives have been lost and the very existence of the Outer Banks is now in question because nothing has been done to manage the flow of sand from one end of the coastal islands to the other. If very much more time is wasted, the environmentalists won't have to worry about turtles or birds on Cape Hatteras, because a few short years hence, Oregon Inlet will have disappeared.

To understand why this project has become one of the Interior Department's most studied and controversial and to see how out of touch these environmental extremists are, the October 1992, edition of the Smithsonian magazine is highly instructive. In an article entitled, ''The beach boy sings a song developers don't want to hear,'' the magazine chronicles the adventures of a professor at a major North Carolina university who has made his living organizing opposition to all coastal engineering projects on the Outer Banks—Oregon Inlet in particular. The article further relates how, when confronted by an angry Oregon Inlet fisherman—a man who works for a living made more hazardous by the failure to keep a safe channel at Oregon Inlet open—this professor retorted that he and his radical friends will not be satisfied until ''all the houses are taken off the shore to leave it the way it was before.''

Mr. President, this from a professor whose home occupies a large plot of land 200 miles west in the middle of North Carolina. Yet, the professor is all too ready to deprive other North Carolinians of their rights to live and prosper.

That is not environmental activism. It is environmental hypocrisy.

As the poet said, ''that does not even make good nonsense''.

Mr. President, the issue is clear. The time for delay is over. It is time to put these long-neglected citizens of North Carolina first. This legislation should mark the beginning of the end of the jetty debate on the Outer Banks.

Mr. President, I ask unanimous consent that the full text of S. 988, the Oregon Inlet Protection Act of 1995 be printed in the RECORD.

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

S. 988

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 ''Oregon Inlet Protection Act of 1995''.

SEC. 2. FLOOD CONTROL IMPROVEMENTS.

(a) IN GENERAL.—

(1) JOINT DESIGNATION.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Interior and the Secretary of the Army, acting through the Chief of Engineers of the Army Corps of Engineers, shall jointly designate the tracts of land for the jetty and sand transfer system for the Oregon Inlet on the Coast of North Carolina, approximately 85 miles south of Cape Henry and 45 miles north of Cape Hatteras (as described on page 12 of the Report of the House of Representatives numbered 91–1665), authorized under the River and Harbor Act of 1970 and the Flood Control Act of 1970 (Public Law 91–611; 84 Stat. 1818), and the Secretary of the Interior shall transfer administrative jurisdiction over those tracts to the Secretary of the Army.

(2) FAILURE TO JOINTLY DESIGNATE.—If the Secretary of the Interior and the Secretary of the Army fail to jointly designate the tracts of land by the date that is 60 days after the date of enactment of this Act, the Secretary of the Army shall designate the tracts of land pursuant to a description prepared by the Secretary of the Army, in consultation with the Chief of Engineers, and shall notify the Secretary of the Interior of the designation, who shall transfer administrative jurisdiction over those tracts to the Secretary of the Army.

(b) SIZE.—

(1) LIMITS.—Except as provided in paragraph (2), the quantity of acreage in the tracts referred to in subsection (a) shall not exceed—

(A) with respect to the tract in the Cape Hatteras National Seashore Recreational Area, 65 acres; and

(B) with respect to the tract in the Pea Island National Wildlife Refuge, 35 acres.

(2) EXCEPTION.—If the Secretary of the Army and the Secretary of the Interior

jointly designate the tracts of land pursuant to subsection (a)(1), the area of each tract may exceed the acreage specified for the tract in paragraph (1).

(c) MODIFICATION.—Notwithstanding subsection (b)(1), if, after designating the tracts of land pursuant to subsection (a)(2), the Secretary of the Army determines that any tract is inadequate for the construction, operation, and maintenance of a jetty and sand transfer system for the Oregon Inlet, the Secretary of the Army may designate, not earlier than 60 days after providing notice of a designation to the Secretary of the Interior under subsection (a)(2), an additional tract of land adjacent to the inadequate tract.

By Mrs. KASSEBAUM (for herself, Mr. COATS, Mr. GORTON, and Mr. HATCH):

S. 989. A bill to limit funding of an Executive order that would prohibit Federal contractors from hiring permanent replacements for lawfully striking employees, and for other purposes; to the Committee on Labor and Human Services.

STRIKER REPLACEMENT LEGISLATION

Mrs. KASSEBAUM. Mr. President, I rise today to introduce, along with Senators COATS, GORTON, and HATCH, the Fairness in Federal Contracting Act, a bill to prohibit the administration from using any appropriated funds to administer its striker replacement Executive order. I encourage my colleagues to join with me in supporting this important legislation.

Mr. President, I have been involved with this issue for the last 4 years. Quite frankly, I had hoped that this whole matter of hiring permanent replacements for striking workers had been put to rest. Apparently, I was mistaken.

As my colleagues may know, for over 60 years, Federal labor law has permitted workers to strike and employers to continue to operate during a strike, if necessary with the assistance of permanent replacements. During the 102d and 103d Congresses, the Senate debated whether to prohibit permanent striker replacements. Ultimately, however, we did not amend Federal labor law.

Members may disagree on whether we made the right decision over the last two sessions of Congress, but everyone will agree that the matter was properly before us. The Congress of the United States should decide important matters of national labor policy.

That changed on March 8, 1995, when the President issued an Executive order permitting the administration to cancel Federal contracts with companies that have hired permanent striker replacements. Through the Executive order, the President attempted to change our Federal labor laws.

Mr. President, we cannot allow our system of Government to be undermined. The Congress makes the laws, and the executive branch enforces them.

The legislation I propose today will reassert congressional authority over Federal labor policy by the only means that we now have, which is the power of the purse. This bill will prohibit the administration from spending any appropriated funds to implement or enforce the striker replacement executive order.

I hope that my colleagues, whatever their view of the striker replacement issue, will recognize the fundamental, constitutional principle at stake here and will support this legislation.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 989

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 ''Fairness in Federal Contracting Act of 1995''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FUNDINGS.—Congress finds that—

(1) it is the role of Congress, as the representative body of the people, to decide the policy of the United States with respect to relations between management and labor; and

(2) the executive branch should not use the Federal procurement process to initiate major changes in the labor-management relations of the United States.

(b) PURPOSE.—The purpose of this Act is to ensure that the Congress decides important labor-management relations policy by prohibiting the executive branch from spending any appropriated funds for the purpose of implementing an executive order that would debar or in any way limit the right of Federal contractors under common law to use permanent replacements for lawfully striking employees.

SEC. 3. LIMIT ON APPROPRIATED FUNDS.

None of the funds made available under any appropriations Act for fiscal year 1995 may be used to issue, implement, administer, or enforce any executive order, or other rule, regulation, or order, that limits, restricts, or otherwise affects the ability of any existing or potential Federal contractor, subcontractor, or vendor to hire permanent replacements for lawfully striking employees.

By Mr. DOLE (for himself and Mr. INOUYE):

S. 990. A bill to expand the availability of qualified organizations for frail elderly community projects (Program of All-inclusive Care for the Elderly) [PACE], to allow such organizations, following a trial period, to become eligible to be providers under applicable titles of the Social Security Act, and for other purposes; to the Committee on Finance.

THE PACE PROVIDER ACT OF 1995

Mr. DOLE. Mr. President, I am pleased to introduce today, along with the distinguished Senator from Hawaii, Senator INOUYE, the PACE Provider Act of 1995. PACE—the Program of All-inclusive Care for the Elderly—is a cost-effective managed care system pioneered by On Lok Senior Health Services in San Francisco.

PACE programs provide a comprehensive package of primary acute and long-term care services. All services, including primary and specialty medical care, adult day care, home care, nursing, social work services, physical and occupational therapies, prescription drugs, hospital and nursing home care are coordinated and administered by PACE program staff.

Mr. President, PACE programs are cost effective in that they are reimbursed on a capitated basis, at rates that provide payers savings relative to their expenditures in the traditional Medicare, Medicaid, and private pay systems.

The PACE Provider Act does not expand the number of individuals eligible for benefits in any way. Rather, it makes available to individuals already eligible for nursing home care, because of their poor health status, a preferable, and less costly alternative.

Specifically, the act would increase the number of PACE programs authorized from 15 to 30 in 1995; to 40 in 1996; to 50 in 1997; and to an unlimited number in 1998.

Mr. President, today, 11 PACE programs provide services to 2,200 individuals in eight States—California, Colorado, Massachusetts, New York, Oregon, South Carolina, Texas, and Wisconsin. At least 45 other organizations are actively working to develop PACE in many other States.

By expanding the availability of community-based long-term care services, On Lok's success of providing high quality care with an emphasis on preventive and supportive services, can be replicated throughout the country. PACE programs have substantially reduced utilization of high-cost inpatient services. In turn, dollars that would have been spent on hospital and nursing home services are used to expand the availability of community-based long-term care.

Mr. President, analyses of costs for individuals enrolled in PACE show a 5- to 15-percent reduction in Medicare and Medicaid spending relative to a comparably frail population in the traditional Medicare and Medicaid systems.

States have voluntarily joined together with community organizations to develop PACE programs out of their commitment to developing viable alternatives to institutionalization. This is particularly relevant as the demand and responsibility for long-term care expands.

Mr. President, as our population ages, we must continue to place a high priority on long-term care services. Giving our seniors alternatives to nursing home care and expanding the choices available, is not only cost effective, but will also improve the quality of life for older Americans.

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

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

S. 990

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 ''PACE Provider Act of 1995''.

SEC. 2. WAIVER AUTHORITY AND PROVIDER ELIGIBILITY FOR PACE PROJECTS.

(a) TRIAL PERIODS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (hereafter for purposes of this Act referred to as the 'Secretary') shall grant waivers of certain requirements of titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq., 42 U.S.C. 1396 et seq.), or of any other applicable title of such Act, to public or nonprofit community-based organizations for a trial period to enable such organizations to demonstrate their capacity to provide comprehensive health care services of proper quality on a cost-effective capitated basis to frail elderly patients at risk of institutionalization. An organization shall be eligible to be a provider under such titles if the organization successfully completes the trial period described in the preceding sentence.

(2) APPROVAL OF APPLICATIONS.—An appropriately completed application for a waiver under this Act is deemed approved unless the Secretary specifically disapproves it in writing—

(A) not later than 90 days after the date the completed application is filed in proper form; or

(B) not later than 90 days after the date additional information is provided to the Secretary if the Secretary requests reasonable and substantial additional information during the 90-day period described in subparagraph (A).

(3) SOLE AUTHORITY.—The Secretary shall have sole authority to approve or disapprove the eligibility of an organization for a waiver under this Act and shall make such determinations in a timely manner.

(4) CONSIDERATION OF EXISTING SITES.—In reviewing an application for a waiver under this Act, the Secretary shall—

(A) consider whether any existing organization already operates under a waiver granted under this Act in the proposed service area identified in the application; and

(B) if the Secretary determines that such an organization exists, assure that the potential population of eligible individuals to be served under the proposed waiver is reasonably sufficient to sustain an additional organization without jeopardizing the economic or service viability of any other organization operating in that service area.

(b) TERMS AND CONDITIONS FOR WAIVERS.—

(1) IN GENERAL.—Except as otherwise provided by law or regulation, the terms and conditions of a waiver granted pursuant to this Act shall be substantially equivalent to—

(A) the terms and conditions of the On Lok waiver (referred to in section 603(c) of the Social Security Amendments of 1983 and extended by section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985), including permitting the organization to assume the full financial risk progressively over the initial 3-year period of the waiver; and

(B) the terms and conditions provided under the Protocol for the Program of All-inclusive Care for the Elderly (PACE), as published by On Lok, Inc. as of April 14, 1995, and made generally available.

(2) NOT CONDITIONED ON INFORMATION.—

(A) IN GENERAL.—The Secretary's approval of a waiver for a trial period shall not be conditioned upon an organization collecting information for purposes other than operational purposes, including monitoring of cost and quality of care provided.

(B) RESEARCH.—The Secretary may require information from an organization operating under a waiver under this Act for purposes of general research or general evaluation, but only if an organization agrees to participate in such research or evaluation and is appropriately compensated for any expenses incurred, or where such research is undertaken entirely at the expense of the Secretary.

(3) 3-YEAR WAIVER LIMIT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a waiver granted under this Act shall be for a trial period not to exceed 3 years.

(B) EXCEPTION.—The Secretary may extend a waiver granted under this Act beyond the 3-year period during the consideration of an application from an organization under subsection (c).

(4) NUMBER OF ORGANIZATIONS AUTHORIZED.—

(A) PRIOR TO JULY 1, 1998.—

(i) IN GENERAL.—The Secretary shall grant waivers under this Act to not more than—

(I) 30 organizations before July 1, 1996;

(II) 40 organizations before July 1, 1997, and after July 1, 1996; or

(III) 50 organizations before July 1, 1998, and after July 1, 1997.

(ii) SECTION 9412(B) AND ON LOK WAIVERS INCLUDED.—For purposes of clause (i), the number of organizations specified in such clause shall include any organization established and operating under a waiver granted under section 603(c) of the Social Security Amendments of 1983 or any organization established and operating under a waiver granted under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 (as such sections were in effect on the day before the date of the enactment of this Act).

(B) ON AND AFTER JULY 1, 1998.—On and after July 1, 1998, the number of organizations operating under a waiver under this Act shall no longer be limited.

(c) ELIGIBILITY TO BE A PROVIDER.—

(1) IN GENERAL.—Upon successful completion of the trial period established under this Act, an organization which continues to meet the requirements of this Act shall be eligible to be a provider under any applicable title of the Social Security Act, including under titles XVIII and XIX of such Act (42 U.S.C. 1395 et seq.; 42 U.S.C. 1396 et seq.), and may apply to be recognized as such in accordance with regulations promulgated by the Secretary.

(2) REQUIREMENTS.—No organization may be eligible to be a provider under any applicable title of the Social Security Act if—

(A) the Secretary specifically and formally finds that projected reimbursement for such organization would not, without any reimbursement modifications specified in the Secretary's finding, result in payments below the projected costs for a comparable population under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.), or under any other applicable title of such Act, or that the care provided by such organization is significantly deficient; and

(B) such projected reimbursement costs or significant deficiencies in quality of care are not appropriately adjusted or corrected on a timely basis (as determined by the Secretary) in accordance with the specific recommendations for reimbursement adjustments or corrections in the quality of service included in the Secretary's formal finding under subparagraph (A).

(3) NOT CONDITIONED ON INFORMATION.—The provisions of subsection (b)(2) shall apply to an organization eligible to be a provider under any applicable title of the Social Security Act after successfully completing a trial period under this Act.

(d) REIMBURSEMENT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in paragraph (2), an organization that is granted a waiver under this Act, or that is eligible to be a provider under any applicable title of the Social Security Act as a result of this Act, shall ordinarily be reimbursed on a capitation basis. Any such organization may provide additional services as deemed appropriate by the organization for qualified participants without regard to whether such services are specifically reimbursable through capitation payments. To the extent such services, in terms of type or frequency, are not reimbursable, no payments for such services may be required of participants.

(2) EXCEPTION.—In the case of an organization receiving an initial waiver under this Act on or after October 1, 1995, the Secretary (at the request of the organization) shall not require the organization to provide services under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) on a capitated or other risk basis during the first or second year of the waiver, in order to allow such an organization to progressively assume the financial risk and to acquire experience with such a payment method.

(e) APPLICATION TO ON LOK WAIVERS.—The provisions of this Act also shall apply to an organization operating under the On Lok waiver described in subsection (b)(1)(A).

(f) APPLICATION OF INCOME AND RESOURCES STANDARDS FOR CERTAIN INSTITUTIONALIZED SPOUSES.—Section 1924 of the Social Security Act (42 U.S.C. 1396r–5) (relating to the treatment of income and resources for certain institutionalized spouses) shall apply to any individual receiving services from an organization operating—

(1) under a waiver under this Act; or

(2) as a provider under title XIX of such Act, after a determination that the organization has successfully completed a trial period under this Act.

(g) PROMOTION OF ADDITIONAL APPLICATIONS.—The Secretary shall institute an ongoing effort to promote the development of organizations to acquire eligibility, through participation in a trial period under this Act, to become providers under any applicable title of the Social Security Act.

(h) PROVISION OF SERVICES TO ADDITIONAL POPULATIONS.—Nothing in this Act shall prevent any participating organization from independently developing distinct programs to provide appropriate services to frail populations other than the elderly under any provision of law other than this Act, except where the Secretary finds that the provision of such services impairs the ability of the organization to provide services required for the elderly.

(i) DEFINITION OF PROVIDER.—The term ''provider'' means a provider of services which—

(1) has filed an agreement with the Secretary under section 1866 of the Social Security Act (42 U.S.C. 1395cc);

(2) is eligible to participate in a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); or

(3) is eligible to receive payment for such services under any other applicable title of the Social Security Act.

SEC. 3. APPLICATION OF SPOUSAL IMPOVERISHMENT RULES.

Section 1924(a)(5) of the Social Security Act (42 U.S.C. 1396r–5(a)(5)) is amended to read as follows:

''(5) APPLICATION TO INDIVIDUALS RECEIVING SERVICES FROM CERTAIN ORGANIZATIONS.—This section applies to individuals receiving institutional or noninstitutional services from any organization—

''(A) operating under a waiver under—

''(i) section 603(c) of the Social Security Amendments of 1983 (as in effect on the day

before the date of the enactment of the PACE Provider Act of 1995);

''(ii) section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 (as so in effect); or

''(iii) the PACE Provider Act of 1995; or

''(B) which has become a provider under this title after a determination that the organization has successfully completed a trial period under the PACE Provider Act of 1995.''.

SEC. 4. REPEALS; EFFECTIVE DATE AND APPLICATION TO EXISTING WAIVERS.

(a) REPEALS.—Section 603(c) of the Social Security Amendments of 1983, section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985, and section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 are repealed.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the provisions of subsection (a) shall be effective on the date of the enactment of this Act.

(2) APPLICATION TO EXISTING WAIVERS.—

(A) IN GENERAL.—To the extent that any organization is operating on the date of the enactment of this Act under the On Lok waiver (referred to in section 603(c) of the Social Security Amendments of 1983 and extended by section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985), or a waiver granted under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, the provisions of such sections (as in effect before the date of the enactment of this Act) shall continue to apply with respect to such waiver until—

(i) the organization is eligible to be a provider under this Act;

(ii) the Secretary issues and implements the regulations referred to in section 2(c)(1); and

(iii) the organization has had a reasonable opportunity to apply to be recognized as a provider, such application has been formally considered by the Secretary, and a final determination on the application has been made.

(B) CONTINUATION OF WAIVER UNTIL EFFECTIVE DATE.—The waiver authority of any organization applying for recognition under subparagraph (A) shall continue until—

(i) the date that the Secretary determines that such organization is eligible to be and can actually serve as a provider under this Act; or

(ii) if the Secretary determines that the organization is not eligible to be a provider under this Act, the expiration of the waiver.

(C) CONSIDERATION OF PERIODS OF OPERATION PRIOR TO THIS ACT.—In determining whether an organization is eligible to be a provider under subparagraph (A), the Secretary—

(i) in determining whether the organization has successfully completed a trial period under this Act, shall consider any period before the date of the enactment of this Act during which an organization was operating under a waiver described in subparagraph (A); and

(ii) shall treat the organization as eligible to be a provider under this Act for periods after the date of the enactment of this Act and before such determination if the organization meets the requirements of the regulations issued under section 2(c)(1) during such periods.

By Mr. SIMPSON (by request):

S. 991. A bill to amend title 38, United States Code, and other statutes, to extend VA's authority to operate various programs, collect copayments associated with provision of medical benefits, and obtain reimbursement from insurance companies for care furnished; to the Committee on Veterans' Affairs.

VETERANS' LEGISLATION

• Mr. SIMPSON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, at the request of the Secretary of Veterans Affairs, S. 991, a bill to amend title 38, United States Code, and other statutes to extend VA's authority to operate various programs, collect copayments associated with provision of medical benefits, and obtain reimbursement from insurance companies for care furnished. The Secretary of Veterans Affairs submitted this legislation to the President of the Senate by letter dated March 3, 1995.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with the transmittal letter and the enclosed analysis of the draft legislation.

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

S 991

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. Section 1720A(e) is amended by striking ''1995'' and inserting in lieu thereof ''1997''.

SEC. 3. Section 1720C(a) is amended by striking ''1995'' and inserting in lieu thereof ''1996''.

SEC. 4. Section 1722A(c) is amended by striking ''1998'' and inserting in lieu thereof ''2000''.

SEC. 5. (a) Section 1732 is amended—

(1) in the heading by striking ''and grants'';

(2) by striking subsection (b) and redesignating subsections (c) and (d) as (b) and (c);

(3) in subsection (b) as redesignated by striking ''or grant'' both places it appears;

(4) in subsection (c) as redesignated by striking ''and to make grants''.

(b) The table of sections at the beginning of chapter 17 is amended by revising the item relating to section 1732 to read as follows:

''1732. Contracts to provide for the care and treatment of United States veterans by the Veterans Memorial Medical Center''.

SEC. 6. Section 3735(c) is amended by striking ''1995'' and inserting in lieu thereof ''1997''.

SEC. 7. Section 7451(d)(3)(C)(iii) is amended by striking ''1995'' and inserting in lieu thereof ''1999''.

SEC. 8. Section 7618 is amended by striking ''1995'' and inserting in lieu thereof ''1999''.

SEC. 9. Section 8169 is amended by striking ''1995'' and inserting in lieu thereof ''1997''.

SEC. 10. Section 115(d) of the Veterans' Benefits and Services Act of 1988, Public Law 100–322, is amended by striking ''1995'' and inserting in lieu thereof ''1998''.

SEC. 11. Section 7(a) of Public Law 102–54 is amended by striking ''1995'' and inserting in lieu thereof ''1998''.

SEC. 12. Section 8013(e) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is amended by striking ''1998'' and inserting in lieu thereof ''2000''.

SEC. 13. The Secretary of Veterans Affairs may carry out the major medical facility projects for the Department of Veterans Affairs, and may carry out the major medical facility leases for that Department, for which funds are requested in the budget of the President for Fiscal Year 1996, and authorization is required under section 8104(a)(2) of title 38, United States Code.

SEC. 14. (a) There are authorized to be appropriated to the Secretary of Veterans Affairs for Fiscal Year 1996—

(1) $224,800,000 for the major medical facility projects authorized in section 13; and

(2) $2,790,000 of the major medical facility leases authorized in section 13.

(b) The projects authorized in section 13 may only be carried out using—

(1) funds appropriated for fiscal year 1996 pursuant to the authorization of appropriations in subsection (a);

(2) funds appropriated for Construction, Major Projects for any fiscal year that remain available for obligation; and

(3) funds appropriated for Construction, Major Projects for any fiscal year for a category of activity not specific to a project.

SEC. 15. Section 1710(e)(3) is amended to read as follows:

''(3) Hospital and nursing home care and medical services may not be provided under or by virtue of subsection (a)(1)(G) of this section—

(A) after December 31, 1996 in the case of a veteran described in paragraph (1)(A);

(B) after September 30, 1997 in the case of a veteran described in paragraph (1)(C).''

SEC. 16. Section 1712(a)(1)(D) is amended by striking out ''December 31, 1995'' and inserting in lieu thereof ''September 30, 1997''.

SEC. 17. Section 1729(a)(2)(E) is amended by striking ''1988'' and inserting in lieu thereof ''2000''.

SECTION-BY-SECTION ANALYSIS

Section 2: Section 2 would amend 38 U.S.C. §1720A to extend through December 31, 1997, VA's authority to contract for care, treatment, and rehabilitative services for eligible veterans suffering from alcohol or drug dependence or abuse disabilities. Section 1720A specifically authorizes VA to contract for the appropriate care with halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities. Before October 1, 1997, the Department will complete an evaluation of this program's effectiveness to determine whether it should be permanently authorized. Under existing law, authority to enter into such contracts expires on December 31, 1995.

Section 3: Section 3 would amend 38 U.S.C. §1720C(a) to extend through September 30, 1996, VA's authority to conduct its Pilot Program for Noninstitutional Alternatives to Nursing Home Care. Under existing law, authority for this recently implemented pilot program will expire on September 30, 1995. The program allows VA to contract for provision of home-based care, and other noninstitutional care for veterans who are either receiving nursing home care or who are in need of nursing home care. Extension of the authority will allow VA to fully assess the cost-effectiveness of the program as an

inexpensive alternative to costly nursing home care.

Section 4: Section 1722A of title 38, United States Code, requires VA to charge a $2 copayment for each 30 day supply of medication furnished to veterans, except service-connected veterans rated at least 50 percent, veterans receiving the medication for a service-connected disability, and nonservice-connected veterans with low incomes. Subsection (c) of section 1722A provides that the copayment requirement will expire on September 30, 1998. Section 4 of this proposal would extend the authority to collect the copayments through September 30, 2000.

Section 5: Section 5 would amend section 1732 of title 38, United States Code, to delete all provisions pertaining to authorization of appropriations for VA to make certain grants to the Veterans Memorial Medical Center (VMMC) in the Philippines. For a number of years, section 1732(b) authorized appropriations for VA to make grants to assist the Philippines in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the VMMC. Although the authorization of appropriations expired on September 30, 1990, Congress has continued to appropriate funds for the grants in VA's annual appropriation Act. No funds for the grants are being sought in the President's budget for Fiscal Year 1996. There is no reason to retain the provisions in section 1732, and section 5 would therefore delete them.

Section 6: Section 6 would amend 38 U.S.C. §3735(c) to extend through December 31, 1997, VA's authority to sell, lease, or donate certain real property for use by homeless veterans. The law permits VA to convey real property acquired under the Department's home loan guaranty program to nonprofit organizations, states, and local governments which agree to use the property solely as a shelter primarily for homeless veterans and their families. Under existing law, authority for the program will expire on December 31, 1995.

Section 7: Section 7 would amend 38 U.S.C. §7451(d)(3)(C) to extend through April 1, 1999, the authority of VA medical center directors to use nurse anesthetist contract agency compensation data to adjust locality-based nurse anesthetist pay rates where a VA locality survey provides insufficient data. A medical center may use this authority only if, after exhaustion of all available administrative authority, it is unsuccessful in conducting a VA local survey.

Section 8: Section 8 would amend 38 U.S.C. §7618 to extend through fiscal year 1999, VA's authority to award scholarships under VA's Health Professional Scholarship Program. The program assists VA in recruiting and retaining various health professionals, most notably nurses, physical therapists, occupational therapists, nurse anesthetists, and respiratory therapists. VA furnishes students in the above professions with scholarships during the final year or two of their educational program. In return, the student agrees to work for VA for a specified period of obligated service. Under existing law, authority for the scholarship program will expire on December 31, 1995.

Section 9: Section 9 would amend 38 U.S.C. §8169 to extend through December 31, 1997, authority for VA's enhanced-use leasing program. Under the program, the Secretary may enter into long-term leases of VA real property and in return, obtain goods and services from the lessee with little or no expenditure of appropriated funds. For example, VA might lease real property to a 3rd party who constructs a nursing home on the property, and agrees to provide VA with a certain number of nursing home beds at a discount rate. During the next two fiscal years, VA will complete a report evaluating the cost effectiveness of this program. Under existing law, authority for the enhanced-use leasing program will expire on December 31, 1995.

Section 10: Section 10 would amend section 115(d) of Public Law 100–322 to extend through September 30, 1998, authority for VA's pilot program to assist homeless chronically mentally ill veterans. Under this widely recognized program, VA conducts outreach among homeless veterans, and furnishes residential care to those who are chronically mentally ill. Care is primarily furnished on a contract basis. Under existing law, authority for the program will expire September 30, 1995.

Section 11: Section 11 would amend section (7)(a) of Public Law 102–54 to extend through September 30, 1998, authority for VA's compensated Work Therapy/Therapeutic Residence Program. This program permits VA to operate transitional housing for veterans who are participating in VA's compensated work therapy program. It serves many veterans who are homeless or at risk of becoming homeless, and who suffer from substance abuse disabilities. Under existing law, authority for the program will expire September 30, 1995.

Section 12: Section 8013 of Public Law 101–508 amended 38 U.S.C. §1710 to expand the categories of veterans required to agree to pay copayments in order to receive VA health-care benefits. That law also imposed additional new copayments on certain veterans amounting to $10 per day for hospital care, and $5 per day for nursing home care. Subsection (e) of section 8013 originally provided that the changes made by the section would expire on September 30, 1991, but that date has subsequently been extended several times. Most recently, section 12002 of Public Law 103–66 extended the provisions to September 30, 1998. Section 12 of the draft bill would extend the provision for two years to September 30, 2000.

Section 13: Section 13 would authorize the VA to undertake the major medical facility construction and leasing projects requested in the President's Fiscal Year 1996 budget.

Section 14: Section 14 would authorize appropriations of $224,800,000 to carry out the major medical facility construction projects authorized in section 13, and $2,790,000 for the leases authorized in section 13.

Section 15: Section 15 would extend the expiration dates for the authority provided in 38 U.S.C. §1710(a)(1)(G). Section 1710(a)(1)(G) requires VA to furnish needed hospital and nursing home care in three unique situations described in section 1710(e). First, VA must furnish such care for disorders possibly associated with exposure to ionizing radiation from nuclear testing, or from participation in the American occupation of Hiroshima and Nagasaki at the end of World War II. Second, VA must provide care to Vietnam veterans for disabilities which may be associated with exposure to dioxin or a toxic substance found in herbicides used in Vietnam. Third, subsection (e) provides that VA shall furnish hospital and nursing home care to Persian Gulf veterans for disabilities possibly related to exposure to a toxic substance or environmental hazard during Gulf service.

The authority to provide care for disorders possibly associated with exposure to ionizing radiation will expire on June 30, 1995. Section 2 would make permanent the requirement that VA furnish such care. The authority to provide care for disorders associated with exposure to dioxin or a toxic substance found in a herbicide will expire on June 30, 1995. Section 15 would extend that authority through December 31, 1995. Finally, the requirement that VA provide care to Persian Gulf veterans exposed to a toxic substance or environmental hazard expires on September 30, 1995. Section 15 would extend the authority through September 30, 1997.

Section 16: Section 16 would extend provisions of 38 U.S.C. §1712 which require VA to provide priority outpatient care to Persian Gulf veterans for disabilities possibly related to exposure to a toxic substance or environmental hazard during Gulf service. Under current law, the authority to furnish such priority care will expire on September 30, 1995. Section 16 would extend the authority for two years through September 30, 1997.

Section 17: Section 1729 of title 38, United States Code, authorizes VA to recover or collect from insurance companies, the reasonable cost of care it furnishes to a veteran for a nonservice-connected disability. VA may collect or recover to the extent the veteran would be eligible to receive payment for such care from the insurance company. VA may not collect for care furnished for a service-connected disability. If the veteran has a service-connected disability, and receives care for a nonservice-connected disability, section 1729 authorizes VA to recover from the insurance company, but that authority currently exists only through September 30, 1998. Section 17 would extend that authority for two additional years through September 30, 2000.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, March 3, 1995.

Hon. Al Gore, Jr.,
President, U.S. Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill, ''To amend title 38, United States Code, and other statutes, to extend VA's authority to operate various programs, collect copayments associated with provision of medical benefits, and obtain reimbursement from insurance companies for care furnished.'' We request that it be referred to the appropriate committee for prompt consideration and enactment.

Authority for a number of important VA health care programs are time limited and will soon expire. Some of the programs provide veterans with needed benefits; others provide mechanisms by which the Government obtains funding to help defray the cost of providing nonservice-connected health care benefits. The Department has assessed the continuing need for these programs and authorities in the development of the President's budget for fiscal year 1996, and has determined that extensions of the expiring authorities are warranted. Also included in the draft bill are the Administration's proposals for major medical facility construction projects and leases. We urge that Congress act favorably on this measure.

COST-SAVING PROVISIONS

In 1986, Congress first authorized VA to begin collecting funds from insurance companies for the cost of care furnished to nonservice-connected veterans who have health insurance. The law permits VA to recover to the extent the veteran would otherwise be eligible to recover. In 1990, Congress extended the authority to collect to insured service-connected veterans who receive care for nonservice-connected conditions. However, that authority will expire on September 30, 1998.

Similarly in 1990, laws were enacted requiring VA to impose certain new copayments on veterans to help defray the cost of delivering care. VA is required to charge a $2 copayment for each 30 day supply of medication furnished to veterans, except service-connected veterans rated at least 50 percent disabled, veterans receiving the medication for a service-connected disability, and nonservice-connected veterans with low incomes. Additionally, the law requires veterans with relatively higher incomes, who have

no service-connected disabilities, to pay copayments amounting to $10 per day for hospital care, and $5 per day for nursing home care. These copayment requirements will expire on September 30, 1998.

The draft bill would extend the foregoing authorities through Fiscal Year 2000.

Extension of the 3rd party insurance recovery provision would result in saving of $312.5 million in Fiscal Year 1999, and $318.8 million in Fiscal Year 2000. Extension of the copayment provisions would result in savings of $39.4 million in both Fiscal Year 1999, and Fiscal Year 2000.

SPECIAL TREATMENT AUTHORITIES

The draft bill would also continue VA's special authority to provide hospital and nursing home care in three unique situations. First, it would permanently authorize treatment for disorders which may be associated with exposure to ionizing radiation following the detonation of the two bombs in Japan, and during subsequent nuclear weapons testing. It would extend through December 3, 1996, the authority to treat Vietnam veterans for disabilities which may be associated with exposure to Agent Orange. It would extend through September 30, 1997, the authority to treat Persian Gulf veterans for disorders which may be associated with exposure to environmental contaminants during service in the Gulf.

In 1981, Congress first authorized VA to provide treatment for disorders possibly associated with exposure to ionizing radiation from nuclear testing, or from participation in the American occupation of Hiroshima and Nagasaki at the end of World War II. Congress initially authorized treatment while scientific studies took place to more clearly determine the effects of exposure. The authority has been extended several times. Over the years, scientific evidence has been amassed linking various cancers to exposure to radiation. Given the current state of knowledge about diseases related to exposure to radiation, permanent treatment authority is warranted, as provided in the draft bill.

In 1981, Congress also first authorized VA to treat Vietnam veterans for disabilities which may be associated with exposure to dioxin or a toxic substance found in herbicides used in Vietnam. The authority was time limited, but has been extended on several occasions as scientific work has continued regarding disorders which may be associated with exposure. For some time, the National Academy of Sciences (NAS) has been conducting a study of the matter. The NAS released preliminary findings of its work in 1993, and is scheduled to provide a further report to VA in late 1995. That report may provide VA with information to better tie the treatment authority to specific disorders that may have resulted from exposure. Until that time, it is appropriate to extend the blanket treatment authority. The draft bill would extend the existing authority through December 31, 1996, a period sufficient to allow VA officials time to receive and assess the NAS report, and determine what further legislative action is needed.

In 1993, Congress authorized the Secretary to provide care to Persian Gulf veterans for disabilities possibly related to exposure to a toxic substance or environmental hazard during Gulf service. The authority is needed to care for veterans while the scientific community seeks answers to questions about what might be causing illnesses and conditions experienced by some Persian Gulf veterans. At this time research is continuing. Until further work is completed, VA's authority to provide priority care to effected veterans should be extended. The draft bill would extend the authority for two years. The estimated cost of this provision is $36 million for Fiscal Year 1996.

NONINSTITUTIONAL CARE AND PROGRAMS FOR THE HOMELESS

The draft bill would extend five separate programs which provide noninstitutional care or facilitate care of the homeless and those suffering from substance abuse disabilities. Since 1980, VA has had authority to contract for care, treatment and rehabilitative services for eligible veterans suffering from alcohol or drug dependence disabilities. The Department contracts for these services with halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities. Begun as a time limited pilot program, the contract authority has been extended several times. The draft bill would extend this program through December 31, 1997. By that date, VA will have completed a study evaluating the effectiveness of this program to determine whether it should be permanently authorized. The estimated costs of this provision are $9.5 million in Fiscal Year 1996.

The draft bill would also extend, through Fiscal Year 1996, authority for a pilot program which allows VA to contract for provision of home-based care for veterans who are receiving nursing home care or are in need of nursing home care. Continued authority is needed to allow VA to fully assess the cost effectiveness of the program as an alternative to expensive nursing home care. The Department will complete a report evaluating the effectiveness of this program. The estimated costs of this provision are $17.3 million in Fiscal Year 1996.

Authority for VA's two most prominent programs to assist homeless veterans will expire in 1995 and must be extended. Under the well known Homeless Chronically Mentally Ill Veterans (HCMI) Program, VA outreach teams work with veterans in the streets, and assist those who are eligible to enter into a contract residential treatment program. The estimated cost of this program is $28 million in Fiscal Year 1996, and $88.2 million over three fiscal years. Under the Compensated Work Therapy/Therapeutic Residence (CWT/TR) Program, VA operates transitional housing for veterans who participate in VA's compensated work therapy programs during the day. Participants work in the community pursuant to contracts VA has with private entities, and use their earnings to pay rent for the transitional housing. The estimated operating cost of this program is $6.9 million in Fiscal Year 1996, and $21.5 million over three fiscal years. The draft bill would extend authority for both programs through September 30, 1998.

The bill would also extend through December 31, 1997, VA's authority to sell, lease, or donate certain real property for use by homeless veterans. The authority permits VA to convey real property acquired under the Department's home loan guaranty program to nonprofit organizations, states, and local governments which agree to use the property solely as shelter primarily for homeless veterans and their families.

ADMINISTRATIVE PROVISIONS

The draft bill would extend for two more years, VA's enhanced-use leasing program. The program permits the Secretary to enter into long-term leases of VA real property and in return, obtain goods and services from the lessee with little or no expenditure of appropriated funds. For example, VA might lease real property to a 3rd party who constructs a nursing home on the property, and agrees to provide VA with a certain number of nursing home beds at a discount rate. During the next two years, the Department will complete a study evaluating the cost-effectiveness of this program to determine whether it should be continued beyond Fiscal Year 1997. Enactment of the measure will not result in new costs.

VA also proposes extension of the Health Professional Scholarship Program. The program assists in recruiting and retaining various health professionals, most notably nurses, physical therapists, occupational therapists, nurse anesthetists, and respiratory therapists. VA furnishes students in the above professions with scholarships during the final year or two of their educational program. In return, the student agrees to work for VA for a specified period of obligated service. The estimated costs of the extension are $10.4 million in Fiscal Year 1996, and $41.6 million for the four year extension.

Finally, the bill would extend for four more years a sunset provision in VA's authority to use nurse anesthetist contract data in adjusting VA locality nurse anesthetist salaries. There would be no additional costs associated with this measure.

PHILIPPINES.

The draft bill includes provisions to repeal statutory language authorizing appropriations for grants to the Philippine government for upgrading equipment and making improvements at the Veterans Memorial Medial Center (VMMC). VA has long made grants to the Philippine-run hospital which has served both Filipino veterans and those Filipinos who are United States veterans. The law authorizing appropriations for the grants expired in 1990. Subsequent to that, grants were made because Congress continued to appropriate funds for the grants. United States veteran admissions to the VMMC have been suspended due to many problems and deficiencies in the physical plant and equipment. Therefore, no funds are being sought in the President's 1996 budget, and there is no reason to retain the authorization language in the law.

CONSTRUCTION AND LEASES

As a final matter, the draft bill includes language that would authorize those major medical construction projects and leases proposed in the President's Fiscal Year 1996 budget that must be specifically authorized by law. It would authorize $224.8 million for six construction projects, and $2.79 million for two leases. The six construction projects are construction of a new medical center and nursing home in Brevard County, Florida, renovation of nursing home units in Lebanon, Pennsylvania, environmental improvements in Marion, Illinois and Salisbury, North Carolina and replacement or renovation of psychiatric beds in Marion, Indiana, and Perry Point, Maryland. The two leases are for a satellite outpatient clinic in Bay Pines, Florida, and a footwear center in New York City.

The estimated costs for the various programs being extended have been provided to the extent they are available. Extension of the programs will not result in new costs. Sections 4 and 12 of the draft bill—provisions extending certain copayments for veterans medical services—would increase receipts. Therefore, the draft bill is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990 (OBRA). The copayment provisions would result in pay-as-you-go savings of $39.4 million in each of Fiscal Years 1999–2000. In addition, sections 6 and 9—provisions extending certain leasing authorities—are also subject to the pay-as-you-go requirement of OBRA because they affect both direct spending and receipts. In total, the pay-as-you-go effect of the leasing provisions in zero.

We have been advised by the Office of Management and Budget that there is no objection to the submission of the draft bill to

Congress and that its enactment would be in accord with the program of the President.

Sincerely yours,

JESSE BROWN.●

By Mr. SIMPSON (by request):

S. 992. A bill to amend title 38, United States Code, to increase, effective as of December 1, 1995, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans, and for other purposes; to the Committee on Veterans' Affairs.

THE VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 1995

● Mr. SIMPSON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, at the request of the Secretary of Veterans Affairs, S. 992, a bill entitled the ''Veterans' Compensation Cost-of-Living Adjustment Act of 1995,'' to amend title 38, United States Code, to increase, effective as of December 1, 1995, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans, and for other purposes. The Secretary of Veterans Affairs submitted this legislation to the President of the Senate by letter dated March 1, 1995.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with the transmittal letter and the enclosed analysis of the draft legislation.

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

S. 992

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

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the ''Veterans' Compensation Cost-of-Living Adjustment Act of 1995.''

SEC. 2. INCREASE IN COMPENSATION RATES AND LIMITATIONS.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall, as provided in paragraph (2), increase, effective December 1, 1995, the rates of and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensation.

(2)(A) The Secretary shall increase each of the rates and limitations in sections 1114, 1115(1), 1162, 1311, 1313, and 1314 of title 38, United States Code, that were increased by the amendments made by the Veterans' Compensation Cost-of-Living Adjustment Act of 1994 (Public Law No. 103–418; 108 Stat. 4336). This increase shall be made in such rates and limitations as in effect on November 30, 1995, and except as provided in subparagraph (B) shall be by the same percentage that benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1995, as a result of a determination under section 215(I) of such Act (42 U.S.C. 415(I)).

(B) For purposes of this subsection, as well as for purposes of any cost-of-living adjustment in rates of dependency and indemnity compensation enacted for fiscal years 1997 through 2000, the amount of any increase in the rates of dependency and indemnity compensation in effect under section 1311(a)(3) of title 38, United States Code, will be equal to 50 percent of the amount (rounded down, if not an even dollar amount, to the next lower dollar) by which the rate of dependency and indemnity compensation in effect under section 1311(a)(1) increases.

(C) In the computation of increased rates and limitations pursuant to subparagraph (A), and for purposes of computing any cost-of-living adjustment in such rates and limitations enacted for fiscal years 1997 through 2000, any amount which as so computed is not an even multiple of $1 shall be rounded down to the next lower whole-dollar amount.

(b) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a)(2)(A) and (C), the rates of disability compensation payable to persons within the purview of section 10 of Public Law No. 85–857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(c) PUBLICATION REQUIREMENT.—At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(I) of such Act during fiscal year 1995, the Secretary shall publish in the Federal Register the rates and limitations referred to in subsection (a)(2)(A) as increased under this section.

SEC. 3. EXTENSION OF LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING-HOME CARE.

Section 5503(f)(7) of title 38, United States Code, is amended by striking out ''September 30, 1998'' and inserting in lieu thereof ''September 30, 2000''.

SEC. 4. EXTENSION OF "SUNSET" LIMITATION.

(a) Subsection (g) of section 5317 of Title 38, United States Code, is amended by striking out ''1998'' and inserting ''2000'' in lieu thereof.

(b) Subparagraph (D) of section 6103(1)(7) of the Internal Revenue Code of 1986 is amended by deleting ''1998'' in the penultimate sentence and inserting ''2000'' in lieu thereof.

SECTION-BY-SECTION ANALYSIS

Section 1. This section contains the short title of the bill, the ''Veterans' Compensation Cost-of-Living Act of 1995.''

Section 2. This section authorizes a December 1, 1995 COLA in disability compensation and DIC rates for surviving spouses and children. Most rates would increase by the same percentage as Social Security rates will effective the same date. The only exception is for ''grandfathered'' DIC recipients, i.e. certain surviving spouses of veterans who died before 1993. These rates would increase by one-half the dollar amount of the increase in the basic DIC rate for survivors of veterans whose deaths occurred during or after 1993. All rate computations would be rounded down to even-dollar amounts. Provisions for rounding down the COLA computations and limiting to one-half the COLA for certain DIC recipients would also be made to apply to any FY 1997–2000 COLA's in these rates.

Section 3. This provision extends for 2 years, until September 30, 2000, the provision in law (38 U.S.C. §5503(f)) which limits to $90 the payment of VA pension to patients receiving Medicaid-covered nursing-home care who have no dependents.

Section 4. This provision would extend for 2 years, until September 30, 2000, the authority of VA to access unearned income information from the Internal Revenue Service (IRS) and wage and self-employment income information from the Social Security Administration (SSA) for purposes of income verification in determining eligibility for VA means-tested benefits such as pension and medical care.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC., March 1, 1995.

Hon. ALBERT GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill to authorize an FY 1996 cost-of-living adjustment in the rates of disability compensation and dependency and indemnity compensation, and for other purposes. I request that this bill be referred to the appropriate committee for prompt consideration and enactment.

Section 2 of this bill would provide a cost-of-living increase, effective December 1, 1995, in the rates of compensation for service-disabled veterans and of dependency and indemnity compensation (DIC) for the survivors of veterans who die as a result of service. The rate of increase would in most respects be the same as the cost-of-living adjustment (COLA) that will be provided under current law to veterans' pension and Social Security recipients, currently estimated to be 3.1 percent.

Compensation under title 38, United States Code, is payable only for disabilities resulting from injuries or diseases incurred or aggravated during active service. Payments are based upon a statutory schedule of rates which vary with the degree of disability assigned by the Department of Veterans Affairs (VA), and additional amounts are payable to veterans with spouses and children if the veteran's disability is rated 30-percent or more disabling. DIC benefits are payable at statutorily directed rates to the surviving spouses or children of veterans who die of service-connected causes, or who die of other causes if they suffered service-connected total disability for prescribed periods immediately preceding their deaths. This proposed cost-of-living increase will protect these benefits against the eroding effects of inflation.

Two features of this COLA proposal, as outlined in the President's FY 1996 budget request, would substantially reduce its cost. First, we propose that the dollar increase in rates of DIC payable for certain pre-1993 deaths, i.e., those rates which exceed the rate payable for deaths occurring during and after 1993, be only 50% of the dollar increase in the rate for the later-occurring deaths. Such a limitation, which was also a feature of the December 1, 1993 COLA, would lessen the disparities in rates payable to these two categories of beneficiaries. Second, under our proposal, in computing the higher compensation and DIC rates, VA would be required to round down to the next lower whole dollar any computations which yielded amounts not evenly divisible by $1. This polity is consistent with both the 1993 and 1994 COLA's.

The two limiting features would be effective for each year's COLA beginning in FY 1996 through 2000. Our proposal would reduce FY 1996 costs by $29 million and five-year (FY 1996–2000) costs by $582 million. Net costs of the FY 1996 COLA would be an estimated

$340 million in FY 1996 and $1.969 billion over five years.

Section 3 of our bill would extend, through FY 2000, the $90 limitation on monthly VA pension payments that may be made to beneficiaries, without dependents, who are receiving Medicaid-covered nursing-home care. The current payment limitation, which is due to expire at the end of FY 1998, works to the advantage of these nursing-home residents because it permits them to keep the $90 to apply toward personal expenses rather than have it ''pass through'' the homes to the Medicaid program. We estimate this two-year extension would result in VA savings of $497.2 million in FY 1999 and a total of $1 billion during FY's 1999 and 2000.

The final provision in our bill, Section 4, would amend titles 26 and 38, United States Code, to extend certain income verification provisions of the Omnibus Budget Reconciliation Act of 1990.

This section would extend he current September 30, 1998, ''sunset'' limitation on VA access to Internal Revenue Service (IRS) and Social Security Administration (SSA) income information until September 30, 2000. Experience has shown that authority to match unearned income information from IRS and wage and self-employment income information from SSA with VA data for purposes of income verification in determining eligibility for or the proper amount of VA means-tested benefits has been an effective savings measure.

The amendment would permit VA to continue its proven techniques. In the compensation and pension category of VA means-tested benefits, savings are estimated to total $89.4 million in FY 1999 and FY 2000.

The ability to match income information improves integrity in the pension program by reducing overpayments that occur when self-reported income is the only information used to verify eligibility. In this regard, we note that authority to match income information with IRS and SSA has had a significant program-abuse deterrent effect.

Certain medical-care eligibility is also means tested. Continuation of authority to match income information in that program would allow VA to more effectively identify and collect copayments from higher income veterans. The combined savings in FY 1999 and FY 2000 are estimated to total $88.1 million. Combining the VA means-tested benefits categories of medical care and compensation and pension, it is estimated that a total of $177.5 million could be saved in FY 1999 and FY 2000 with the extension of the ''sunset'' limitation.

The bills' provisions to round down benefits, provide a half COLA for certain DIC recipients, limit pensions for certain veterans in nursing homes, and the income verification proposals would result in pay-as-you-go savings as noted above.

We have been advised by the Office of Management and Budget that there is no objection to the transmittal of this draft bill to Congress and that its enactment would be in accord with the program of the President.

Sincerely yours,

JESSE BROWN.●

By Mr. SIMPSON (by request):

S. 993. A bill to amend title 38, United States Code, to provide for cost-savings in the housing loan program for veterans, to limit cost-of-living increases for Montgomery GI bill benefits, and for other purposes; to the Committee on Veterans' Affairs.

THE VETERANS' HOUSING LOAN PROGRAM AND MONTGOMERY GI BILL COST-REDUCTION ACT OF 1995

● Mr. SIMPSON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, at the request of the Secretary of Veterans' Affairs, S. 993, a bill entitled the ''Veterans' Housing Loan Program and Montgomery GI Bill Cost-Reduction Act of 1995,'' to amend title 38, United States Code, to provide for cost-savings in the housing loan program for veterans, to limit cost-of-living increases for Montgomery GI Bill benefits, and for other purposes. The Secretary of Veterans Affairs submitted this legislation to the President of the Senate by letter dated March 2, 1995.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with the transmittal letter.

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

S. 993

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the ''Veterans' Housing Loan Program and Montgomery GI Bill Cost-Reduction Act of 1995''.

TITLE I—HOUSING LOANS

SEC. 101. REPEAL OF LOAN DEBT COLLECTION RESTRICTIONS.

(a) Subchapter III of chapter 37 of title 38, United States Code, is amended by striking out section 3726 in its entirety.

(b) The table of sections for such subchapter is amended by striking out:

''3726. Withholding of payments, benefits, etc.''

and inserting in lieu thereof:

''[3726. Repealed.]''.

SEC. 102. MANUFACTURED HOME LOAN DOWNPAYMENT AND FEE.

(a) Section 3712(c)(5) of title 38, United States Code, is amended by striking out ''95'' and inserting in lieu thereof ''90''.

(b) Section 3729(a)(2)(A) of title 38, United States Code, is amended by:

(1) inserting ''(i)'' immediately after ''(A)'';

(2) striking out ''of this title or for any purpose specified in section 3712 (other than section 3712(a)(1)(F))'';

(3) inserting ''or'' immediately after ''amount;''; and

(4) inserting at the end thereof the following new clause.

''(ii) in the case of a loan made for any purpose specified in section 3712 (other than section 3712(a)(1)(F)) of this title, the amount of the fee shall be two percent of the total loan amount;''.

(c) Section 3729(a)(2)(D)(ii) of title 38, United States Code, is amended by striking out ''one'' and inserting in lieu thereof ''two''.

(d) The amendments made by this section shall apply to all loans closed on or after October 1, 1995.

SEC. 103. EXTENSION OF LOAN FEE INCREASE.

Section 3729(a)(4) of title 38, United States Code, is amended by striking out ''1998,'' and inserting in lieu thereof ''2000,''.

SEC. 104. EXTENSION OF FEE FOR MULTIPLE USE OF LOAN ENTITLEMENT.

Section 3729(a)(5)(C) of title 38, United States Code, is amended by striking out ''1998.'' and inserting in lieu thereof ''2000.''.

SEC. 105. EXTENSION OF NO-BID FORMULA.

Section 3732(c)(11) of title 38, United States Code, is amended by striking out ''1998.'' and inserting in lieu thereof ''2000.''.

Title II—MONTGOMERY GI BILL

SEC. 201. LIMITATION REGARDING COST-OF-LIVING ADJUSTMENTS FOR MONTGOMERY GI BILL BENEFITS.

For Fiscal Year 1996 and each subsequent fiscal year through 2000, the cost-of-living adjustments in the rates of educational assistance payable under chapter 30 of title 38, United States Code, and under chapter 1606 of title 10, United States Code, shall be the percentage equal to 50 percent of the percentage by which such assistance would be increased under section 3015(g) of title 38, and under section 1631(b)(2) of title 10, United States Code, respectively, but for this section.

SECTION-BY-SECTION ANALYSIS

TITLE I—HOUSING LOANS

Section 101. Repeal of Loan Debt Collection Restrictions: Subsection (a) would repeal 38 U.S.C. §3726. Section 3726 currently prohibits VA, in most cases, from offsetting against Federal payments, other than VA benefits, debts owed to the Government resulting from the foreclosure of VA guaranteed or direct housing loans. This provision would permit VA to collect these debts by offsetting Federal salaries and income tax refunds as permitted by other Federal debt collection laws. Veterans would have the right to challenge the existence and amount of the debt through VA's normal administrative process, including review by the Court of Veterans Appeals, prior to such offset. Veterans would also be able to seek waiver of the debt if collection would be against equity and good conscience under current law.

Subsection (b) would make a conforming change to the table of sections.

Section 102. Manufactured Home Loan Downpayment and Fee: Subsection (a) would amend 38 U.S.C. §3712(c)(5) to require a 10 percent downpayment on VA guaranteed loans for the purchase of a manufactured home. Current law requires a 5 percent downpayment.

Subsection (b) would amend 38 U.S.C. §3729(a)(2)(A) to increase the fee most veterans must pay to VA for obtaining a VA guaranteed loans for the purchase of a manufactured home to 2 percent of the loan amount. The current fee for such a loan is 1 percent. This amendment would not affect the exemption from the fee current law grants to certain disabled veterans and surviving spouses.

Subsection (c) would amend 38 U.S.C. §3729(a)(2)(D) to increase the fee veterans whose only qualifying service was in the Selected Reserve must pay to VA for obtaining a VA guaranteed loan for the purchase of a manufactured home to 2 percent of the loan amount. The current fee for such a loan is 1 percent. This amendment would not affect the exemption from the fee current law grants to certain disabled veterans and surviving spouses.

Subsection (d) would make these amendments apply to all manufactured home loans closed on or after October 1, 1995.

Section 103. Extension of Loan Fee Increase: Would extend for 2 years the sunset of the temporary VA loan fee increase. Section 12007(a) of the Omnibus Budget Reconciliation Act of 1993 increased by 75 basis

points, or 0.75 percent of the loan amount, the fee that veterans must pay to VA for most VA guaranteed housing loans. This increase is now set to expire on September 30, 1998. This amendment would continue the increased fees for all loans closed through the end of Fiscal Year 2000.

Section 104. Extension of Fee for Multiple Use of Loan Entitlement: Would extend for 2 years the sunset of the fee for multiple use of VA housing loan benefits. Section 12007(b) of the Omnibus Budget Reconciliation Act of 1993 imposed a fee of 3 percent of the loan on veterans who had previously obtained a VA home loan. This fee does not apply to certain refinancing loans or to loans where veterans make a downpayment of 5 percent of more. The multiple use fee is now set to expire on September 30, 1998. This amendment would continue this fee for all loans closed through the end of Fiscal Year 2000.

Section 105. Extension of No-Bid Formula: Would extend for 2 years the sunset of the VA ''no-bid formula'' contained in 38 U.S.C. §3732(c). This formula determines VA's liability to a loan holder under the guaranty and whether or not the holder would have the election to convey the property to the VA following the foreclosure. As amended by section 12006 of the Omnibus Budget Reconciliation Act of 1993, the no-bid formula requires VA to consider, in addition to other costs, VA's loss on the resale of the property. The no-bid formula applies to all loans closed before October 1, 1998, regardless of the date the loan is terminated. This amendment would make the formula apply to all loans closed before October 1, 2000.

TITLE II—MONTGOMERY GI BILL

Section 201. Limitation Regarding Cost-of-Living Adjustments for Montgomery GI Bill Benefits: Would limit by half the annual cost-of-living adjustment (COLA) payable to participants in the Montgomery GI Bill (MGIB) (chapter 30 of title 38 and chapter 1606 of title 10, United States Code) for Fiscal Years 1996 through 2000. The MGIB currently provides that the monthly rate of basic educational assistance shall be subject to an annual COLA based on the Consumer Price Index. Section 12009 of the Veterans' Reconciliation Act of 1993 limited the MGIB COLA for Fiscal Year 1995 to 50 percent of the otherwise mandated adjustment (i.e., increase). This section would continue that 50 percent reduction of the annual COLA through Fiscal Year 2000.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, March 2, 1995.

Hon. AL GORE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: Transmitted herewith is a draft bill ''To amend title 38, United States Code, to provide for cost-savings in the housing loan program for veterans, to limit cost-of-living increases for Montgomery GI Bill benefits, and for other purposes.'' This bill would implement several cost-savings proposals contained in the President's budget for Fiscal Year 1996. I request that this measure be referred to the appropriate committee and promptly enacted.

Title I of this draft bill, entitled the ''Veterans' Housing Loan Program and Montgomery GI Bill Cost-Reduction Act of 1995,'' would make amendments to the Department of Veterans Affairs (VA) housing loan guaranty program to reduce the costs of this program, while continuing to provide eligibility for all veterans. In brief, the bill would extend for 2 years; i.e., until September 30, 2000, three cost-savings measures enacted by the Omnibus Budget Reconciliation Act of 1993 and increase the downpayment and fee required for VA guaranteed manufactured housing loans. In addition, this bill would repeal a restriction on the collection of debts owed to the Government arising from the loan program.

The VA home loan program has been and continues to be of great importance to present and former members of the Nation's Armed Forces who seek to become homeowners. We are mindful that the cost to the taxpayers of operating the program and paying claims on loans resulting in foreclosure are significant. Since the loan guaranty program provides a unique benefit for a select group of beneficiaries, we believe the measures proposed are reasonable, and are necessary to preserve this important benefit.

Title II of the draft bill would continue through Fiscal Year 2000 the limitation on cost-of-living adjustments under the Montgomery GI Bill enacted by the Omnibus Budget Reconciliation Act of 1993.

A detailed section-by-section analysis of the draft bill is enclosed. We are also enclosing an analysis of changes proposed to be made in existing law by title I of the draft bill (title II of the bill does not amend any current provision of the United States Code).

VA estimates that enactment of title I of this bill would produce a savings of approximately $0.02 million of budget authority and $89.64 million in outlays in Fiscal Year 1996, and a 5-year savings of approximately $372.02 million in budget authority and $461.64 million in outlays. The 5-year savings includes a saving of $371.90 million in the Guaranty and Indemnity Program subsidy (which includes the interactive effects of the extension of the three sunsets) and $0.12 million in the Loan Guaranty Program subsidy.

Enactment of title II would produce savings in Fiscal Year 1996 of approximately $12.55 million, and a 5-year savings of $202.17 million.

The bill's provisions affecting VA's home loan program and title II's limitation on cost-of-living adjustments under the Montgomery GI Bill would result in pay-as-you-go savings as noted above.

We have been advised by the Office of Management and Budget that there is no objection to the transmittal of the draft bill to Congress and that its enactment would be in accord with the program of the President.

Sincerely yours,

JESSE BROWN.●

By Mr. SIMPSON (by request):

S. 994. A bill to amend title 38, United States Code, to clarify the eligibility of certain minors for burial in national cemeteries; to the Committee on Veterans' Affairs.

VETERANS' LEGISLATION

● Mr. SIMPSON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, at the request of the Secretary of Veterans Affairs, S. 994, a bill to clarify the eligibility of certain minors for burial in national cemeteries. The Secretary of Veterans Affairs submitted this legislation to the President of the Senate by letter dated May 10, 1995.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with the transmittal letter.

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

S. 994

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

SECTION 1. That paragraph (5) of section 2402, title 38, United States Code, is amended by adding the following at the end thereof: ''For purposes of this paragraph, a 'minor child' is a child under 21 years of age, or under 23 years of age if pursuing a course of instruction at an approved educational institution.''

THE SECRETARY OF VETERANS AFFAIRS,
Washington, May 10, 1995.

Hon. ALBERT GORE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill to clarify the eligibility of veteran's children for burial in our national cemeteries. I request that this bill be referred to the appropriate committee for prompt consideration and enactment.

Among those eligible for interment in the National Cemetery System under section 2402 of title 38, United States Code, are the minor children of veterans and certain others eligible for national cemetery burial. The term ''minor child'' is not defined in the statute.

When Congress enacted the National Cemeteries Act of 1973, transferring from the Department of the Army to the Department of Veterans Affairs (VA) the responsibility for operating national cemeteries, it reenacted without change the prior title 24 provisions regarding eligibility. The Department of the Army, in exercising its authority, had interpreted title 24's ''minor child'' provision as including children under age 21. Because Congress indicated an intent that similar eligibility rules should apply under VA's management of the cemetery system, this Department's regulation at 38 C.F.R. §1.620(g) governing burial eligibility generally defines a minor child as being under 21 years of age. In keeping with the general definition of a ''child'' for title 38 purposes, the age limit is 23 if the individual was pursuing a course of instruction at an approved educational institution.

The present situation occasionally results in confusion since the general title 38 definition of a ''child'' is in one significant respect more restrictive than the regulatory definition of ''minor child'' for purposes of burial eligibility. Under section 101(4) of title 38, an individual is generally not considered a ''child'' after reaching age 18 unless, as indicated above, the individual is pursuing an education. We do not believe Congress intended to restrict burial eligibility in this manner. Accordingly, we are proposing to amend statute governing burial elibility to incorporate the regulatory definition of ''minor child.''

Because enactment of our proposal would affect only technical clarification of the law as currently being applied, there would be no attendant costs or savings.

We have been advised by the Office of Management and Budget that there is no objection to the submission of the draft bill to Congress from the standpoint of the Administration's program.

Sincerely yours,

JESSE BROWN.●

By Mr. SIMPSON (by request):

S. 995. A bill to amend title 38, United States Code, to restrict payment of a clothing allowance to incarcerated veterans and to create a presumption of permanent and total disability for pension purposes for certain veterans who are patients in a nursing home; to the Committee on Veterans' Affairs.

THE VETERANS' BENEFITS REFORM ACT OF 1995

• Mr. SIMPSON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, at the request of the Secretary of Veterans Affairs, S. 995, a bill entitled the ''Veterans' Benefits Reform Act of 1995,'' to amend title 38, United States Code, to restrict payment of a clothing allowance to incarcerated veterans and to create a presumption of permanent and total disability for pension purposes for certain veterans who are patients in a nursing home. The Secretary of Veterans Affairs submitted this legislation to the President of the Senate by letter dated May 10, 1995.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with the transmittal letter.

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

S. 995

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 ''Veterans' Benefits Reform Act of 1995.''

SEC. 2. CLOTHING ALLOWANCE FOR INCARCERATED VETERANS.

(a) IN GENERAL.—Chapter 53 of title 38, United States Code, is amended by inserting after section 5313 the following new section:

''SEC. 5313A. LIMITATION ON PAYMENT OF CLOTHING ALLOWANCE TO INCARCERATED VETERANS.

''In the case of a veteran incarcerated in a Federal, State, or local penal institution for a period in excess of sixty days and furnished clothing without charge by the institution, the amount of any clothing allowance payable to such veteran under section 1162 of this title shall be reduced on a pro rata basis for each day on which the veteran was so incarcerated during the twelve-month period preceding the date on which payment of the allowance would be due under regulations promulgated by the Secretary.''

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5313 the following new item:

''5313A. Limitation on payment of clothing allowance to incarcerated veterans.''

SEC. 3. PRESUMPTION OF PERMANENT TOTAL DISABILITY FOR CERTAIN VETERANS WHO ARE NURSING-HOME PATIENTS.

Section 1502(a) of title 38, United States Code, is amended by inserting ''is 65 years of age or older and a patient in a nursing home or, regardless of age,'' after ''such a person''.

SECRETARY OF VETERANS AFFAIRS

Washington, DC, May 10, 1995.

Hon. ALBERT GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill entitled the ''Veterans' Benefits Reform Act of 1995.'' I request that this bill be referred to the appropriate committee for prompt consideration and enactment.

Section 2 of the draft bill would amend chapter 53 of title 38, United States Code, to restrict the payment of a clothing allowance to incarcerated veterans who are furnished clothing without charge by a penal institution. Under 38 U.S.C. §1162, the Department of Veterans Affairs (VA) is required to pay a clothing allowance to each veteran who, because of a service-connected disability, wears or uses a prosthetic or orthopedic appliance which tends to wear out or tear the veteran's clothing, or who uses medication prescribed for a skin condition which is due to a service-connected disability and which causes irreparable damage to the veteran's outergarments. Although 38 U.S.C. §5313 limits payment of compensation to certain incarcerated veterans, that statute does not restrict payment of the clothing allowance to incarcerated veterans, even though they generally do not pay for their institutional clothing.

A clothing allowance for incarcerated veterans is unnecessary where they receive institutional clothing at no personal expense. We therefore recommend legislation to limit payment of the clothing allowance to incarcerated veterans furnished clothing without charge by the institution in which they are incarcerated. This proposal would affect direct spending; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. This provision would reduce direct spending by less than $500,000 annually.

Section 3 of the draft bill would create a presumption of permanent and total disability for pension purposes for veterans 65 years of age or older who are patients in a nursing home. Section 8002 of the Omnibus Budget Reconciliation Act of 1990, 104 Stat. 1388-342, eliminated the presumption of total disability for pension purposes for persons 65 years of age and older. As a result, it is currently necessary for a VA rating board to evaluate disability before pension can be paid to any veteran, regardless of age or physical condition.

We propose that 38 U.S.C. §1502(a) be amended to provide, for pension purposes, a presumption of permanent and total disability for persons 65 years of age or older who are patients in a nursing home. Enactment of this amendment would reduce the time necessary to process disability-pension claims because, once a veteran's age and status as a nursing-home patient is confirmed, it would no longer be necessary to develop and evaluate medical evidence regarding the veteran's disability.

Adoption of this proposal would not affect the integrity of VA's pension program because an individual 65 years old who is a patient of a nursing home would almost certainly meet the current requirements of section 1502(a), which state that a person is considered to be permanently and totally disabled if he or she is unemployable as a result of disability reasonably certain to continue throughout the life of the disabled person or suffers from a disease or disorder which justifies a determination of permanent, total disability. In addition, VA could adopt procedures to reevaluate entitlement to pension in the event a notice of discharge is received from a veteran whose pension is based on age and confinement in a nursing home.

Enactment of this proposal would result in estimated administrative cost savings of $304,000 in fiscal year 1996 and $1.6 million for the five-year period fiscal year 1996 through fiscal year 2000.

We urge that the House promptly consider and pass these legislative items.

We have been advised by the Office of Management and Budget that there is no objection to the submission of the draft bill to Congress from the standpoint of the Administration's program.

Sincerely yours,

JESSE BROWN.•

By Mr. SIMPSON (by request):

S. 996. A bill to amend title 38, United States Code, to change the name of Servicemen's Group Life Insurance Program to Servicemembers' Group Life Insurance, to merge the Retired Reservists' Servicemembers' Group Life Insurance Program into the Veterans' Group Life Insurance Program, to extend Veterans' Group Life Insurance coverage to members of the Ready Reserve of a uniformed service who retire with less than 20 years of service, to permit an insured to convert a Veterans' Group Life Insurance policy to an individual policy of life insurance with a commercial insurance company at any time, and to permit an insured to convert a Servicemembers' Group Life Insurance policy to an individual policy of life insurance with a commercial company upon separation from service; to the Committee on Veterans' Affairs.

THE VETERANS' INSURANCE REFORM ACT OF 1995

• Mr. SIMPSON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, at the request of the Secretary of Veterans Affairs, S. 996, a bill entitled the ''Veterans' Insurance Reform Act of 1995,'' to amend title 38, United States Code, to change the name of the Servicemen's Group Life Insurance Program to Servicemembers' Group Life Insurance Program, to merge the Retired Reservists' Servicemembers' Group Life Insurance Program into the Veterans' Group Life Insurance Program, to extend Veterans' Group Life Insurance coverage to members of the Ready Reserve of a uniformed service who retire with less than 20 years of service, to permit an insured to convert a veterans' group life insurance policy to an individual policy of life insurance with a commercial insurance company at any time, and to permit an insured to convert a servicemembers' group life insurance to an individual policy of life insurance with a commercial company upon separation from service. The Secretary of Veterans Affairs submitted this legislation to the President of the Senate by letter dated May 10, 1995.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so

that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with the transmittal letter.

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

S. 996

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

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Veterans' Insurance Reform Act of 1995''.

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. REMOVAL OF GENDER REFERENCES.

(a) IN GENERAL.—

(1) Section 1315(f)(1)(F) is amended by striking out ''servicemen's'' in the first place it appears and inserting in lieu thereof ''servicemembers' ''; and

(2) Sections 1967(a), (c), and (f), 1968(b), 1969(a)–(e), 1970(a), (f), and (g), 1971(b), 1973, 1974, 1977(a), (d), (e), and (g), 3017(a), and 3224(1) are amended by striking out ''Servicemen's'' each place it appears and inserting in lieu thereof ''Servicemembers' ''.

(b) CONFORMING AMENDMENTS.—(1)(A) The heading of subchapter III of chapter 19 is amended to read as follows:

''Subchapter III—Servicemembers' Group Life Insurance (Formerly Servicemen's Group Life Insurance)''.

(B) The item relating to such subchapter in the table of sections at the beginning of such chapter is amended to read as follows:

''Subchapter III—Servicemembers' Group Life Insurance (Formerly Servicemen's Group Life Insurance)''.

(2)(A) The heading of section 1974 is amended to read as follows:

''§ 1974. Advisory Council on Servicemembers' Group Life Insurance (formerly Servicemen's Group Life Insurance)''.

(B) The item relating to such section in the table of sections at the beginning of chapter 19 is amended to read as follows:

''1974. Advisory Council on Servicemembers' Group Life Insurance (formerly Servicemen's Group Life Insurance)''.

SEC. 3. MERGER OF RETIRED RESERVIST SERVICEMEMBERS' GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE AND EXTENSION OF VETERANS' GROUP LIFE INSURANCE TO MEMBERS OF THE READY RESERVES.

(a) Section 1965(5) is amended—

(1) in subparagraph (B), by inserting ''and'' at the end thereof;

(2) by striking subparagraphs (C) and (D); and

(3) redesignating subparagraph (E) as subparagraph (C).

(b) Section 1967 is amended—

(1) in subsection (a)—

(A) in paragraph (1) by inserting ''and'' at the end thereof;

(B) by striking paragraphs (3) and (4) in their entirety; and

(C) by striking ''or the first day a member of the Reserves, whether or not assigned to the Retired Reserve of a uniformed service, meets the qualifications of section 1965(5)(C) of this title, or the first day a member of the Reserves meets the qualifications of section 1965(5)(D) of this title,''; and

(2) by striking subsection (d) in its entirety; and

(3) by redesignating subsections (e) and (f) as subsections (d) and (e) respectively.

(c) Section 1968 is amended—

(1) in subsection (a)—

(A) by striking ''subparagraph (B)(C), or (D) of section 1965(5)'' and inserting ''section 1965(5)(B)'' in lieu thereof;

(B) in paragraph (4) by striking—

(i) ''—(A)'' and inserting a comma in lieu thereof;

(ii) subparagraphs (B) and (C) in their entirety; and

(C) by striking paragraphs (5) and (6) in their entirety; and

(2) in subsection (b) by striking the last two sentences.

(d) Section 1969 is amended—

(1) in subsection (a)(2) by striking ''is assigned to the Reserve (other than the Retired Reserve) and meets the qualifications of section 1965(5)(C) of this title, or is assigned to the Retired Reserve and meets the qualifications of section 1965(5)(D) of this title,'';

(2) by striking subsection (e) in its entirety; and

(3) by redesignating subsections (f) and (g) as subsections (e) and (f) respectively.

SEC. 4. CONVERSION TO COMMERCIAL LIFE INSURANCE POLICY.

(a) Section 1968(b) is amended by—

(1) adding ''(1)'' following ''the date such insurance would cease,'' in the first sentence;

(2) redesignating clauses (1) and (2) in the first sentence as (A) and (B) respectively;

(3) striking ''title.'' at the end of the first sentence and inserting in lieu thereof ''title, or, (2) at the election of the member, shall be converted to an individual policy of insurance as described in section 1977(e) of this title upon written application for conversion made to the participating company selected by the member and payment of the required premiums.''; and

(4) adding ''to Veterans' Group Life Insurance'' following ''automatic conversion'' in the second sentence.

(b) Section 1977 is amended—

(1) in paragraph (a) by striking the last two sentences and inserting in lieu thereof the following: ''If any person insured under Veterans' Group Life Insurance again becomes insured under Servicemembers' Group Life Insurance but dies before terminating or converting such person's Veterans' Group Insurance, Veterans' Group Life Insurance will be payable only if such person is insured for less than $200,000 under Servicemembers' Group Life Insurance, and then only in an amount which when added to the amount of Servicemembers' Group Life Insurance payable shall not exceed $200,000.''; and

(2) in paragraph (e) by striking the third sentence and inserting in lieu thereof the following: ''The Veterans' Group Life Insurance policy will terminate on the day before the date on which the individual policy becomes effective.''

SEC. 5. EFFECTIVE DATE.

The Servicemembers' Group Life Insurance of any member of the Retired Reserve of a uniform service in force on the date of enactment of this Act shall be converted, effective ninety days after that date, to Veterans' Group Life Insurance.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, May 10, 1995.

Hon. ALBERT GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill entitled the ''Veterans' Insurance Reform Act of 1995.'' I request that this bill be referred to the appropriate committee for prompt consideration and enactment.

Section 2 of this draft bill would amend title 38, United States Code, to change the name of the Servicemen's Group Life Insurance program to Servicemembers' Group Life Insurance to reflect gender neutrality.

Section 3 of the bill would merge the existing Retired Reservists' Servicemen's Group Life Insurance (SGLI) program into the Veterans' Group Life Insurance (VGLI) program. Currently, when members of the Ready Reserve retire with 20 years of service or are transferred to the Retired Reserve under the temporary special retirement authority provided in 10 U.S.C. § 1331a, they may continue their SGLI coverage as Retired Reservists' SGLI until they receive their retired pay or reach age 61, whichever comes first. Members of the Ready Reserve who retire with 20 years of service also have the option to convert their SGLI policy to a commercial life insurance policy. We propose to discontinue the Retired Reservists' SGLI program and instead place the insured Retired Reservists in the VGLI program. This proposal would benefit Retired Reservists by making available the lifetime coverage provided under the VGLI program and would save administrative expenses. However, Retired Reservists who are over 44 years of age would have to pay increased premiums for the lifetime VGLI coverage. For example, the monthly premium for $100,000 of SGLI coverage for Retired Reservists who are ages 50–54 is currently $56, and the monthly premium for $100,000 of VGLI coverage for the Retired Reservists who are ages 50–54 would be $65. This proposal would have no adverse effect on any other insured member or on the SGLI or VGLI programs and would involve no cost to the Government.

Section 3 would also extend the benefit of VGLI lifetime coverage to members of the Ready Reserve of a uniformed service. When the Veterans' Insurance Act of 1974 was enacted. Congress stated that members of the Ready Reserve who separate with less than 20 years of service would not be eligible to convert their SGLI coverage to VGLI, unless they are disabled and uninsurable at the time of release. This proposal would improve the overall financial performance of the VGLA program by creating an additional pool of potential insureds and involve no cost to the Government. In addition, it would not adversely affect the SGLI or VGLI programs.

Section 4 of the draft bill would expand the opportunities of SGLI and VGLI insured to convert their coverage to commercial life insurance. VGLI coverage is provided under a five-year level premium term plan that is renewable every five years for life. Premiums are based on the insured's age at the time of issue and/or renewal and are increased accordingly at the beginning of each five-year renewal period. Although term policies provide low cost coverage for younger insureds, term insurance becomes very expensive for older insureds. Under the current law, VGLI insureds have the option of converting their VGLI coverage to permanent life coverage with the commercial insurance company at

the end of each five-year term period. A permanent life insurance policy, which provides coverage at a level premium throughout the premium paying period of the policy, is an alternative to the ever-increasing cost of term coverage. Since the cost of the converted policy increases as the insured's age increases, required insureds to delay conversion until the end of the five-year period increases the cost. For example, if a VGLI insured converts his or her policy at age 41, the monthly premium for $100,000 of whole life coverage would be $170. However, under the draft proposal, if the insured were allowed to covert at age 36, rather than waiting until the end of the five-year renewal period, the premium would be $133.

For the same reason, the draft bill would also extend this conversion privilege to SGLI insureds at the time of their separation from service. Currently, SGLI insureds must first convert to VGLI and thereafter can convert their VGLI policy to a commercial permanent life policy at the end of their five-year VGLI period. This increases the cost of conversion to a commercial life policy as discussed above.

Expansion of the conversion privilege would expand the life insurance options of our insured veteran and lower their cost of conversion to a commercial permanent life policy. We do not anticipate any negative effect on the SGLI or VGLI program or any cost to the Government if this proposal were enacted. However, changing the VGLI conversion features may change the composition of VGLI policyholders and result in a change to premium rates.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this draft bill to Congress from the standpoint of the Administration's program.

We urge that the House promptly consider and pass this legislative item.

Sincerely yours,

JESSE BROWN.●

By Mr. D'AMATO:

S. 997. A bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion for amounts received under qualified group legal services plans; to the Committee on Finance.

THE EMPLOYER-PROVIDED GROUP LEGAL SERVICES EXCLUSION ACT OF 1995

● Mr. D'AMATO. Mr. President, today I am introducing legislation to reinstate, and make permanent, the employee exclusion for amounts received under qualified employer-provided group legal services plans. During the 103d Congress I sponsored this legislation along with Senators PACKWOOD, RIEGLE, and LEVIN. Unfortunately, it was one of the extenders that was allowed to expire on June 30, 1992. I believe it is time to reinstate this measure which will provide affordable legal services to individuals and their families who cannot afford a private lawyer, and are above the maximum income range to receive a public defender.

This bill amends section 120 of the Internal Revenue Code and becomes effective for tax years beginning after December 31, 1994. It provides that an employee does not have to pay income and social security taxes for a qualified employer-provided group legal services plan. The annual premium is limited to $70 per person. In order to qualify, a plan must fulfill certain requirements, one of which states that benefits may not discriminate in favor of highly compensated employees.

The tax exclusion of group legal services is not a new provision. In fact, prior to its expiration in June of 1992, employees had been allowed to exclude such benefits from their gross income since 1976, albeit through seven extensions from Congress. Making this exclusion permanent will be a positive and substantial step forward. Group legal services have provided valuable and necessary assistance to millions of Americans. Today's economic conditions have increased the need of low and moderate Americans for legal counsel. Whether its a real estate transaction, preparation of a will, or a simple divorce, Americans are frequently confronted with problems of a legal nature, which makes access to a lawyer indispensable. Employer-provided group legal services are a low cost, effective source for legal assistance.

Mr. President, there is no reason why we should not reinstate and make permanent this tax exclusion. By doing so, we remove the burden hanging over the businesses that provide these services and the 2.5 million working Americans who gain access to critical legal services through these plans.

In the past, the Senate repeatedly affirmed its commitment to assuring the availability of legal services. I urge my colleagues to join me in this effort to reinstate employer-provided group legal services.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 997

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

SECTION 1. PERMANENT EXTENSION OF EXCLUSION FOR AMOUNTS RECEIVED UNDER QUALIFIED GROUP LEGAL SERVICES PLANS.

(a) GENERAL RULE.—Section 120 of the Internal Revenue Code of 1986 (relating to amounts received under qualified group legal services plans) is amended by striking subsection (e) and by redesignating subsection (f) as subsection (e).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1994.●

By Mr. BAUCUS:

S. 998. A bill to require the Secretary of Agriculture to terminate the Far West spearmint marketing order, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE FAR WEST SPEARMINT MARKETING ORDER TERMINATION ACT OF 1995

● Mr. BAUCUS. Mr. President, today, I introduce legislation to end one of the most inequitable and unjust farm policies ever conceived. I am introducing a bill that will terminate the Far West spearmint marketing order.

The Far West marketing order was issued in April 1980 and controls production in Washington, Oregon, Idaho, Montana, and Utah. The intent, at that time, was to include all areas which were currently producing or which had the potential to produce spearmint. While there were attempts to include Montanans in the process, no one was producing the crop at that time in Montana. Therefore, they had no participation and were not allotted any base for selling the crop. Without the base you can't sell the crop.

In the past few years farmers in Montana looking for alternative crops to grow, looking for ways to rotate crops and improve their land, have determined that spearmint would be an ideal crop for many of them. Agronomists from Montana State University have shown that we have ideal soils and climate to grow spearmint in parts of our State. Producers in northwest Montana have been successful producing peppermint since about the time the order was created. Spearmint, due to different agronomic characteristics, represents a potential crop to use in rotation with peppermint to break tough disease cycles. But alas, we cannot plant spearmint because we can't sell spearmint oil. Who would want to produce a crop you can't sell.

At it's inception, the order covered the majority of spearmint oil produced and consumed in the United States. Today, nearly 50 percent of the domestic spearmint production occurs outside the boundaries of the Far West order. In addition, we are now importing over 10 times the quantity that was imported at the time the Far West order was started.

Currently, a small amount of base is allotted by lottery each year in the order. It amounts to between 20 and 40 acres of production each year being awarded to each State. This absurdly low amount has failed to attract Montana producers.

Montana farmers believe a more fair policy would be to establish a larger base of 3,000 acres in the State. Other producers in the order have refused to allow the establishment of spearmint production in Montana. This doesn't sound fair to me. It would take decades for enough farmers to build base to the point where they could use spearmint as an alternative crop. Montana farmers need more flexibility to be able to grow crops that not only improve their land but also allow them to remain profitable. Spearmint is such a crop.

The USDA has tried to correct this problem. However, an administrative solution to this crisis has evaded us. In the past, USDA has withdrawn three orders that dealt with citrus. USDA feared litigation, the appearance that the orders are not working as they should, and the inability to achieve citrus industry consensus on the issue.

These same factors exist in the spearmint program, with the exception of the legal action. It would appear that the Montana requests, dating back

over 5 years, continue to be ignored because there no legal action has been taken.

Therefore, in an effort to save Montana farmers the expense of taking legal action and to end this unfair marketing order I offer legislation to end this program.

I have participated in numerous farm bill hearings this spring on the Agriculture, Nutrition, and Forestry Committee. One of the underlying themes in these hearings have been that farmers and ranchers want the farm programs to be simpler, easier to understand. Mr. President, this bill eliminates bureaucracy and allows farmers to grow what they choose to grow. I believe in America we call this concept freedom. I urge and welcome my colleagues to join me in this effort.●

By Mr. BURNS (for himself, Mr. NICKLES, Mr. HATCH, Mr. MURKOWSKI, Mr. BREAUX, Mr. D'AMATO, Mr. MACK, Mr. GRAMS, and Mr. INHOFE):

S. 1000. A bill to amend the Internal Revenue Code of 1986 to provide that the depreciation rules which apply for regular tax purposes shall also apply for alternative minimum tax purposes, to allow a portion of the tentative minimum tax to be offset by the minimum tax credit, and for other purposes; to the Committee on Finance.

THE ALTERNATIVE MINIMUM TAX REFORM ACT OF 1995

● Mr. BURNS. Mr. President, I join my colleagues Senator NICKLES, Senator HATCH, Senator MURKOWSKI, Senator BREAUX, Senator D'AMATO, Senator MACK, Senator GRAMS, and Senator INHOFE, in offering this bill to reform the corporate alternative minimum tax. The intent of this bill is to make the alternative minimum tax system work more as Congress originally envisioned when it enacted this scheme back in 1986—as a backstop so that truly profitable companies pay their fair share of the tax burden. Under this bill, companies will not be able to escape paying their fair share of taxes; but, the Government will not be allowed to take more than its fair share either.

While the overall goal of the AMT is noble, its present practical effect is to discourage capital investment, to threaten the competitiveness of American businesses in the global market, and to increase taxes operating close to the margin at a time when they can least afford an increase in taxes. Because the AMT increases the cost of capital projects by negating the benefits of accelerated depreciation which was designed to foster capital formation and investment, reducing capital investment in one of the only ways that a taxpayer can extract itself from AMT status. Further, the AMT is the worst capital cost recovery system among the industrialized nations; most of the other industrialized nations allow industry to recover the cost of capital expenditure over much shorter periods in order to encourage investment in cost-effective, efficient environmentally updated equipment; under the current AMT depreciation rules, American companies are discouraged from doing so.

Finally, the costs of compliance with AMT are oppressive to most small businesses. Essentially, every company in America which might fall into AMT status must keep separate books on depreciation for every piece of plant and equipment: one set of books for regular tax depreciation, and one for AMT depreciation. Also, all of these companies must take the time to conduct two tax computations to determine if they fall into AMT status. These tax computations are highly complicated and extremely time-consuming to complete. According to statistics compiled by the National Association of Manufacturers, approximately 90% of the companies who incur these compliance costs to determine whether they fall into AMT status, do not end up paying the AMT tax. They still, however, have to incur the costs of making that determination.

It is clear that the AMT is not working as Congress intended. For many cyclical capital-intensive companies, AMT has become their primary system of taxation. AMT was originally intended to operate as a backstop to prevent truly profitable companies from paying little or no tax. It was never intended to provide disparate tax treatment for investment in the same asset. Yet this has been the practical result of AMT. Those industries most affected include airline, mining, transportation, and utility businesses, and producers of automobiles, chemicals, energy, and paper. And the effect of AMT on these industries is to increase the costs to the consumers, decrease the efficiency of these businesses, and decreases the businesses' ability to compete globally.

Many companies have made substantial AMT payments over the past few years in excess of their regular tax liability. These payments—AMT credits—are supposed to be returned to these companies when their regular tax liability exceeds their AMT tax, so that, over time, these companies will pay no more in tax than is required by the regular income tax system. Many taxpayers, however, find that the limitation on use of AMT credits is too severe and, therefore, they cannot be used in a meaningful time frame. Our legislation addresses these concerns in the following ways:

First, depreciation reform: This legislation would allow companies to use the same depreciation system for AMT purposes as they use for regular tax purposes. Investment in plant and equipment and other business use assets is essential for American businesses to increase productivity and modernize and maintain international competitiveness. The current AMT depreciation system penalizes companies for making these job creating investments and is contributing to inadequate replacement of capital assets necessary for long-term economic growth. Furthermore, this change eliminates the burden of keeping separate depreciation books for all plant and equipment purchased after enactment of the AMT. This would substantially reduce the compliance costs that these companies incur, and, in so doing, free up money for increasing salaries, job creation, and investment.

Two, accumulated minimum tax credits: This legislation also allows taxpayers who have unused accumulated minimum tax credits for any 3 of the past 5 years to use a portion of those credits to offset up to 50 percent of their current year AMT liability. When Congress originally imposed the AMT, it was intended to accelerate the timing of tax payments rather than permanently increase tax payments. Therefore, Congress allowed companies to receive credit in future years for the amount of AMT they paid in excess of their regular tax liability. For many companies, the limits on the use of AMT credits have effectively prevented them from recovering their excess payment of taxes in a timely manner. The Government is, in effect, under the present scheme enjoying an interest-free loan from these taxpayers, many of whom had to borrow the money to pay the AMT liability. This provision would bring AMT into line with its original intention and assure that low-profit, capital intensive companies are not subject to an unintended permanent tax increase.

I conclude my remarks today by emphasizing that enactment of this legislation would result in the AMT operating as Congress originally intended that it should—as a backstop system so that truly profitable companies would not escape taxation. It would correct the current problem of excessively taxing investment during recessionary periods, and it would ensure that investments in similar assets are taxed the same. Because it will result in economic growth and significant new job creation in high wage, high-skilled industries, I encourage my colleagues to support this bill.●

● Mr. GRAMS. Mr. President, I am pleased to join my Senate colleagues in support of the Minimum Tax Reform Act of 1995. It will reform the alternative minimum tax, or AMT, that is imposed on profitable U.S. companies. By reforming the way the system works, our businesses will be able to create more high-wage and high-skilled jobs, leading to greater economic growth.

The current AMT is a job killer. Companies are penalized for making needed investments in new plant equipment and technology that improve productivity and keep prices competitive. Not only is job creation impaired, but existing jobs are put in jeopardy as companies lose out to foreign competition. The AMT is an impediment to job creation in basic industries such as

manufacturing, transportation, and energy production. For small growing firms, the AMT is particularly burdensome since their revenue stream is insufficient to pay start-up and expansion costs as well as the taxes they will owe down the road.

I have heard from many businesses in my home State of Minnesota who say the AMT is severely impeding their ability to invest in productivity-improving assets and development activities. As a result, their ability to compete on a level playing field with other domestic and international companies is severely frustrated.

By removing the current AMT penalty on capital investment, businesses of all sizes will be freed to reinvest and expand their operations. This will create new jobs not only for the company making the investment, but for companies supplying materials and labor as well.

Republicans and Democrats alike have sponsored bills to reform the AMT. With this bipartisan measure introduced today, we will enable U.S. companies to create more jobs with better wages for American workers, increase economic growth, and improve the standard of living for all Americans.●

Mr. NICKLES. Mr. President, I rise today to introduce the Minimum Tax Reform Act of 1995 with my friend from Montana, Senator BURNS, and several other colleagues. In this legislation, we are attempting to correct some major Tax Code inequities related to the alternative minimum tax.

The alternative minimum tax, or AMT as it is commonly known, was enacted for what I believe is a good reason. Prior to the Tax Reform Act of 1986, there was a great deal of media attention directed at large, profitable corporations, who for a variety of reasons, paid no corporate income tax. The chairman of the Senate Finance Committee, Senator PACKWOOD, created the AMT in 1986 to make sure corporations who report economic income to their shareholders pay taxes. I basically agree with that premise, Mr. President. I believe it is important to the average citizen to know that large, profitable corporations are paying their fair share of this country's tax burden.

It is this issue of fairness, or the perception of fairness, which has always been the driving force behind the AMT. The driving force most certainly is not simplification or revenue generation, because the AMT is neither simple nor a major revenue source. It is ironic that the 1986 tax reform effort to simplify taxation created an entirely new Tax Code in the AMT, and now most corporations must plan for and comply with two Tax Codes instead of one. Even more ironic is the fact that in 1992 the regular corporate tax yielded $96 billion, while the AMT corporate tax yielded only $2.6 billion.

Unfortunately, Mr. President, in the real world the AMT has reached far beyond its original purpose. As it is currently structured, the AMT is a massive, complicated, parallel Tax Code which places huge burdens on capital intensive companies.

The biggest problem with the AMT, Mr. President, is that it denies many corporations the benefit of accelerated depreciation. If you really want to boil it down to the bare truth, the AMT is a 20-percent surtax on accelerated depreciation. This is very bad news for businesses who must invest heavily and often in new equipment to compete or to maintain their technological edge.

Essentially, the AMT requires businesses to compute their depreciation deduction using longer recovery periods and slower depreciation methods. The difference between the regular tax depreciation and AMT depreciation is then added to taxable income.

For example, a chemical company invests $1,000 in equipment in 1994. Under the regular tax, they would follow the guidelines of the Modified Accelerated Cost Recovery System [MACRS] to compute a first-year depreciation deduction of $400—200 percent declining balance method over 5 years. However, under the AMT they would only be allowed a depreciation deduction of $158—150 percent declining balance method over 9.5 years.

The difference between the two calculations of $242 would be added to their alternative minimum taxable income [AMTI]. After adding other preferences and adjustments, AMTI is taxed at 20 percent to arrive at the tentative alternative minimum tax [TAMT]. To the extent TAMT exceeds regular tax the chemical company would owe the larger amount.

As complicated as that example may sound, Mr. President, it is, in fact, greatly simplified compared to real life. What the example does clearly show, however, is the inequity of allowing a reasonable business deduction under one Tax Code, and then taking it away through another Tax Code. Meanwhile, the businessman is caught in the crossfire. His cost of capital is increased and he must hire more employees simply to keep up with the paperwork.

I understand that there are some people in Washington, DC, who believe regular tax depreciation is too generous and should be curtailed, but this is an extremely complicated and convoluted way to accomplish that goal, Mr. President.

The Minimum Tax Reform Act we are introducing today would conform AMT depreciation with regular tax depreciation. This one simple reform will remove the disincentive to invest in job-producing assets, put capital intensive businesses on the same footing as their international competitors, and greatly simplify AMT compliance and reporting.

The second major problem with the AMT is that for many categories of businesses it has become a permanent tax system, a result which was not anticipated in 1986. Reviewing the history of the AMT reveals that its creators believed businesses would pay AMT for a couple of years before becoming regular taxpayers again. For this reason, they developed a provision which allows businesses who have paid AMT in a prior year to credit those payments against their regular tax liability in future years.

Unfortunately, many capital-intensive businesses, as well as many oil, gas, and coal companies, have become chronic AMT taxpayers. They continue to pay AMT year after year with no relief in sight, and as a matter of function they have accumulated billions in unused AMT credits. These credits are a tax on future, unearned revenues which may never materialize, they represent an interest-free loan to the Federal Government, and because of the time-value of money their value to the taxpayer decreases every year.

To address this problem the Minimum Tax Reform Act includes a unique new provision which would allow chronic AMT taxpayers to utilize unused prior-year AMT credits to offset 50 percent of their tentative minimum tax. This provision will help chronic AMT taxpayers dig their way out of the AMT and allow them to recoup at least a portion of these accelerated tax payments in a reasonable manner and timeframe.

Mr. President, much of the tax debate this year has focused on providing incentives for savings and investment. An important part of that process should be to first eliminate the investment disincentives created by the AMT.

Will the Minimum Tax Reform Act take care of every business' AMT problems, Mr. President? No, it will not. This bill addresses the depreciation adjustment, but there are many other AMT adjustments, preferences, and limitations which are not dealt with. These provisions have little to do with preventing corporations from zeroing out, but they have a lot to do with profitability and competitiveness. I hope all these issues will be examined when the Senate Finance Committee considers AMT reform.

Mr. President, the issues surrounding the alternative minimum tax are very complicated. I hope my colleagues will take the time to study them and join me in this initiative.

By Mr. GLENN (for himself, Mr. CHAFEE, Mr. LEVIN, Mr. LIEBERMAN, Mr. COHEN, Mr. PRYOR, Mr. KERRY, Mr. LAUTENBERG, Mr. DASCHLE, Mrs. BOXER, Mr. KOHL, Mr. SIMON, Mrs. MURRAY, Mr. AKAKA, Mr. KENNEDY, Mr. DODD, Mr. DORGAN, Mr. JEFFORDS, and Mr. BIDEN):

S. 1001. A bill to reform regulatory procedures, and for other purposes; to the Committee on Governmental Affairs.

THE REGUALTORY PROCEDURES REFORM ACT OF 1995

Mr. GLENN. Mr. President, I believe very strongly in the need for regulatory reform. I do not believe that is something that is debatable back and forth across the center aisle, where we so often have our differences. I think we are united as Republicans and Democrats in the Senate of the United States in saying that we all feel a need for regulatory reform.

Now, while I recognize the tremendous value of many rules in protecting public health and safety and the environment, I also understand that Federal agencies too often ignore the costs of regulation on businesses, State and local governments, and on individuals who feel they are put down and overregulated. They see regulations that do not make any sense. They resent that. And I resent it right along with them.

But through sensible reform, we can restore common sense to Government decisions, and thereby improve the quality and reduce the burdens of Federal regulations.

Mr. President, any bill on the subject of regulatory reform to be deserving of support, I feel, must pass a test that is twofold. No. 1, does the bill provide for reasonable, logical, appropriate changes to regulatory procedures that eliminate unnecessary burdens on businesses and on individuals? And, No. 2, does the bill maintain the Government's ability to protect the health, the safety, and the environment of the American people?

Now, if the answer is yes to both questions, then the bill should be supported. But any bill that relieves regulatory burdens and at the same time threatens the protections for the American people in health and safety and the environment should be opposed. Now, maybe that is obvious. Maybe those two conditions are obvious. But I think they need to be stated so that we set the ground rules for the debate that will occur on this legislation.

What regulatory reform should not become is a backdoor way to stop and reverse the progress made over the past 25 years in protecting the health and the safety of the American people and the environment. And I very firmly believe that we can retain those protections for food and for water and air, and those things that protect every family and individual in this Nation, and at the same time cut out the excessive regulatory requirements that have truly and unnecessarily plagued business and individuals.

Regulatory reform should not mean tying up Federal agencies in needless paperwork and throwing the regulatory process into disarray. And it should not become a lawyer's dream, creating endless ways for individuals to sue the Government. Our goal should be to make the Government become more efficient and effective, and less prey to special interests.

Now, Mr. President, the Committee on Governmental Affairs has been involved in this issue for many years. This goes clear back into the mid-1970's, and even before. This year, under the leadership of Senator ROTH, the chairman of our committee, the committee crafted a comprehensive regulatory reform bill, S. 291. It was reported out of committee by a unanimous, bipartisan vote. I repeat that: A unanimous vote out of committee. We have eight Republican members on our committee. We have seven Democratic members on our committee. And this legislation, basically this same legislation, was reported out of committee by a unanimous bipartisan vote. I think it proves beyond any shadow of a doubt that we can have bipartisan action on this subject in this Congress, and in this Senate.

Last week, Senators DOLE and JOHNSTON entered into the RECORD a ''discussion draft'' for regulatory reform. And yesterday, a revised version of that draft was also entered into the RECORD. In response to these drafts, I have sent to the desk for introduction a bill entitled ''The Regulatory Procedures Reform Act of 1995.'' This bill is based primarily on our bipartisan Governmental Affairs Committee bill.

Now, I would like to take a moment to thank Senator ROTH for his leadership and hard work in making the Governmental Affairs Committee bill a strong and fair regulatory reform bill—a strong and fair regulatory reform bill. Through Senator ROTH's efforts, we have a solid foundation for real regulatory reform. I am happy to have worked with Senator ROTH in the committee and again, our work together is largely reflected in this bill.

Like the Governmental Affairs bill, the bill that I introduced today is bipartisan.

I offer the legislation for the RECORD because I have serious questions about the balance in the current version of the Dole-Johnston draft and whether the reforms it contains are outweighed by the creation of new opportunities to stop environmental and health and safety protections for the American people.

We are not trying to retain everything in every regulation that has been proposed or is even in effect now. We know that many must be reconsidered. But when we set the ground rules for how rules and regulations will be promulgated in the future, there must be balance, weighing the regulatory concerns against the benefits that may come from that regulation.

Whether the current version of the Dole-Johnston draft and the reforms it contains are outweighed by its limits to environmental health and safety protections for the American people is what I mean when I mention the word balance.

I want to provide an opportunity for our colleagues to approach this very important issue of regulatory reform from another angle, and I invite Members to compare these proposals. I would like each Senator to ask himself or herself which proposal or which combination of both proposals—a melding—which combination of these proposals better fulfills the twin tasks of eliminating unnecessary regulatory burdens on business and individuals, while at the same time providing no diminution of the ability of the Government to protect the health and safety and environment of the American people.

I believe that the legislation I am submitting is a very strong reform proposal. It requires cost-benefit analysis. It requires risk assessment. It requires peer review. It requires congressional review of significant rules. And it requires review of existing rules. It provides much-needed reform without paralyzing agencies. Issues, such as judicial review and how we should handle existing rules, are critical to this debate. Discussions on these issues are continuing, and we wish to make a positive contribution to these discussions by providing an alternative for consideration on the floor.

It is my hope that the principles embodied in this alternative will find their way into the final legislation that will be adopted by the Senate, because I am convinced that we will pass a bill. This bill may be one of the most important pieces of legislation we pass this year. I know it is arcane. I know it is uninteresting. I know sometimes it is about as interesting as watching paint dry or mud dry. These issues involve peculiarities of law and one-word interpretations in the courts, and things like that. But these are the things of which this legislation is made, and these are the things that are so important to every business and person in this country.

So discussions on these issues are continuing, and we want to make a positive contribution to that. I hope that this legislation I am proposing can be considered in that regard.

Let us look at some of the principles we see that I think should be our guideposts for regulatory reform:

No. 1: Cost-benefit and risk assessment requirements should apply only to major rules, which has been set at $100 million for executive branch review since before President Reagan's time. I think actually the $100 million threshold goes back to President Ford's time.

Our bill applies to rules that have an impact on the economy of $100 million or more. The Dole-Johnston bill applies to rules that have an impact on the economy of $50 million or more.

It is my view that a $50 million threshold overloads the capability of most agencies to do the job because there are probably few rules proposed that could not be construed to have a $50 million impact on the country. While agencies are being cut back and staffs are being cut back and dollars are being reduced in the agencies, it would seem to me advisable to start at the $100 million level. If we find later that the agencies are fully capable of

administering everything at the $100 million level, then we can add this requirement for the $50 million level.

No. 2: Regulatory reform should not become a lawyer's dream opening up a multitude of new avenues for judicial review. By judicial review, we mean can a court case be filed against it, in simple terms.

Our bill limits judicial review to determination of, first, whether a rule is a major rule, in other words, $100 million impact on the country; and second, whether a final rule is arbitrary or capricious, taking into consideration the whole rulemaking file developed in arriving at that final rule.

Specific procedural requirements for cost-benefit analysis and risk assessment, of which there could be hundreds of unlimited opportunities to delay for no legitimate reason is not subject to judicial review in our bill except as part of the whole rulemaking file. The final rule, however, before it could be put into effect, would be subject to judicial review. The current Dole-Johnston bill will lead to, I feel, a litigation explosion that could swamp the courts and could bog down agencies, because it would allow review of many steps in risk assessment and cost-benefit analysis, in addition to the determination of a major rule and of agency decisions to grant or deny petitions.

The petitions, the assessments, the cost-benefit analysis, whether it is a major rule or not, these all provide a myriad of places where the Dole-Johnston legislation would allow suits. If the court turned one down, they would still be free to file at the next stage, the next stage, and the next stage. The Dole-Johnston bill simply provides a means, as I see it, for almost unending delay of whatever rule is being considered.

The Dole-Johnston bill further alters the APA, the Administrative Procedures Act, standards in ways that undermine legal precedent and invite lawsuits. Finally, it seeks to limit agency discretion in ways that will lead inevitably to challenges in court.

No. 3: Regulatory reform legislation should focus on procedures and not be a vehicle for special interests seeking to alter specific laws dealing with health, safety, the environment or other matters. Our bill focuses on the fundamentals of regulatory reform and contains no special-interest provisions.

The current Dole-Johnston bill provides relief to special business interests that more properly should be considered in the context of something other than regulatory reform legislation. And I am referring to the Dole-Johnston language that has the effect of restricting, for instance, the Toxics Release Inventory, It also limits the Delaney clause and it delays and increases costs of Superfund cleanups.

I will not go into all sorts of details on these things now, but the Toxics Release Inventory provides that plants in communities have to put together information so people will know what it is they are breathing or what is happening to the water in their communities.

To take that up in regulatory reform and alter the requirements of that legislation without the appropriate committees or without everyone being heard on this seems to me not the right way to go.

With regard to the limitation on the Delaney clause, I happen to think the Delaney clause does need some modification, but this would change it dramatically. I am sure most people would agree this is not something we want to go into lightly. Again, regulatory reform is not the place to take up a specific program reform.

It would also fundamentally affect Superfund cleanups, causing significant delays and increasing costs.

No. 4: Regulatory reform should make Federal agencies more efficient and more effective and not tie up agency resources with additional bureaucratic processes.

Our bill requires cost-benefit analysis and risk assessment for major rules and requires agencies to review all their major rules by a time certain, not just prospectively, but also existing rules that have a $100 million impact or more. So we do go back and try and correct some of the problems that are so vexing to business people in particular.

Now, the current Dole-Johnston bill covers a much broader scope of rules and has several convoluted petition processes for what are called ''interested parties,'' for example, to amend or rescind a major rule and to review policies or guidance. These petitions are judicially reviewable and must be granted or denied by an agency within a specified timeframe.

Now, I think the petition will eat up agency resources and allow the petitioners, not the agencies, to set agency priorities. What we want to do is not swamp agencies, we want to make changes that are workable, ones that are of benefit to everyone in the whole country.

No. 5: Regulatory reform legislation should improve analysis but not override existing statutes, including environmental, safety, and health laws. This is what has been referred to as the ''supermandate''.

We have spent a generation or more putting into effect environmental laws, safety laws, and health laws for the benefit of the people of this country. I am not standing here to defend all of those laws. Some may have gone too far. Some rules and regulations written pursuant to those statutes, I am the first to say, have gone too far. But we also have made major improvements in our environment, in clean air and clean water, and health standards for our people. And to say that we will just pass a bill that says all that previous legislation—no matter how effective and how important—is automatically wiped off the book, I think, goes too far.

Our bill does not override existing statutes. It requires agencies, however, to explain whether benefits justify costs and whether the rule will be more cost-effective than alternatives. It does not allow cost-benefit determinations to override existing statutory requirements. It leaves intact environmental, safety, and health laws. But we do require all major current rules to be reviewed and set up a process for those that are considered inappropriate now to be reviewed.

Now, the current Dole-Johnston bill has three separate decisional criteria that control agency decisions, regardless of the underlying statutes. These overriding provisions are created for major rule cost-benefit determinations, for environmental cleanups, and for Regulatory Flexibility analysis. The Reg Flex override actually conflicts with the cost-benefit decisional criteria. The cost-benefit test limits agencies to the cheapest rule, not the most cost effective.

No. 6: There should be sunshine in the regulatory review process. Our bill ensures that agencies and OMB publicly disclose the status of regulatory review, of related decisions, documents, and communications from persons outside of the Government. The current Dole-Johnston bill has no sunshine provision to protect against regulatory review delay, unsubstantiated review decisions, or undisclosed special interest lobbying and political deals.

Now, we have gone through a period in the past decade or so where we had people doing things more in secret than in public in the executive branch of Government. We have come to regret that. Some of it we were able to stop. Some only stopped after this administration came in and took strong action against secrecy. I do not need to open up some of those old wounds at this point. But there is still a need to cut out the secrecy that can happen when rules are put through OMB and the Office of Information and Regulatory Affairs. Again, in the past, we have had some real problems with this. That is the reason why we feel so strongly that openness in Government—sunshine in the regulatory review process—should be included as any part of regulatory reform legislation.

Mr. President, the text of this alternative bill is almost identical to S. 291, the regulatory reform act of 1995, which, again, was reported unanimously from the Senate Committee on Governmental Affairs.

This discussion bill—I put this forward for discussion—is like S. 291 in the following ways: No. 1: It covers all major rules with the cost impact of $100 million or more. I will explain a slight change we made to what was in S. 291, which I will address a bit later.

No. 2: It requires cost-benefit analysis for all major rules.

No. 3: It requires risk assessment for all major rules related to environment, health, or safety. There is also a small technical change to the risk provisions

in S. 291. I will address that later as one of three changes in the legislation.

No. 4: It requires peer review of cost-benefit analysis and risk assessments.

No. 5: It limits judicial review to the determination of major rules and to the final rulemaking file.

No. 6: It requires agencies to review existing rules every 10 years with a Presidential extension of up to five years. This has changed slightly from the original S. 291, also. I will address that later as one of the three changes from the original bill.

No. 7: It provides judicial review of Regulatory Flexibility Act decisions, allowing 1-year for small entities to petition for a review of agency compliance with the Reg Flex Act.

No. 8: It requires public disclosure of regulatory analysis and review documents to ensure sunshine in the regulatory review process.

No. 9: It provides legislative veto of major rules to provide an expedited procedure for Congress to review rules. In other words, every major rule will come back to Congress for 45 days for review by the Congress before it becomes effective. We passed a similar measure in the Senate 100–0 3 months ago.

No. 10: It requires risk-based priority setting for the most serious risks to health and safety and the environment.

No. 11: It requires regulatory accounting every 2 years on the cumulative costs and benefits of agency regulations. In other words, agencies have to report back to Congress at least every 2 years agency on how this legislation is working, and what the costs and benefits are of the rules and regulations.

So, in other words, we put this in to so Congress can better monitor the cumulative burden and benefits of regulations. We no longer can just pass laws and forget the rules that follow. We are required to monitor these rules, because we will be advised at least every 2 years on the cumulative costs and benefits of agency regulations.

I mentioned three changes. The bill I am introducing differs from S. 291 on basically three points.

No. 1: It does not sunset rules that fail to be reviewed. Rather, it establishes an action-enforcing mechanism that uses the rulemaking process. It is not an arbitrary reversal of a major rule without public comment and review, which could occur if we ran out to a certain time period without review. The rule would have been declared no longer in effect because it had not been reviewed in that 10-year period. Instead of this automatic sunset, we have an action-enforcing mechanism that uses the rulemaking process.

No. 2: We do not include any narrative definitions for ''major rule.'' For example, one that would be a major rule because it has an adverse effect on wages, or something like that, or similar narrative definition. So we leave those out.

No. 3: It incorporates some technical changes to risk assessment, to track more closely recommendations made by the National Academy of Sciences, and to cover specific programs and agencies.

Now, those are the only three changes we made from the legislation, S. 291, that was voted out of the Governmental Affairs Committee unanimously—Republicans and Democrats.

This alternative discussion bill, I repeat, discussion bill, presents, I believe, a comprehensive approach and a very tough, but workable requirement for regulatory reform.

Mr. President, I urge my colleagues to examine this draft closely. We have a week and a half while we are out of session. I want it to be published in the RECORD so it can be available for staff to consider, and consider parts of it they think can supplement the proposal that is before the Senate now on the floor, or use this as a substitute and perfect this with amendments that people might wish to put forward.

It is my intent that further negotiations on regulatory reform go forward. It is my hope that ways will be found to incorporate the principles that I have enunciated this evening that ultimately could be supported by everyone.

I believe an appropriate melding of language of this bill with that of the Dole-Johnston draft could be the basis for a widely supported bill that produces tough and workable—tough and workable—regulatory reform, at the same time keeps intact the ability to protect the health, safety, and environment of the American people.

That kind of balanced bill will truly be in the public interest.

Mr. DASCHLE. Mr. President, let me commend the distinguished Senator from Ohio for his excellent statement and for the leadership he has demonstrated over the last several months on this important issue. No one has worked more tirelessly and more effectively to accomplish what the legislation he has introduced today represents.

The legislation now enjoys bipartisan support, and a growing number of people have examined it and found it much to their liking. That is no accident. It has happened as a result of the tireless efforts of the distinguished Senator from Ohio and his staff.

I look forward to working with him in the coming weeks to see if we can bring this effort to a successful resolution.

As the Senator from Ohio said, this is not the end. It is just the beginning. We hope we can work in a bipartisan fashion to take into account all the good work that has been done by others, as well.

The senior Senator from Louisiana, the senior Senator from Utah, and many other Senators have worked a good deal to bring the Senate to this point.

I leave tonight with the expectation that, indeed, we can resolve the remaining differences and work through many of the difficulties that remain. I certainly hope that is the case.

Indeed, I think it is true that Democrats and Republicans agree on the need for regulatory reform. But we also agree on the need for public safety. We also recognize that it is critical the American people retain confidence in their health and safety and the regulations and laws that promote and protect that health and safety.

The Senator from Ohio has provided us an excellent way to begin the debate when we get back, with the expectation that, indeed, this is an issue on which there can be accommodation and compromise.

Again, let me commend him for his excellent efforts and join with many others in cosponsoring this piece of legislation this afternoon.

By Mr. CHAFEE (for himself, Mr. GRAHAM, Mr. PRYOR, Mr. JOHNSTON, and Mr. SIMON):

S. 1002. A bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence; to the Committee on Finance.

THE HISTORIC HOMEOWNERSHIP ASSISTANCE ACT

• Mr. CHAFEE. Mr. President, all across America, in the small towns and great cities of this country, our heritage as a nation—the physical evidence of our past—is at risk. In virtually every corner of this land, homes in which grandparents and parents grew up, communities and neighborhoods that nurtured vibrant families, schools that were good places to learn and churches and synagogues that were filled on days of prayer, have suffered the ravages of abandonment and decay.

In the decade from 1980 to 1990, Chicago lost 41,000 housing units through abandonment, Philadelphia 10,000 and St. Louis 7,000. The story in our older small communities has been the same, and the trend continues. It is important to understand that it is not just buildings that we are losing. It is the sense of our past, the vitality of our communities and the shared values of those precious places.

We need not stand hopelessly by as passive witnesses to the loss of these irreplaceable historic resources. We can act, and to that end I am introducing today the Historic Homeownership Assistance Act along with my distinguished colleagues Senator GRAHAM of Florida, Senator PRYOR, Senator JOHNSTON and Senator SIMON.

This legislation is patterned after the existing historic rehabilitation investment tax credit. That legislation has been enormously successful in stimulating private investment in the rehabilitation of buildings of historic importance all across the country. Through its use we have been able to save and re-use a rich and diverse array of historic buildings: landmarks such

as Union Station right here in Washington, DC, the Fox River Mills, a mixed use project that was once a derelict paper mill in Appleton, WI and the Rosa True School, an eight-unit low/moderate income rental project in an historic school building in Portland, ME.

In my own State of Rhode Island, Federal tax incentives stimulated the rehabilitation and commercial reuse of more than 266 historic properties. The properties saved include the Hotel Manisses on Block Island, the former Valley Falls Mills complex in Central Falls, and the Honan Block in Woonsocket.

The legislation that I am introducing builds on the familiar structure of the existing tax credit, but with a different focus and a more modest scope and cost. It is designed to empower the one major constituency that has been barred from using the existing credit—homeowners. Only those persons who rehabilitate or purchase a newly rehabilitated home and occupy it as their principal residence would be entitled to the credit that this legislation creates. There would be no passive losses, no tax shelters and no syndications under this bill.

Like the existing investment credit, the bill would provide a credit to homeowners equal to 20 percent of the qualified rehabilitation expenditures made on an eligible building that is used as a principal residence by the owner. Eligible buildings would be those that are listed on the National Register of Historic Places, are contributing buildings on National Register Historic Districts or in nationally certified State or local historic districts, or are individually listed on a nationally certified State or local register. As is the case with the existing credit, the rehabilitation work would have to be performed in compliance with the Secretary of the Interior's standards for rehabilitation, although the bill clarifies that such standards should be interpreted in a manner that takes into consideration economic and technical feasibility.

The bill also makes provision for lower-income homebuyers who may not have sufficient Federal income tax liability to use a tax credit. It would permit such persons to receive a historic rehabilitation mortgage credit certificate which they can use with their bank to obtain a lower interest rate on their mortgage.

The credit would be available for condominiums and co-ops, as well as single-family buildings. If a building were to be rehabilitated by a developer for sale to a homeowner, the credit would pass through to the homeowner. Since one purpose of the bill is to provide incentives for middle-income and more affluent families to return to older towns and cities, the bill does not discriminate among taxpayers on the basis of income. However, it does impose a cap of $50,000 on the amount of credit which may be taken for a principal residence.

The Historic Homeownership Assistance Act will make ownership of a rehabilitated older home more affordable for homebuyers of modest incomes. It will encourage more affluent families to claim a stake in older towns and neighborhoods. It affords fiscally stressed cities and towns a way to put abandoned buildings back on the tax rolls, while strengthening their income and sales tax bases. It offers developers, realtors and homebuilders a new realm of economic opportunity in revitalizing decaying buildings.

In addition to preserving our heritage, extending this credit will provide an important supplemental benefit—it will boost the economy. Every dollar of Federal investment in historic rehabilitation leverages many more from the private sector. Rhode Island, for example, has used $24 million in public funds over the years to generate $216 million in private investment. This investment has created more than 10,000 jobs and $187 million in wages.

Mr. President, this bill is no panacea. Although its goals are great, its reach will be modest. But it can make a difference, and an important difference, in communities large and small all across this Nation. The American dream of owning one's own home is a powerful force. This bill can help it come true for those who are prepared to make a personal commitment to join in the rescue of our priceless heritage. By their actions they can help to revitalize decaying resources of historic importance, create jobs and stimulate economic development, and restore to our older towns and cities a lost sense of purpose and community.

Mr. President, I ask unanimous consent that the text of the bill and an explanation of its provisions be printed in the RECORD.

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

S. 1002

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 ''Historic Homeownership Assistance Act''.

SEC. 2. HISTORIC HOMEOWNERSHIP REHABILITATION CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

''SEC. 23. HISTORIC HOMEOWNERSHIP REHABILITATION CREDIT.

''(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the qualified rehabilitation expenditures made by the taxpayer with respect to a qualified historic home.

''(b) DOLLAR LIMITATION.—

''(1) IN GENERAL.—The credit allowed by subsection (a) with respect to any residence of a taxpayer shall not exceed $50,000 ($25,000 in the case of a married individual filing a separate return).

''(2) CARRYFORWARD OF CREDIT UNUSED BY REASON OF LIMITATION BASED ON TAX LIABILITY.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(c) QUALIFIED REHABILITATION EXPENDITURE.—For purposes of this section:

''(1) IN GENERAL.—The term 'qualified rehabilitation expenditure' means any amount properly chargeable to capital account—

''(A) in connection with the certified rehabilitation of a qualified historic home, and

''(B) for property for which depreciation would be allowable under section 168 if the qualified historic home were used in a trade or business.

''(2) CERTAIN EXPENDITURES NOT INCLUDED.—

''(A) EXTERIOR.—Such term shall not include any expenditure in connection with the rehabilitation of a building unless at least 5 percent of the total expenditures made in the rehabilitation process are allocable to the rehabilitation of the exterior of such building.

''(B) OTHER RULES TO APPLY.—Rules similar to the rules of clauses (ii) and (iii) of section 47(c)(2)(B) shall apply.

''(3) MIXED USE OR MULTIFAMILY BUILDING.—If only a portion of a building is used as the principal residence of the taxpayer, only qualified rehabilitation expenditures which are properly allocable to such portion shall be taken into account under this section.

''(d) CERTIFIED REHABILITATION.—For purposes of this section—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'certified rehabilitation' has the meaning given such term by section 47(c)(2)(C).

''(2) FACTORS TO BE CONSIDERED IN THE CASE OF TARGETED AREA RESIDENCES, ETC.—

''(A) IN GENERAL.—For purposes of applying section 47(c)(2)(C) under this section with respect to the rehabilitation of a building to which this paragraph applies, consideration shall be given to—

''(i) the feasibility of preserving existing architectural and design elements of the interior of such building,

''(ii) the risk of further deterioration or demolition of such building in the event that certification is denied because of the failure to preserve such interior elements, and

''(iii) the effects of such deterioration or demolition on neighboring historic properties.

''(B) BUILDINGS TO WHICH THIS PARAGRAPH APPLIES.—This paragraph shall apply with respect to any building—

''(i) any part of which is a targeted area residence within the meaning of section 143(j)(1), or

''(ii) which is located within an enterprise or empowerment zone,

but shall not apply with respect to any building which is listed in the National Register.

''(3) COOPERATIVE AGREEMENTS.—The term 'certified rehabilitation' includes a certification made in accordance with a contract or cooperative agreement between the Secretary of the Interior and a State Historic Preservation Officer which authorizes such officer (or a local government certified pursuant to section 101(c)(1) of the National Historic Preservation Act), subject to such terms or conditions as may be specified in such agreement, to certify the rehabilitation of buildings within the jurisdiction of such officer (or local government) for purposes of this section.

''(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

''(1) QUALIFIED HISTORIC HOME.—The term 'qualified historic home' means a certified historic structure—

''(A) which has been substantially rehabilitated, and

''(B) which (or any portion of which)—

''(i) is owned by the taxpayer, and

''(ii) is used (or will, within a reasonable period, be used) by such taxpayer as his principal residence.

''(2) SUBSTANTIALLY REHABILITATED.—The term 'substantially rehabilitated' has the meaning given such term by section 47(c)(1)(C); except that, in the case of any building described in subsection (d)(2), clause (i)(I) thereof shall not apply.

''(3) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

''(4) CERTIFIED HISTORIC STRUCTURE.—

''(A) IN GENERAL.—The term 'certified historic structure' has the meaning given such term by section 47(c)(3).

''(B) CERTAIN STRUCTURES INCLUDED.—Such term includes any building (and its structural components) which is designated as being of historic significance under a statute of a State or local government, if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance.

''(5) ENTERPRISE OR EMPOWERMENT ZONE.—The term 'enterprise or empowerment zone' means any area designated under section 1391 as an enterprise community or an empowerment zone.

''(6) REHABILITATION NOT COMPLETE BEFORE CERTIFICATION.—A rehabilitation shall not be treated as complete before the date of the certification referred to in subsection (d).

''(7) LESSEES.—A taxpayer who leases his principal residence shall, for purposes of this section, be treated as the owner thereof if the remaining term of the lease (as of the date determined under regulations prescribed by the Secretary) is not less than such minimum period as the regulations require.

''(8) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—If the taxpayer holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such stockholder shall be treated as owning the house or apartment which the taxpayer is entitled to occupy as such stockholder.

''(f) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—In the case of a building other than a building to which subsection (g) applies, qualified rehabilitation expenditures shall be treated for purposes of this section as made—

''(1) on the date the rehabilitation is completed, or

''(2) to the extent provided by the Secretary by regulation, when such expenditures are properly chargeable to capital account.

Regulations under paragraph (2) shall include a rule similar to the rule under section 50(a)(2) (relating to recapture if property ceases to qualify for progress expenditures).

''(g) ALLOWANCE OF CREDIT FOR PURCHASE OF REHABILITATED HISTORIC HOME.—

''(1) IN GENERAL.—In the case of a qualified purchased historic home, the taxpayer shall be treated as having made (on the date of purchase) the qualified rehabilitation expenditures made by the seller of such home.

''(2) QUALIFIED PURCHASED HISTORIC HOME.—For purposes of this subsection, the term 'qualified purchased historic home' means any substantially rehabilitated certified historic structure purchased by the taxpayer if—

''(A) the taxpayer is the first purchaser of such structure after the date rehabilitation is completed, and the purchase occurs within 5 years after such date,

''(B) the structure (or a portion thereof) will, within a reasonable period, be the principal residence of the taxpayer,

''(C) no credit was allowed to the seller under this section or section 47 with respect to such rehabilitation, and

''(D) the taxpayer is furnished with such information as the Secretary determines is necessary to determine the credit under this subsection.

''(h) HISTORIC REHABILITATION MORTGAGE CREDIT CERTIFICATE.—

''(1) IN GENERAL.—The taxpayer may elect, in lieu of the credit otherwise allowable under this section, to receive a historic rehabilitation mortgage credit certificate. An election under this paragraph shall be made—

''(A) in the case of a building to which subsection (g) applies, at the time of purchase, or

''(B) in any other case, at the time rehabilitation is completed.

''(2) HISTORIC REHABILITATION MORTGAGE CREDIT CERTIFICATE.—For purposes of this subsection, the term 'historic rehabilitation mortgage credit certificate' means a certificate—

''(A) issued to the taxpayer, in accordance with procedures prescribed by the Secretary, with respect to a certified rehabilitation,

''(B) the face amount of which shall be equal to the credit which would (but for this subsection) be allowable under subsection (a) to the taxpayer with respect to such rehabilitation,

''(C) which may only be transferred by the taxpayer to a lending institution in connection with a loan—

''(i) that is secured by the building with respect to which the credit relates, and

''(ii) the proceeds of which may not be used for any purpose other than the acquisition or rehabilitation of such building, and

''(D) in exchange for which such lending institution provides the taxpayer a reduction (determined as provided in such regulations) in the rate of interest on the loan.

''(3) USE OF CERTIFICATE BY LENDER.—The amount of the credit specified in the certificate shall be allowed to the lender only to offset the regular tax (as defined in section 55(c)) of such lender. The lender may carry forward all unused amounts under this subsection until exhausted.

''(i) RECAPTURE.—

''(1) IN GENERAL.—If, before the end of the 5-year period beginning on the date on which the rehabilitation of the building is completed (or, if subsection (g) applies, the date of purchase of such building by the taxpayer)—

''(A) the taxpayer disposes of such taxpayer's interest in such building, or

''(B) such building ceases to be used as the principal residence of the taxpayer,

the taxpayer's tax imposed by this chapter for the taxable year in which such disposition or cessation occurs shall be increased by the recapture percentage of the credit allowed under this section for all prior taxable years with respect to such rehabilitation.

''(2) RECAPTURE PERCENTAGE.—For purposes of paragraph (1), the recapture percentage shall be determined in accordance with the table under section 50(a)(1)(B), deeming such table to be amended—

''(A) by striking 'If the property ceases to be investment credit property within—' and inserting 'If the disposition or cessation occurs within—', and

''(B) in clause (i) by striking 'One full year after placed in service' and inserting 'One full year after the taxpayer becomes entitled to the credit'.

''(j) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property (including any purchase under subsection (g) and any transfer under subsection (h)), the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(k) PROCESSING FEES.—No State may impose a fee for the processing of applications for the certification of any rehabilitation under this section unless the amount of such fee is used only to defray expenses associated with the processing of such applications.

''(l) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any amount for which credit is allowed under section 47.

''(m) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations where less than all of a building is used as a principal residence and where more than 1 taxpayer use the same dwelling unit as their principal residence.''

(b) CONFORMING AMENDMENT.—Subsection (a) of section 1016 of such Code is amended by striking ''and'' at the end of paragraph (24), by striking the period at the end of paragraph (25) and inserting '', and'', and by adding at the end the following new item:

''(26) to the extent provided in section 23(j).''

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 22 the following new item:

''Sec. 23. Historic homeownership rehabilitation credit.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to rehabilitations the physical work on which begins after the date of enactment of this Act.

THE HISTORIC HOMEOWNERSHIP ASSISTANCE ACT

Purpose. To provide homeownership incentives and opportunities through the rehabilitation of older buildings in historic districts under the Federal Historic Rehabilitation Tax Credit. To stimulate the revival of decaying neighborhoods and communities and the preservation of historic buildings and districts through homeownership.

Rate of Credit: Eligible Buildings. The existing Historic Rehabilitation Tax Credit, which provides a credit of 20% of qualified rehabilitation expenditures to investors in commercial and rental buildings, would be extended to homeowners who rehabilitate or purchase a newly-rehabilitated eligible home and occupy it as a principal residence. In the case of buildings rehabilitated by developers and sold to homeowners, the credit would be passed through by the developer to the home purchaser. Eligible buildings would be buildings individually listed on the National Register of Historic Places or a nationally certified state of local register, and contributing buildings in districts listed in the National Register or in state or local historic districts that have been nationally certified.

Both single-family and multifamily residences, through condominiums and cooperatives, would qualify for the proposed credit. In addition, the credit could be claimed for that portion of a building used as a principal residence, notwithstanding the use of other

portions of the building for other purposes, including residential rental and commercial uses for which the existing Federal Historic Rehabilitation Tax Credit could be used. The proposal would make no changes in the limitations on the use of the credit.

Maximum Credit: Minimum Expenditures. The amount of the homeownership credit would be limited to $50,000 for each principal residence. The amount of qualified rehabilitation expenditures would be required to exceed the greater of $5,000 within a 24-month period or the adjusted tax basis of the building (excluding the land) except for buildings in census tracts targeted as distressed for Mortgage Revenue Bond purposes under IRC Section 143(j)(1) and Enterprise and Empowerment Zones, where the minimum would be $5,000. At least five percent of the qualified rehabilitation expenditures would have to be spent on the exterior of the building.

Pass-Through of Credit: Carry-Forward: Recapture. In the event that a certified rehabilitation is performed on an eligible property by a developer who sells the residence to a home buyer, the credit would accrue to the home buyer and not to the developer, who would, in effect, pass it through to the home buyer. The entire amount of the credit could be used to reduce Federal Income Tax liability, subject to Alternative Minimum Tax limitations, in the year in which the expenditures were made by the taxpayer either directly (if the taxpayer makes the expenditures himself or herself) or at the settlement, if the taxpayer purchases the newly-rehabilitated residence from a developer. Any unused amounts of credit would be carried forward until fully exhausted. In the event the taxpayer failed to maintain his or her principal residence in the building for five years, the credit would be subject to ratable recapture.

No ''Passive Loss''; No Income Limit. The credit would not be treated as a ''passive loss'' because the taxpayer would be actively living in the building. Further, since the proposed legislation is intended not only to foster homeownership and encourage rehabilitation of deteriorated buildings, but also to promote economic diversity among residents and increase local ad valorem real property, income and sales tax revenues, individual taxpayers would be eligible for the credit without regard to income.

Secretary's Standards: Interiors. Rehabilitation would have to be performed in accordance with the Secretary of the Interior's Standards for Rehabilitation. The proposed legislation would clarify the directive, set forth in 36 CFR 67, that the Standards are to be interpreted in a manner which takes ''into consideration economic and technical feasibility.'' It would provide that in determining whether to certify rehabilitation of a building, all or a portion of which is to be used as an owner-occupied residence that is a ''targeted area residence'' within the meaning of IRC Section 143 (J)(1) or is located within an Enterprise or Empowerment Zone and is not individually listed in the National Register of Historic Places, the Secretary give consideration to (I) the feasibility of preserving existing architectural or design elements of the interior of such building, (ii) the risk of further deterioration or demolition of such building in the event that certification is denied because of the failure to preserve such interior elements, and (iii) the effects of such deterioration or demolition on neighboring historic properties.

Cooperative Agreements: Earmarking of Fees. The Secretary of the Interior would be authorized to enter into cooperative agreements with State Historic Preservation Officers (''SHPO's'') granting to the states (and, upon the recommendation of a SHPO and with the consent or the Secretary, to a Certified Local Government within that state deemed qualified to perform such functions), subject to the terms and conditions of such cooperative agreements, authority to certify the rehabilitation of certified historic buildings within their respective jurisdictions. The states would have authority to levy fees for processing applications for certification, provided that the proceeds of such fees are used only to defray expenses associated with processing the application.

Historic Rehabilitation Mortgage Credit Certificates. Lower income taxpayers may not have sufficient Federal Income Tax liability to make effective use of a homeownership credit. In order to make the benefits of the credit available to such persons, the proposed legislation would permit any recipient of a credit to convert it into a mortgage credit certificate which can be used to obtain an interest rate reduction on his or her home mortgage loan.

Taxpayers entitled to the credit would be able to elect to receive in lieu of the credit an Historic Rehabilitation Mortgage Credit Certificate in the face amount of the credit to which the taxpayer is entitled. The election would be made at the time of receipt by the taxpayer of the approved Part III certification of the historic rehabilitation (certification that the completed rehabilitation meets the Secretary's Standards, and setting forth the taxpayer's estimate of the costs solely attributable to the rehabilitation, to which the 20 percent credit is applied).

The taxpayer would then transfer the certificate (evidencing the right to claim a federal tax credit in an amount equal to 20 percent of the qualified rehabilitation expenditures) to the mortgage lender in exchange for a reduced interest rate on the home mortgage loan. The mortgage lender would be permitted to reduce its own federal income tax liability by the face amount of the certificate, subject to Alternative Minimum Tax limitations. However, the credit claimed by the bank would not be subject to recapture. The amount of reduction in the mortgage interest rate which the homeowner would obtain in exchange for the certificate would be determined by a ''buy-down'' formula.

Although the right to receive an Historic Rehabilitation Mortgage Credit Certificate would be available to all persons entitled to the credit, the certificate could not be used by a person precluded from using the credit because of the Alternative Minimum Tax limit at the time of original entitlement to the certificate.●

By Mr. PRESSLER:

S. 1003. A bill to suspend temporarily the duty on certain motorcycles brought into the United States by participants in the Sturgis Motorcycle Rally and Races, and for other purposes; to the Committee on Finance.

MOTORCYCLE DUTY SUSPENSION LEGISLATION

Mr. PRESSLER. Mr. President, today I am pleased to introduce legislation that would allow for the temporary suspension of duties on motorcycles originally manufactured in the United States, exported, and brought back into the country for the purpose of participating in the Sturgis Motorcycle Rally and Races.

The Sturgis Rally and Races, held annually in Sturgis, SD, is the largest motorcycle show in the world. Created in 1938 by Sturgis motorcycle shop owner J.C. ''Pappy'' Hoel, the rally has evolved from a small gathering of 19 motorcycle enthusiasts, to a major international event. Besides attracting American motorcyclists from all 50 States, citizens from more than 60 foreign countries travel to attend. This year, the 55th Annual Rally and Races will be held from August 7–13, and is expected to draw in more than 200,000 people, including nearly 3,000 participants from abroad. The rally is, without question, one of the most important tourism events in South Dakota. With ever-increasing international participation, it quickly is becoming a significant element of foreign tourism revenue. As the new co-chair of the Senate Tourism Caucus, I want to do everything I can to increase the international flavor of tourist events like the Sturgis Rally and Races. Our economy only stands to benefit.

Although the Rally has, in recent years, expanded its program to include guided tours of the Black Hills area and motorcycle expositions, the central attraction remains motorcycle racing. For Sturgis participants, the vehicle of choice is the Harley-Davidson. As my colleagues know, the Harley—Davidson company is the only remaining American manufacturer of motorcycles. Its two plants, located in Milwaukee, WI, and York, PA, are the sole remaining facilities where Harley's are made. In 1994, approximately 70 percent of the motorcycles present at the Rally were Harleys.

Mr. President, as I mentioned, international participation is on the rise. We certainly welcome these foreign tourists and want to do all we can to encourage their participation. However, when foreign travelers bring their motorcycles with them, the temporary importation requirements of the U.S. Customs Service come into play. Specifically, when a foreign-owned motorcycle is admitted into the country, a bond must be posted that is equal to approximately twice the value of the motorcycle's import duty—or, roughly 6 percent of its total value. The purpose of the bond is to safeguard against motorcycles being brought into our country presumably for vacation purposes, but then are sold, which circumvents our import quotas and tariffs. Although the bond is refundable, administrative fees associated with securing the bond are not. Mr. President, Harley-Davidsons are American-made. As I have mentioned, the purpose of these bonds is to prevent foreign goods from being sold in this country duty free. Therefore, there is no need to impose the bonding requirement on American-made Harleys brought back into this country. This requirement is becoming increasingly onerous for foreign Rally participants, creating what I view as an unnecessary roadblock for increased foreign participation.

This problem was brought to my attention during a meeting I had with South Dakota tourism leaders in Rapid City, SD earlier this year. In particular, I want to acknowledge and thank

Francie Reubel Alberts, executive director of the Sturgis Motorcycle Rally and Races, for all her help in this matter. Those involved in the Sturgis Rally and Races know of her dedication and hard work over the years to make this yearly event such an enormous success. When we started work on this matter, it was our hope that the situation could be resolved administratively through existing Customs regulations. It now appears legislation is the only solution.

Therefore, the legislation I am introducing today would temporarily suspend the duties on foreign-owned Harley-Davidson's that are being brought back into our country for the purpose of participating in the Sturgis Motorcycle Rally and Races. Under my bill, foreign rally participants would be allowed to forgo the costly, time-consuming procedure of securing a bond for the few weeks their motorcycles would be in the country.

Mr. President, this bill, by encouraging foreign participation in the Sturgis Rally and Races, is good for South Dakota tourism. It is good for American tourism in general. Furthermore, it sends a message that this Congress is serious about promoting America as a tourist destination.The Sturgis Rally and Races is quintessentially all-American, but it has become a world-renowned, world-class event. With this legislation, it is my hope that this grant event in the great State of South Dakota will attract even greater worldwide representation. I urge my colleagues to support this legislation. Just as important, I hope to see friends, neighbors, and motorcycle enthusiasts in Sturgis later this summer.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 1003

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

SECTION 1. TEMPORARY DUTY SUSPENSION FOR CERTAIN MOTORCYCLES.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.98.05	Motorcycles produced in the United States, previously exported and brought temporarily into the United States by nonresidents for the purpose of participating in the Sturgis Motorcycle Rally and Races	Free	No change	Free	On or before 8/15/95"

(b) ARTICLES TO BE SUBJECT TO INFORMAL ENTRY; TAXES AND FEES NOT TO APPLY.—Notwithstanding section 484 of the Tariff Act of 1930 (19 U.S.C. 1484) or any other provision of law, the Secretary of the Treasury may authorize the entry of an article described in heading 9902.98.05 of the Harmonized Tariff Schedule of the United States (as added by subsection (a)) on an oral declaration of the nonresident entering such article and such article shall be free of taxes and fees which may be otherwise applicable.

SEC. 2. EFFECTIVE DATE.

The amendment made by this Act applies to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. STEVENS (for himself, Mr. PRESSLER, Mr. HOLLINGS, and Mr. KERRY):

S. 1004. A bill to authorize appropriations for the U.S. Coast Guard, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE COAST GUARD AUTHORIZATION ACT OF 1995

• Mr. STEVENS. Mr. President, I am pleased today to introduce bipartisan legislation to authorize spending for the important activities of the U.S. Coast Guard in fiscal year 1996.

I am joined by Senators HOLLINGS, KERRY, and Chairman PRESSLER on this bill.

On March 15, 1995, we held a Commerce Committee hearing to review the Coast Guard's request for the authorization of appropriations and for various changes to the law that will allow it to more effectively carry out its mission.

I believe the package we are presenting today includes all of the highest priorities identified by the Coast Guard for action this year.

It also includes authorization levels for fiscal year 1995, since we were unable to pass a bill at the end of the last Congress.

Before my summary, I want to point out that the package only includes provisions requested by the Coast Guard.

Simultaneous to our introduction of today's legislation, we are working on a more comprehensive package of amendments the Subcommittee on Oceans and Fisheries will present to the full Commerce Committee at a markup, hopefully in July.

We will try in the comprehensive package to include as many of the provisions that we can that are of interest to members of the Committee and the Senate.

We are also reviewing the provisions included in the Coast Guard authorization bill passed by the House (H.R. 1361) for possible inclusion in this subcommittee package.

I appreciate the interest and support of Commerce Committee Chairman PRESSLER in our efforts on this reauthorization.

I look forward to continuing to work with the other subcommittee members in the coming weeks to complete our larger package for the full committee's consideration.

SUMMARY OF LEGISLATION

The bill would authorize appropriations for the Coast Guard in the amounts of $3.69 billion in fiscal year 1995 and $3.71 billion in fiscal year 1996.

The end of year military strength for active duty Coast Guard personnel would be set at 39,000 for fiscal year 1995 and 38,400 for fiscal year 1996.

The bill would also authorize several personnel management improvements requested by the Coast Guard.

In the area of marine safety and waterway services management, the bill would increase civil penalties for documentation, marine casualty reporting, and uninspected vessel manning violations.

The bill would renew authorization for several advisory committees that provide the Coast Guard with key private sector input.

It would also authorize the electronic filing of certain vessel commercial instruments, making filing easier both for vessel owners and the Coast Guard.

The bill would improve the management of the Coast Guard Auxiliary, a 36,000 member volunteer organization that provides the Coast Guard with low-cost assistance in its boating safety mission.

First, it would define the status of, and provide certain protections for auxiliary members while they are performing official Coast Guard duties. It would also improve their ability to cooperate with State authorities and obtain excess Coast Guard resources.

The bill makes an important change in recreational boating safety by restructuring the process for providing States with recreational boating safety grants and stimulating nontrailerable vessel facility construction.

A key provision of the bill would reduce the regulatory burden on U.S. commercial vessel operators by: Shifting away from excessive U.S. vessel standards toward accepted international standards; authorizing the use of third party and self-inspection programs as alternatives to Coast Guard inspections; and extending U.S. vessel inspection intervals.

Both the Coast Guard and industry strongly support these changes. They will enable Coast Guard inspectors to focus more on the problem of substandard foreign vessels calling on U.S. ports.

The bill also includes numerous technical changes to establish alternate vessel measurement requirements that will enable U.S. vessel designers and operators to be competitive in the international vessel market.

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

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

S. 1004

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1995".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—AUTHORIZATION

Sec. 101. Authorization of appropriations.
Sec. 102. Authorized levels of military strength and training.

TITLE II—PERSONNEL MANAGEMENT IMPROVEMENT
Sec. 201. Provision of child development services.
Sec. 202. Hurricane Andrew relief.
Sec. 203. Dissemination of results of 0–6 continuation boards.
Sec. 204. Exclude certain reserves from end-of-year strength.
Sec. 205. Officer retention until retirement eligible.
Sec. 206. Contracts for health care services.
TITLE III—MARINE SAFETY AND WATERWAY SERVICES MANAGEMENT
Sec. 301. Increased penalties for documentation violations.
Sec. 302. Clerical amendment.
Sec. 303. Maritime Drug and Alcohol Testing Program Civil Penalty.
Sec. 304. Renewal of the Navigation Safety Advisory Council.
Sec. 305. Renewal of the Commercial Fishing Industry Vessel Advisory Committee.
Sec. 306. Renewal of Towing Safety Advisory Committee.
Sec. 307. Electronic filing of commercial instruments.
Sec. 308. Civil penalties.
TITLE IV—COAST GUARD AUXILIARY AMENDMENTS
Sec. 401. Administration of the Coast Guard Auxiliary.
Sec. 402. Purpose of the Coast Guard Auxiliary.
Sec. 403. Members of the Auxiliary; Status.
Sec. 404. Assignment and Performance of Duties.
Sec. 405. Cooperation with other Agencies, States, Territories, and Political Subdivisions.
Sec. 406. Vessel Deemed Public Vessel.
Sec. 407. Aircraft Deemed Public Aircraft.
Sec. 408. Disposal of Certain Material.
TITLE V—RECREATIONAL BOATING SAFETY IMPROVEMENT
Sec. 501. State recreational boating safety grants.
Sec. 502. Boating access.
TITLE VI—COAST GUARD REGULATORY REFORM
Sec. 601. Short title.
Sec. 602. Safety management.
Sec. 603. Use of reports, documents, records, and examinations of other persons.
Sec. 604. Equipment approval.
Sec. 605. Frequency of inspection.
Sec. 606. Certificate of inspection.
Sec. 607. Delegation of authority of Secretary to classification societies.
TITLE VII—TECHNICAL AND CONFORMING AMENDMENTS.
Sec. 701. Amendment of inland navigation rules.
Sec. 702. Measurement of vessels.
Sec. 703. Longshore and harbor workers compensation.
Sec. 704. Radiotelephone requirements.
Sec. 705. Vessel operating requirements.
Sec. 706. Merchant Marine Act, 1920.
Sec. 707. Merchant Marine Act, 1956.
Sec. 708. Maritime education and training.
Sec. 709. General definitions.
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Sec. 714. Application—tank vessels.
Sec. 715. Tank vessel construction standards.
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Sec. 718. Definition—abandonment of barges.
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Sec. 723. Scale of employment—able seamen.
Sec. 724. General requirements—engine department.
Sec. 725. Complement of inspected vessels.
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Sec. 727. Citizenship and naval reserve requirements.
Sec. 728. Watches.
Sec. 729. Minimum number of licensed individuals.
Sec. 730. Officers' competency certificates convention.
Sec. 731. Merchant mariners' documents required.
Sec. 732. Certain crew requirements.
Sec. 733. Freight vessels.
Sec. 734. Exemptions.
Sec. 735. United States registered pilot service.
Sec. 736. Definitions—merchant seamen protection.
Sec. 737. Application—foreign and intercoastal voyages.
Sec. 738. Application—coastwise voyages.
Sec. 739. Fishing agreements.
Sec. 740. Accommodations for seamen.
Sec. 741. Medicine chests.
Sec. 742. Logbook and entry requirements.
Sec. 743. Coastwise endorsements.
Sec. 744. Fishery endorsements.
Sec. 745. Convention tonnage for licenses, certificates, and documents.

TITLE I—AUTHORIZATION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 1995.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1995, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,630,505,000, of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $439,200,000, to remain available until expended, of which $32,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $20,310,000, to remain available until expended, of which $3,150,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $562,585,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $12,880,000, to remain available until expended, which may be made available under section 104(e) of title 49, United States Code.

(6) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance), $25,000,000, to remain available until expended.

(b) FISCAL YEAR 1996.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1996, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,618,316,000, of which $25,000,000 shall be derived from the Oil Spill Liability Trust Funds.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $428,200,000, to remain available until expended, of which $32,500,000 shall be derived from the Oil Spill Liability Trust fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $22,500,000, to remain available until expended, of which $3,150,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $582,022,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $16,200,000, to remain available until expended, of which up to $14,200,000 may be made available under section 104(e) of title 49, United States Code.

(6) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance), $25,000,000, to remain available until expended.

(c) AMOUNTS FROM THE DISCRETIONARY BRIDGE PROGRAM.—Section 104 of title 49, United States Code, is amended by adding at the end thereof the following:

''(e) Notwithstanding the provisions of sections 101(d) and 144 of title 23, highway bridges determined to be unreasonable obstructions to navigation under the Truman-Hobbs Act may be funded from amounts set aside from the discretionary bridge program. The Secretary shall transfer these allocations and the responsibility for administration of these funds to the United States Coast Guard.''.

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) AUTHORIZED MILITARY STRENGTH LEVEL.—The Coast Guard is authorized an end-of-year strength for active duty personnel of—

(1) 39,000 as of September 30, 1995.

(2) 38,400 as of September 30, 1996.

The authorized strength does not include members of the Ready Reserve called to active duty for special or emergency augmentation of regular Coast Guard forces for periods of 180 days or less.

(b) AUTHORIZED LEVEL OF MILITARY TRAINING.—The Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training—

(A) 2,000 student years for fiscal year 1995; and

(B) 1,604 student years for fiscal year 1996.

(2) For flight training—

(A) 133 student years for fiscal year 1995; and

(B) 85 student years for fiscal year 1996.

(3) For professional training in military and civilian institutions—

(A) 344 student years for fiscal year 1995; and

(B) 330 student years for fiscal year 1996.

(4) For officer acquisition—

(A) 955 student years for fiscal year 1995; and

(B) 874 student years for fiscal year 1996.

TITLE II—PERSONNEL MANAGEMENT IMPROVEMENT

SEC. 201. PROVISION OF CHILD DEVELOPMENT SERVICES.

(a) IN GENERAL.—Title 14, United States Code, is amended by inserting after section 514 the following new section:

"§ 515. Child development services

''(a) The Commandant may make child development services available for members and civilian employees of the Coast Guard, and thereafter as space is available for members of the Armed Forces and Federal civilian employees. Child development service benefits provided under the authority of this section shall be in addition to benefits provided under other laws.

''(b)(1) Except as provided in paragraph (2), the Commandant may require that amounts received as fees for the provision of services under this section at Coast Guard child development centers be used only for compensation of employees at those centers who are directly involved in providing child care.

''(2) If the Commandant determines that compliance with the limitation in paragraph (1) would result in an uneconomical and inefficient use of such fee receipts, the Commandant may (to the extent that such compliance would be uneconomical and inefficient) use such receipts—

''(A) for the purchase of consumable or disposable items for Coast Guard child development centers; and

''(B) if the requirements of such centers for consumable or disposable items for a given fiscal year have been met, for other expenses of those centers.

''(c) The Commandant shall provide for regular and unannounced inspections of each child development center under this section and may use Department of Defense or other training programs to ensure that all child development center employees under this section meet minimum standards of training with respect to early childhood development, activities and disciplinary techniques appropriate to children of different ages, child abuse prevention and detection, and appropriate emergency medical procedures.

''(d) Of the amounts available to the Coast Guard each fiscal year for operating expenses (and in addition to amounts received as fees), the Secretary shall use for child development services under this section an amount equal to the total amount the Commandant estimates will be received by the Coast Guard in the fiscal year as fees for the provision of those services.

''(e) The Commandant may use appropriated funds available to the Coast Guard to provide assistance to family home day care providers so that family home day care services can be provided to uniformed service members and civilian employees of the Coast Guard at a cost comparable to the cost of services provided by Coast Guard child development centers.

''(f) The Secretary shall promulgate regulations to implement this section. The regulations shall establish fees to be charged for child development services provided under this section which take into consideration total family income.

''(g) For purposes of this section, the term 'child development center' does not include a child care services facility for which space is allotted under section 616 of the Act of December 22, 1987 (40 U.S.A. 490b).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 14, United States Code, is amended by inserting after the item related to section 514 the following:

''515. Child development services.''.

SEC. 202. HURRICANE ANDREW RELIEF.

Section 2856 of the National Defense Authorization Act for Fiscal Year 1993 (Pub. L. 102–484) applies to the military personnel of the Coast Guard who were assigned to, or employed at or in connection with, any Federal facility or installation in the vicinity of Homestead Air Force Base, Florida, including the areas of Broward, Collier, Dade, and Monroe Counties, on or before August 24, 1992, except that funds available to the Coast Guard, not to exceed $25,000, shall be used. The Secretary of Transportation shall administer the provisions of section 2856 for the Coast Guard.

SEC. 203. DISSEMINATION OF RESULTS OF 0–6 CONTINUATION BOARDS.

Section 289(f) of title 14, United States Code, is amended by striking ''Upon approval by the President, the names of the officers selected for continuation on active duty by the board shall be promptly disseminated to the service at large.''.

SEC. 204. EXCLUDE CERTAIN RESERVES FROM END-OF-YEAR STRENGTH.

Section 712 of title 14, United States Code, is amended by adding at the end the following new subsection:

''(d) Members ordered to active duty under this section shall not be counted in computing authorized strength in members on active duty or members in grade under this title or under any other law.''.

SEC. 205. OFFICER RETENTION UNTIL RETIREMENT ELIGIBLE.

Section 283(b) of title 14, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)'';

(2) by striking the last sentence; and

(3) by adding at the end the following:

''(2) Upon the completion of a term under paragraph (1), an officer shall, unless selected for further continuation—

''(A) except as provided in subparagraph (B), be honorably discharged with severance pay computed under section 286 of this title;

''(B) in the case of an officer who has completed at least 18 years of active service on the date of discharge under subparagraph (A), be retained on active duty and retired on the last day of the month in which the officer completes 20 years of active service, unless earlier removed under another provision of law; or

''(C) if eligible for retirement under any law, be retired.''.

SEC. 206. CONTRACTS FOR HEALTH CARE SERVICES.

(a) Chapter 17 of title 14, United States Code, is amended by inserting after section 644 the following new section:

"§ 644a. Contracts for health care services

''(a) Subject to the availability of appropriations for this purpose; the Commandant may enter into personal services and other contracts to carry out health care responsibilities pursuant to section 93 of this title and other applicable provisions of law pertaining to the provision of health care services to Coast Guard personnel and covered beneficiaries. The authority provided in this subsection is in addition to any other contract authorities of the Commandant provided by law or as delegated to the Commandant from time to time by the Secretary, including but not limited to authority relating to the management of health care facilities and furnishing of health care services pursuant to title 10 and this title.

''(b) The total amount of compensation paid to an individual in any year under a personal services contract entered into under subsection (a) shall not exceed the amount of annual compensation (excluding allowances for expenses) allowable for such contracts entered into by the Secretary of Defense pursuant to section 1091 of title 10.

''(c)(1) The Secretary shall promulgate regulations to assure—

''(A) the provision of adequate notice of contract opportunities to individuals residing in the area of a medical treatment facility involved; and

''(B) consideration of interested individuals solely on the basis of the qualifications established for the contract and the proposed contract price.

''(2) Upon establishment of the procedures under paragraph (1), the Secretary may exempt personal services contracts covered by this section from the competitive contracting requirements specified in section 2304 of title 10, or any other similar requirements of law.

''(d) The procedures and exemptions provided under subsection (c) shall not apply to personal services contracts entered into under subsection (a) with entities other than individuals or to any contract that is not an authorized personal services contract under subsection (a).''.

(b) The table of sections for chapter 17 of title 14, United States Code, is amended by inserting after the item relating to section 644 the following:

''644 a. Contracts for health care services.''.

(c) The amendments made by this section shall take effect on the date of enactment of this Act. Any personal services contract entered into on behalf of the Coast Guard in reliance upon the authority of section 1091 of title 10 before that date is confirmed and ratified and shall remain in effect in accordance with the terms of the contract.

TITLE III—MARINE SAFETY AND WATERWAY SERVICES MANAGEMENT

SEC. 301. INCREASED PENALTIES FOR DOCUMENTATION VIOLATIONS.

(a) CIVIL PENALTY.—Section 12122(a) of title 46, United States Code, is amended by striking ''$500'' and inserting ''$10,000.''

(b) SEIZURE AND FORFEITURE.—

(1) IN GENERAL.—Section 12122(b) of title 46, United States Code, is amended to read as follows:

''(b) A vessel and its equipment are liable to seizure by and forfeiture to the United States Government—

''(1) when the owner of a vessel or the representative or agent of the owner knowingly falsifies or conceals a material fact, or knowingly makes a false statement or representation about the documentation or when applying for documentation of the vessel;

''(2) when a certificate of documentation is knowingly and fraudulently used for a vessel;

''(3) when a vessel is operated after its endorsement has been denied or revoked under section 12123 of this title;

''(4) when a vessel is employed in a trade without an appropriate trade endorsement;

''(5) when a documented vessel with only a recreational endorsement is operated other than for pleasure; or

''(6) when a documented vessel, other than a vessel with only a recreational endorsement operating within the territorial waters of the United States, is placed under the command of a person not a citizen of the United States.''.

''(2) CONFORMING AMENDMENTS.—Section 12122(c) of title 46, United States Code, is repealed.

''(c) LIMITATION ON OPERATION OF VESSEL WITH ONLY RECREATIONAL ENDORSEMENT.—Section 12110(c) of title 46, United States Code, is amended to read as follows:

''(c) A vessel with only a recreational endorsement may not be operated other than for pleasure.''.

''(d) TERMINATION OF RESTRICTION ON COMMAND OF RECREATIONAL VESSELS.—

''(1) TERMINATION OF RESTRICTION.—Subsection (d) of section 12110 of title 46, United States Code, is amended by inserting '', other than a vessel with only a recreational endorsement operating within the territorial waters of the United States,'' after ''A documented vessel''; and

''(2) CONFORMING AMENDMENT.—Section 12111(a)(2) of title 46, United States Code, is amended by inserting before the period the following: ''in violation of section 12110(d) of this title''.

SEC. 302. CLERICAL AMENDMENT.

Chapter 121 of title 46, United States Code, is amended—

(1) by striking the first section 12123; and

(2) in the table of sections at the beginning of the chapter by striking the first item relating to section 12123.

SEC. 303. MARITIME DRUG AND ALCOHOL TESTING PROGRAM CIVIL PENALTY.

(a) IN GENERAL.—Chapter 21 of title 46, United States Code, is amended by adding at the end a new section 2115 to read as follows:

''§ 2115. Civil penalty to enforce alcohol and dangerous drug testing

''Any person who fails to implement or conduct, or who otherwise fails to comply with the requirements prescribed by the Secretary for, chemical testing for dangerous drugs or for evidence of alcohol use, as prescribed under this subtitle or a regulation prescribed by the Secretary to carry out the provisions of this subtitle, is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. Each day of a continuing violation shall constitute a separate violation.''.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 21 of title 46, United States Code, is amended by inserting after the item relating to section 2114 the following:

''2115. Civil penalty to enforce alcohol and dangerous drug testing.''

SEC. 304. RENEWAL OF THE NAVIGATION SAFETY ADVISORY COUNCIL.

Section 5(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended by striking ''September 30, 1995'' and inserting ''September 30, 2000''.

SEC. 305. RENEWAL OF THE COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE.

Subsection (e)(1) of section 4508 of title 46, United States Code, is amended by striking ''September 30, 1994'' and inserting ''September 30, 2000''.

SEC, 306. RENEWAL OF TOWING SAFETY ADVISORY COMMITTEE.

Subsection (e) of the Act to Establish A Towing Safety Advisory Committee in the Department of Transportation (33 U.S.C. 1231a(e) is amended by striking ''September 30, 1995'' and inserting ''September 30, 2000''.

SEC. 307. ELECTRONIC FILING OF COMMERCIAL INSTRUMENTS.

Section 31321(a) of title 46, United States Code, is amended by adding at the end the following new paragraph:

''(4)(A) A bill of sale, conveyance, mortgage, assignment, or related instrument may be filed electronically under regulations prescribed by the Secretary.

''(B) A filing made electronically under subparagraph (A) shall not be effective after the 10-day period beginning on the date of the filing unless the original instrument is provided to the Secretary within that 10-day period.''.

SEC. 308. CIVIL PENALTIES.

(a) PENALTY FOR FAILURE TO REPORT A CASUALTY.—Section 6103(a) of title 46, United States Code is amended by striking ''$1,000'' and inserting ''not more than $25,000''.

(b) OPERATION OF UNINSPECTED TOWING VESSEL IN VIOLATION OF MANNING REQUIREMENTS.—Section 8906 of title 46, United States Code, is amended by striking ''$1,000'' and inserting ''not more than $25,000''.

TITLE IV—COAST GUARD AUXILIARY

SEC. 401. ADMINISTRATION OF THE COAST GUARD AUXILIARY.

(a) Section 821, title 14, United States Code, is amended to read as follows:

''(a) The Coast Guard Auxiliary is a nonmilitary organization administered by the Commandant under the direction of the Secretary. For command, control, and administrative purposes, the Auxiliary shall include such organizational elements and units as are approved by the Commandant, including but not limited to, a national board and staff (Auxiliary headquarters unit), districts, regions, divisions, flotillas, and other organizational elements and units. The Auxiliary organization and its officers shall have such rights, privileges, powers, and duties as may be granted to them by the Commandant, consistent with this title and other applicable provisions of law. The Commandant may delegate to officers of the Auxiliary the authority vested in the Commandant by this section, in the manner and to the extent the Commandant considers necessary or appropriate for the functioning, organization, and internal administration of the Auxiliary.

''(b) Each organizational element or unit of the Coast Guard Auxiliary organization (but excluding any corporation formed by an organizational element or unit of the Auxiliary under subsection (c) of this section), shall, except when acting outside the scope of section 822, at all times be deemed to be an instrumentality of the United States, for purposes of the Federal Tort Claims Act (28 U.S.C. 2671, et seq.), the Military Claims Act (10 U.S.C. 2733), the Public Vessels Act (46 U.S.C. App. 781–790), the Suits in Admiralty Act (46 U.S.C. App. 741–752), the Admiralty Extension Act (46 U.S.C. App. 740), and for other noncontractual civil liability purposes.

''(c) The national board of the Auxiliary, and any Auxiliary district or region, may form a corporation under State law, provided that the formation of such a corporation is in accordance with policies established by the Commandant.''.

(b) The section heading for section 821 of title 14, United States Code, is amended after ''Administration'' by inserting ''of the Coast Guard Auxiliary''.

(c) The table of sections at the beginning of chapter 23 of title 14, United States Code, is amended in the item relating to section 821, after ''Administration'' by inserting ''of the Coast Guard Auxiliary''.

SEC. 402. PURPOSE OF THE COAST GUARD AUXILIARY.

(a) Section 822 of title 14, United States Code, is amended by striking the entire text and inserting:

''The purpose of the Auxiliary is to assist the Coast Guard, as authorized by the Commandant, in performing any Coast Guard function, power, duty, role, mission, or operation authorized by law.''.

(b) The section heading for section 822 of title 14, United States Code, is amended after ''Purpose'' by inserting ''of the Coast Guard Auxiliary''.

(c) The table of sections at the beginning of chapter 23 of title 14, United States Code, is amended in the item relating to section 822, after ''Purpose'' by inserting ''of the Coast Guard Auxiliary''.

SEC. 403. MEMBERS OF THE AUXILIARY; STATUS.

(a) Title 14, United States Code, is amended by inserting after section 823 the following new section:

''§ 823a. Members of the Auxiliary; status

''(a) Except as otherwise provided in this chapter, a member of the Coast Guard Auxiliary shall not be deemed to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, Federal employee benefits, ethics, conflicts of interest, and other similar criminal or civil statutes and regulations governing the conduct of Federal employees. However, nothing in this subsection shall constrain the Commandant from prescribing standards for the conduct and behavior of members of the Auxiliary.

''(b) A member of the Auxiliary while assigned to duty shall be deemed to be a Federal employee only for the purposes of the following:

''(1) the Federal Tort Claims Act (28 U.S.C. 2671 et seq.), the Military Claims Act (10 U.S.C. 2733), the Public Vessels Act (46 U.S.C. App. 781–790), the Suits in Admiralty Act (46 U.S.C. App. 741–752), the Admiralty Extension Act (46 U.S.C. App. 740), and for other noncontractual civil liability purposes;

''(2) compensation for work injuries under chapter 81 of title 5, United States Code; and

''(3) the resolution of claims relating to damage to or loss of personal property of the member incident to service under the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 3721).

''(c) A member of the Auxiliary, while assigned to duty, shall be deemed to be a person acting under an officer of the United States or an agency thereof for purposes of section 1442(a)(1) of title 28, United States Code.''.

(b) The table of sections for chapter 23 of title 14, United States Code, is amended by inserting the following new item after the item relating to section 823:

''823a. Members of the Auxiliary; status.''.

SEC. 404. ASSIGNMENT AND PERFORMANCE OF DUTIES.

Title 14, United States Code, is amended by striking ''specific'' each place it appears in sections 830, 831, and 832.

SEC. 405. COOPERATION WITH OTHER AGENCIES, STATES, TERRITORIES, AND POLITICAL SUBDIVISIONS.

(a) Section 141 of title 14, United States Code, is amended—

(1) by striking ''General'' in the section caption and inserting ''Cooperation with other agencies, States, Territories, and political subdivisions'';

(2) by inserting ''(which include members of the Auxiliary and facilities governed under chapter 23)'' after ''personnel and facilities'' in the first sentence of subsection (a); and

(3) by adding at the end of subsection (a) the following: ''The Commandant may prescribe conditions, including reimbursement, under which personnel and facilities may be provided under this subsection.''.

(b) The table of sections for chapter 7 of title 14, United States Code, is amended by striking ''General'' in the item relating to section 141 and inserting ''Cooperation with other agencies, States, Territories, and political subdivisions.''.

SEC. 406. VESSEL DEEMED PUBLIC VESSEL.

The text of section 827 of title 14, United States Code, is amended to read as follows:

''While assigned to authorized Coast Guard duty, any motorboat or yacht shall be deemed to be a public vessel of the United States and a vessel of the Coast Guard within the meaning of sections 646 and 647 of this title and other applicable provisions of law.''.

SEC. 407. AIRCRAFT DEEMED PUBLIC AIRCRAFT.

The text of section 828 of title 14, United States Code, is amended to read as follows:

''While assigned to authorized Coast Guard duty, any aircraft shall be deemed to be a Coast Guard aircraft, a public vessel of the United States, and a vessel of the Coast Guard within the meaning of sections 646 and 647 of this title and other applicable provisions of law. Subject to the provisions of sections 823a and 831 of this title, while assigned to duty, qualified Auxiliary pilot shall be deemed to be Coast Guard pilots.''.

SEC. 408. DISPOSAL OF CERTAIN MATERIAL.

Section 641(a) of title 14, United States Code, is amended—

(1) by inserting ''to the Coast Guard Auxiliary, including any incorporated unit thereof,'' after ''with or without charge,''; and

(2) by striking ''to any incorporated unit of the Coast Guard Auxiliary,'' after ''America,''.

TITLE V—RECREATIONAL BOATING SAFETY IMPROVEMENT

SEC. 501. STATE RECREATIONAL BOATING SAFETY GRANTS.

(a) TRANSFER OF AMOUNTS FOR STATE BOATING SAFETY PROGRAMS.—

(1) TRANSFERS.—Section 4(b) of the Act of August 9, 1950 (16 U.S.C. 777c(b); commonly referred to as the ''Dingell-Johnson Sport Fish Restoration Act'') is amended to read as follows:

''(b)(1) Of the balance of each annual appropriation remaining after making the distribution under subsection (a), an amount equal to $15,000,000 for fiscal year 1995, $40,000,000 for fiscal year 1996, $55,000,000 for fiscal year 1997, and $69,000,000 for each of fiscal years 1998 and 1999, shall, subject to paragraph (2), be used as follows:

''(A) A sum equal to $7,500,000 of the amount available for fiscal year 1995, and a sum equal to $10,000,000 of the amount available for each of fiscal years 1996 and 1997, shall be available for use by the Secretary of the Interior for grants under section 5604(c) of the Clean Vessel Act of 1992. Any portion of such a sum available for a fiscal year that is not obligated for those grants before the end of the following fiscal year shall be transferred to the Secretary of Transportation and shall be expended by the Secretary of Transportation for State recreational boating safety programs under section 13106 of title 46, United States Code.

''(B) A sum equal to $7,500,000 of the amount available for fiscal year 1995, $30,000,000 of the amount available for fiscal year 1996, $45,000,000 of the amount available for fiscal year 1997, and $59,000,000 of the amount available for each of fiscal years 1998 and 1999, shall be transferred to the Secretary of Transportation and shall be expended by the Secretary of Transportation for recreational boating safety programs under section 13106 of title 46, United States Code.

''(C) A sum equal to $10,000,000 of the amount available for each of fiscal years 1998 and 1999 shall be available for use by the Secretary of the Interior for—

''(i) grants under section 502(e) of the Coast Guard Authorization Act of 1995; and

''(ii) grants under section 5604(c) of the Clean Vessel Act of 1992.

Any portion of such a sum available for a fiscal year that is not obligated for those grants before the end of the following fiscal year shall be transferred to the Secretary of Transportation and shall be expended by the Secretary of Transportation for State recreational boating safety programs under section 13106 of title 46, United States Code.

''(2)(A) Beginning with fiscal year 1996, the amount transferred under paragraph (1)(B) for a fiscal year shall be reduced by the lesser of—

''(i) the amount appropriated for that fiscal year from the Boat Safety Account in the Aquatic Resources Trust Fund established under section 9504 of the Internal Revenue Code of 1986 to carry our the purposes of section 13106 of title 46, United States Code; or

''(ii) $35,000,000.

''(iii) for fiscal year 1996 only, $30,000,000.

''(B) The amount of any reduction under subparagraph (A) shall be apportioned among the several States under subsection (d) of this section by the Secretary of the Interior.''.

(2) CONFORMING AMENDMENT.—Section 5604(c)(1) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note) is amended by striking ''section 4(b)(2) of the Act of August 9, 1950 (16 U.S.C. 777c(b)(2), as amended by this Act)'' and inserting ''section 4(b)(1) of the Act of August 9, 1950 (16 U.S.C. 777c(b)(1))''.

(b) EXPENDITURE OF AMOUNTS FOR STATE RECREATIONAL BOATING SAFETY PROGRAMS.—Section 13106 of title 46, United States Code, is amended—

(1) by striking the first sentence of subsection (a)(1) and inserting the following: ''Subject to paragraph (2), the Secretary shall expend under contracts with States under this chapter in each fiscal year for State recreational boating safety programs an amount equal to the sum of the amount appropriated from the Boat Safety Account for that fiscal year plus the amount transferred to the Secretary under section 4(b)(1) of the Act of August 9, 1950 (16 U.S.C. 777c(b)(1)) for that fiscal year.''; and

(2) by amending subsection (c) to read as follows:

''(c) For expenditure under this chapter for State recreational boating safety programs there are authorized to be appropriated to the Secretary of Transportation from the Boat Safety Account established under section 9504 of the Internal Revenue Code of 1986 (26 U.S.C. 9504) not more than $35,000,000 each fiscal year.''.

(c) EXCESS FY 1995 BOAT SAFETY ACCOUNT FUNDS TRANSFER.—Notwithstanding any other provision of law, $20,000,000 of the annual appropriation from the Sport Fish Restoration Account in fiscal year 1996 made in accordance with the provisions of section 3 of the Act of August 9, 1950 (16 U.S.C. 777b) shall be excluded from the calculation of amounts to be distributed under section 4(a) of such Act (16 U.S.C. 777c(a)).

SEC. 502. BOATING ACCESS.

(a) FINDINGS.—The Congress makes the following findings:

(1) Nontrailerable recreational motorboats contribute 15 percent of the gasoline taxes deposited in the Aquatic Resources Trust Fund while constituting less than 5 percent of the recreational vessels in the United States.

(2) The majority of recreational vessel access facilities constructed with Aquatic Resources Trust Fund monies benefit trailerable recreational vessels.

(3) More Aquatic Resources Trust Fund monies should be spent on recreational vessel access facilities that benefit recreational vessels that are nontrailerable vessels.

(b) PURPOSE.—The purpose of this section is to provide funds to States for the development of public facilities for transient nontrailerable vessels.

(c) SURVEY.—Within 18 months after the date of the enactment of this Act, any State may complete and submit to the Secretary of the Interior a survey which identifies—

(1) the number and location in the State of all public facilities for transient nontrailerable vessels; and

(2) the number and areas of operation in the State of all nontrailerable vessels that operate on navigable waters in the State.

(d) PLAN.—Within 6 months after submitting a survey to the Secretary of the Interior in accordance with subsection (c), an eligible State may develop and submit to the Secretary of the Interior a plan for the construction and renovation of public facilities for transient nontrailerable vessels to meet the needs of nontrailerable vessels operating on navigable waters in the State.

(e) GRANT PROGRAM.—

(1) MATCHING GRANTS.—The Secretary of the Interior shall obligate not less than one-half of the amount made available for each of fiscal years 1998 and 1999 under section 4(b)(1)(C) of the Act of August 9, 1950, as amended by section 501(a)(1) of this Act, to make grants to any eligible State to pay not more than 75 percent of the cost of constructing or renovating public facilities for transient nontrailerable vessels.

(2) PRIORITY.—

(A) IN GENERAL.—In awarding grants under this subsection, the Secretary of the Interior shall give priority to projects that consist of the construction or renovation of public facilities for transient nontrailerable vessels in accordance with a plan submitted by a State submitted under subsection (b).

(B) WITHIN STATE.—In awarding grants under this subsection for projects in a particular State, the Secretary of the Interior shall give priority to projects that are likely to serve the greatest number of nontrailerable vessels.

(f) DEFINITIONS.—For the purpose of this section and section 501 of this Act the term—

(1) ''Act of August 9, 1950'' means the Act entitled ''An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes'', approved August 9, 1950 (16 U.S.C. 777a et seq.);

(2) ''nontrailerable vessel'' means a recreational vessel greater than 26 feet in length;

(3) ''public facilities for transient nontrailerable vessels'' means mooring buoys, day-docks, seasonal slips or similar structures located on navigable waters, that are available to the general public and designed for temporary use by nontrailerable vessels;

(4) ''recreational vessel'' means a vessel—

(A) operated primarily for pleasure; or

(B) leased, rented, or chartered to another for the latter's pleasure; and

(5) ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Marianas.

TITLE VI—COAST GUARD REGULATORY REFORM

SEC. 601. SHORT TITLE.

This title may be cited as the ''Coast Guard Regulatory Reform Act of 1995''.

SEC. 602. SAFETY MANAGEMENT.

(a) MANAGEMENT OF VESSELS.—Title 46, United States Code, is amended by adding after chapter 31 the following new chapter:

''CHAPTER 32—MANAGEMENT OF VESSELS

''Sec.
''3201. Definitions.
''3202. Application.
''3203. Safety management system.
''3204. Implementation of safety management system.
''3205. Certification.

"§ 3201. Definitions

''In this chapter—

''(1) 'International Safety Management Code' has the same meaning given that term in chapter IX of the Annex to the International Convention for the Safety of Life at Sea, 1974;

''(2) 'responsible person' means—

''(A) the owner of a vessel to which this chapter applies; or

''(B) any other person that has—

''(i) assumed the responsibility for operation of a vessel to which this chapter applies from the owner; and

''(ii) agreed to assume with respect to the vessel responsibility for complying with all the requirements of this chapter and the regulations prescribed under this chapter.

''(3) 'vessel engaged on a foreign voyage' means a vessel to which this chapter applies—

''(A) arriving at a place under the jurisdiction of the United States from a place in a foreign country;

''(B) making a voyage between places outside the United States; or

''(C) departing from a place under the jurisdiction of the United States for a place in a foreign country.

"§ 3202. Application

''(a) MANDATORY APPLICATION.—This chapter applies to the following vessels engaged on a foreign voyage:

''(1) Beginning July 1, 1998—

''(A) a vessel transporting more than 12 passengers described in section 2101(21)(A) of this title; and

''(B) a tanker, bulk freight vessel, or high-speed freight vessel, of at least 500 gross tons.

''(2) Beginning July 1, 2002, a freight vessel and a mobile offshore drilling unit of at least 500 gross tons.

''(b) VOLUNTARY APPLICATION.—This chapter applies to a vessel not described in subsection (a) of this section if the owner of the vessel requests the Secretary to apply this chapter to the vessel.

''(c) EXCEPTION.—Except as provided in subsection (b) of this section, this chapter does not apply to—

''(1) a barge;

''(2) a recreational vessel not engaged in commercial service;

''(3) a fishing vessel;

''(4) a vessel operating on the Great Lakes or its tributary and connecting waters; or

''(5) a public vessel.

"§ 3203. Safety management system

''(a) IN GENERAL.—The Secretary shall prescribe regulations which establish a safety management system for responsible persons and vessels to which this chapter applies, including—

''(1) a safety and environmental protection policy;

''(2) instructions and procedures to ensure safe operation of those vessels and protection of the environment in compliance with international and United States law;

''(3) defined levels of authority and lines of communications between, and among, personnel on shore and on the vessel;

''(4) procedures for reporting accidents and nonconformities with this chapter;

''(5) procedures for preparing for and responding to emergency situations; and

''(6) procedures for internal audits and management reviews of the system.

''(b) COMPLIANCE WITH CODE.—Regulations prescribed under this section shall be consistent with the International Safety Management Code with respect to vessels engaged on a foreign voyage.

"§ 3204. Implementation of safety management system

''(a) SAFETY MANAGEMENT PLAN.—Each responsible person shall establish and submit to the Secretary for approval a safety management plan describing how that person and vessels of the person to which this chapter applies will comply with the regulations prescribed under section 3203(a) of this title.

''(b) APPROVAL.—Upon receipt of a safety management plan submitted under subsection (a), the Secretary shall review the plan and approve it if the Secretary determines that it is consistent with and will assist in implementing the safety management system established under section 3203.

''(c) PROHIBITION ON VESSEL OPERATION.—A vessel to which this chapter applies under section 3202(a) may not be operated without having on board a Safety Management Certificate and a copy of a Document of Compliance issued for the vessel under section 3205 of this title.

"§ 3205. Certification

''(a) ISSUANCE OF CERTIFICATE AND DOCUMENT.—After verifying that the responsible person for a vessel to which this chapter applies and the vessel comply with the applicable requirements under this chapter, the Secretary shall issue for the vessel, on request of the responsible person, a Safety Management Certificate and a Document of Compliance.

''(b) MAINTENANCE OF CERTIFICATE AND DOCUMENT.—A Safety Management Certificate and a Document of Compliance issued for a vessel under this section shall be maintained by the responsible person for the vessel as required by the Secretary.

''(c) VERIFICATION OF COMPLIANCE.—The Secretary shall—

''(1) periodically review whether a responsible person having a safety management plan approved under section 3204(b) and each vessel to which the plan applies is complying with the plan; and

''(2) revoke the Secretary's approval of the plan and each Safety Management Certificate and Document of Compliance issued to the person for a vessel to which the plan applies, if the Secretary determines that the person or a vessel to which the plan applies has not complied with the plan.

''(d) ENFORCEMENT.—At the request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes (46 U.S.C. App. 91) of a vessel that is subject to this chapter under section 3202(a) of this title or to the International Safety Management Code, if the vessel does not have on board a Safety Management Certificate and a copy of a Document of Compliance for the vessel. Clearance may be granted on filing a bond or other surety satisfactory to the Secretary.''.

''(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle II of title 46, United States Code, is amended by inserting after the item relating to chapter 31 the following:

''32. Management of vessels ..... 3201''.

''(c) STUDY.—

(1) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall conduct, in cooperation with the owners, charterers, and managing operators of vessels documented under chapter 121 of title 46, United States Code, and other interested persons, a study of the methods that may be used to implement and enforce the International Management Code for the Safe Operation of Ships and for Pollution Prevention under chapter IX of the Annex to the International Convention for the Safety of Life at Sea, 1974.

(2) REPORT.—The Secretary shall submit to the Congress a report of the results of the study required under paragraph (1) before the earlier of—

(A) the date that final regulations are prescribed under section 3203 of title 46, United States Code (as enacted by subsection (a)); or

(B) the date that is 1 year after the date of enactment of this Act.

SEC. 603. USE OF REPORTS, DOCUMENTS, RECORDS, AND EXAMINATIONS OF OTHER PERSONS.

(a) REPORTS, DOCUMENTS, AND RECORDS.—Chapter 31 of title 46, United States Code, is amended by adding the following new section:

"§ 3103. Use of reports, documents, and records

''The Secretary may rely, as evidence of compliance with this subtitle, on—

''(1) reports, documents, and records of other persons who have been determined by the Secretary to be reliable; and

''(2) other methods the Secretary has determined to be reliable.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 31 of title 46, United States Code, is amended by adding at the end the following:

''3103. Use of reports, documents, and records.''.

(c) EXAMINATIONS.—Section 3308 of title 46, United States Code, is amended by inserting ''or have examined'' after ''examine''.

SEC. 604. EQUIPMENT APPROVAL.

(a) IN GENERAL.—Section 3306(b) of title 46, United States Code, is amended to read as follows:

''(b)(1) Equipment and material subject to regulation under this section may not be used on any vessel without prior approval of the Secretary.

''(2) Except with respect to use on a public vessel, the Secretary may treat an approval of equipment or materials by a foreign government as approval by the Secretary for purposes of paragraph (1) if the Secretary determines that—

''(A) the design standards and testing procedures used by that government meet the requirements of the International Convention for the Safety of Life at Sea, 1974;

''(B) the approval of the equipment or material by the foreign government will secure the safety of individuals and property on board vessels subject to inspection; and

''(C) for lifesaving equipment, the foreign government—

''(i) has given equivalent treatment to approvals of lifesaving equipment by the Secretary; and

''(ii) otherwise ensures that lifesaving equipment approved by the Secretary may be used on vessels that are documented and subject to inspection under the laws of that country.''.

(b) FOREIGN APPROVALS.—The Secretary of Transportation, in consultation with other interested Federal agencies, shall work with foreign governments to have those governments approve the use of the same equipment and materials on vessels documented under the laws of those countries that the Secretary requires on United States documented vessels.

(c) TECHNICAL AMENDMENT.—Section 3306(a)(4) of title 46, United States Code, is amended by striking ''clause (1)–(3)'' and inserting ''paragraph (1), (2), and (3)''.

SEC. 605. FREQUENCY OF INSPECTION.

(a) FREQUENCY OF INSPECTION, GENERALLY.—Section 3307 of title 46, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking ''nautical school vessel'' and inserting '', nautical school vessel, and small passenger vessel allowed to carry more than 12 passengers on a foreign voyage''; and

(B) by adding ''and'' after the semicolon at the end;

(2) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(3) in paragraph (2) (as so redesignated), by striking ''2 years'' and inserting ''5 years''.

(b) CONFORMING AMENDMENT.—Section 3710(b) of title 46, United States Code, is amended by striking ''24 months'' and inserting ''5 years''.

SEC. 606. CERTIFICATE OF INSPECTION.

Section 3309(c) of title 46, United States Code, is amended by striking ''(but not more than 60 days)''.

SEC. 607. DELEGATION OF AUTHORITY OF SECRETARY TO CLASSIFICATION SOCIETIES.

(a) AUTHORITY TO DELEGATE.—Section 3316 of title 46, United States Code, is amended—

(1) by striking subsections (a) and (d);

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively; and

(3) in subsection (b), as so redesignated, by—

(A) redesignating paragraph (2) as paragraph (3); and

(B) striking so much of the subsection as precedes paragraph (3), as so designated, and inserting the following:

''(b)(1) The Secretary may delegate to the American Bureau of Shipping or another classification society recognized by the Secretary as meeting acceptable standards for such a society, for a vessel documented or to be documented under chapter 121 of this title, the authority to—

''(A) review and approve plans required for issuing a certificate of inspection required by this part;

''(B) conduct inspections and examinations; and

''(C) issue a certificate of inspection required by this part and other related documents.

''(2) The Secretary may make a delegation under paragraph (1) to a foreign classification society only—

''(A) to the extent that the government of the foreign country in which the society is headquartered delegates authority and provides access to the American Bureau of Shipping to inspect, certify, and provide related services to vessels documented in that country; and

''(B) if the foreign classification society has offices and maintains records in the United States.''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 3316 of title 46, United States Code, is amended to read as follows:

''§ 3316. Classification societies''.

(2) The table of sections for chapter 33 of title 46, United States Code, is amended by striking the item relating to section 3316 and inserting the following:

''3316. Classification societies.''.

TITLE VII—TECHNICAL AND CONFORMING AMENDMENTS

SEC. 701. AMENDMENT OF INLAND NAVIGATION RULES.

Section 2 of the Inland Navigational Rules Act of 1980 is amended—

(1) by amending Rule 9(e)(i) (33 U.S.C. 2009(e)(i)) to read as follows:

''(i) In a narrow channel or fairway when overtaking, the power-driven vessel intending to overtake another power-driven vessel shall indicate her intention by sounding the appropriate signal prescribed in Rule 34(c) and take steps to permit safe passing. The power-driven vessel being overtaken, if in agreement, shall sound the same signal and may, if specifically agreed to take steps to permit safe passing. If in doubt she shall sound the danger signal prescribed in Rule 34(d).'';

(2) in Rule 15(b) (33 U.S.C. 2015(b)) by inserting ''power-driven'' after ''Secretary, a'';

(3) in Rule 23(a)(i) (33 U.S.C. 2023(a)(i)) after ''masthead light forward''; by striking ''except that a vessel of less than 20 meters in length need not exhibit this light forward of amidships but shall exhibit it as far forward as is practicable;'';

(4) by amending Rule 24(f) (33 U.S.C. 2024(f)) to read as follows:

''(f) Provided that any number of vessels being towed alongside or pushed in a group shall be lighted as one vessel, except as provided in paragraph (iii)—

''(i) a vessel being pushed ahead, not being part of a composite unit, shall exhibit at the forward end, sidelights and a special flashing light;

''(ii) a vessel being towed alongside shall exhibit a sternlight and at the forward end, sidelights and a special flashing light; and

''(iii) when vessels are towed alongside on both sides of the towing vessels a stern light shall be exhibited on the stern of the outboard vessel on each side of the towing vessel, and a single set of sidelights as far forward and as far outboard as is practicable, and a single special flashing light.'';

(5) in Rule 26 (33 U.S.C. 2026)—

(A) in each of subsections (b)(i) and (c)(i) by striking ''a vessel of less than 20 meters in length may instead of this shape exhibit a basket;''; and

(B) by amending subsection (d) to read as follows:

''(b) The additional signals described in Annex II to these Rules apply to a vessel engaged in fishing in close proximity to other vessels engaged in fishing.''; and

(6) by amending Rule 34(h) (33 U.S.C. 2034) to read as follows:

''(h) A vessel that reaches agreement with another vessel in a head-on, crossing, or overtaking situation, as for example, by using the radiotelephone as prescribed by the Vessel Bridge-to-Bridge Radiotelephone Act (85 Stat. 164; 33 U.S.C. 1201 et seq.), is not obliged to sound the whistle signals prescribed by this rule, but may do so. If agreement is not reached, then whistle signals shall be exchanged in a timely manner and shall prevail.''.

SEC. 702. MEASUREMENT OF VESSELS.

Section 14104 of title 46, United States Code, is amended by redesignating the existing text after the section heading as subsection (a) and by adding at the end the following new subsection:

''(b) If a statute allows for an alternate tonnage to be prescribed under this section, the Secretary may prescribe it by regulation. Until an alternate tonnage is prescribed, the statutorily established tonnage shall apply to vessels measured under chapter 143 or chapter 145 of this title.''.

SEC. 703. LONGSHORE AND HARBOR WORKERS COMPENSATION.

Section 3(d)(3)(B) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 903(d)(3)(B)) is amended by inserting after ''1,600 tons gross'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 704. RADIOTELEPHONE REQUIREMENTS.

Section 4(a)(2) of the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1203(a)(2)) is amended by inserting after ''one hundred gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title,''.

SEC. 705. VESSEL OPERATING REQUIREMENTS.

Section 4(a)(3) of the Ports and Waterways Safety Act (33 U.S.C. 1223(a)(3)) is amended by inserting after ''300 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 706. MERCHANT MARINE ACT, 1920.

Section 27A of the Merchant Marine Act, 1920 (46 U.S.C. App. 883–1), is amended by inserting after ''five hundred gross tons'' the following; ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title,''.

SEC. 707. MERCHANT MARINE ACT, 1956.

Section 2 of the Act of June 14, 1956 (46 U.S.C. App. 883a), is amended by inserting after ''five hundred gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 708. MARITIME EDUCATION AND TRAINING.

Section 1302(4)(A) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295a(4)(a)) is amended by inserting after ''1,000 gross tons or more'' the following: 'as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 709. GENERAL DEFINITIONS.

Section 2101 of title 46, United States Code, is amended—

(1) in paragraph (13), by inserting after ''15 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title'';

(2) in paragraph (13a), by inserting after ''3,500 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title'';

(3) in paragraph (19), by inserting after ''500 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title'';

(4) in paragraph (22), by inserting after ''100 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage, measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title'';

(5) in paragraph (30)(A), by inserting after ''500 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title'';

(6) in paragraph (32), by inserting after ''100 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title'';

(7) in paragraph (33), by inserting after ''300 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title'';

(8) in paragraph (35), by inserting after ''100 gross tons'' the following: ''as measured

under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''; and

(9) in paragraph (42), by inserting after ''100 gross tons'' each place it appears, the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 710. AUTHORITY TO EXEMPT CERTAIN VESSELS.

Section 2113 of title 46, United States Code, is amended—

(1) in paragraph (4), by inserting after ''at least 100 gross tons but less than 300 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''; and

(2) in paragraph (5), by inserting after ''at least 100 gross tons but less than 500 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 711. INSPECTION OF VESSELS.

Section 3302 of title 46, United States Code, is amended—

(1) in subsection (c)(1), by inserting after ''5,000 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title'';

(2) in subsection (c)(2), by inserting after ''500 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title'';

(3) in subsection (c)(3), by inserting after ''500 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title'';

(4) in subsection (c)(4)(A), by inserting after ''500 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title'';

(5) in subsection (d)(1), by inserting after ''150 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title'';

(6) in subsection (i)(1)(A), by inserting after ''300 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''; and

(7) in subsection (j), by inserting after ''15 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 712. REGULATIONS.

Section 3306 of title 46, United States Code, is amended—

(1) in subsection (h), by inserting after ''at least 100 gross tons but less than 300 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''; and

(2) in subsection (i), by inserting after ''at least 100 gross tons but less than 500 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14101 of that title''.

SEC. 713. PENALTIES—INSPECTION OF VESSELS.

Section 3318 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after ''100 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''; and

(2) in subsection (j)(1), by inserting after ''1,600 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 714. APPLICATION—TANK VESSELS.

Section 3702 of title 46, United States Code, is amended—

(1) in subsection (b)(1), by inserting after ''500 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title'';

(2) in subsection (c), by inserting after ''500 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''; and

(3) in subsection (d), by inserting after ''5,000 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title'';

SEC. 715. TANK VESSEL CONSTRUCTION STANDARDS.

Section 3703a of title 46, United States Code, is amended—

(1) in subsection (b)(2), by inserting after ''5,000 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title'';

(2) in subsection (c)(2), by inserting after ''5,000 gross tons'' each place it appears the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title'';

(3) in subsection (c)(3)(A), by inserting after ''15,000 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title'';

(4) in subsection (c)(3)(B), by inserting after ''30,000 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''; and

(5) in subsection (c)(3)(C), by inserting after ''30,000 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 716. TANKER MINIMUM STANDARDS.

Section 3707 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after ''10,000 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''; and

(2) in subsection (b), by inserting after ''10,000 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 717. SELF-PROPELLED TANK VESSEL MINIMUM STANDARDS.

Section 3708 of title 46, United States Code, is amended by inserting after ''10,000 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 718. DEFINITION—ABANDONMENT OF BARGES.

Section 4701(1) of title 46, United States Code, is amended by inserting after ''100 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SECTION 719. APPLICATION—LOAD LINES.

Section 5102(b) of title 46, United States Code, is amended—

(1) in paragraph (4), by inserting after ''5,000 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title'';

(2) in paragraph (5), by inserting after ''500 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''; and

(3) in paragraph (10), by inserting after ''150 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 720. LICENSING OF INDIVIDUALS.

Section 7101(e)(3) of title 46, United States Code, is amended by inserting after ''1,600 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 721. ABLE SEAMEN—LIMITED.

Section 7308 of title 46, United States Code, is amended by inserting after ''100 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 722. ABLE SEAMEN—OFFSHORE SUPPLY VESSELS.

Section 7310 of title 46, United States Code, is amended by inserting after ''500 gross

tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 723. SCALE OF EMPLOYMENT—ABLE SEAMEN.

Section 7312 of title 46, United States Code, is amended—

(1) in subsection (b), by inserting after ''1,600 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title'';

(2) in subsection (c)(1), by inserting after ''500 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title'';

(3) in subsection (d), by inserting after ''500 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title'';

(4) in subsection (f)(1), by inserting after ''500 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''; and

(5) in subsection (f)(2), by inserting after ''500 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 724. GENERAL REQUIREMENTS—ENGINE DEPARTMENT.

Section 7313(a) of title 46, United States Code, is amended by inserting after ''100 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 725. COMPLEMENT OF INSPECTED VESSELS.

Section 8101(h) of title 46, United States Code, is amended by inserting after ''100 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 726. WATCHMEN.

Section 8102(b) of title 46, United States Code, is amended by inserting after ''100 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 727. CITIZENSHIP AND NAVAL RESERVE REQUIREMENTS.

Section 8103(b)(3)(A) of title 46, United States Code, is amended by inserting after ''1,600 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 728. WATCHES

Section 8104 of title 46, United States Code, is amended—

(1) in subsection (b), by inserting after ''100 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title'';

(2) in subsection (d), by inserting after ''100 gross tons'' and after ''5,000 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title'';

(3) in subsection (l)(1), by inserting after ''1,600 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title'';

(4) in subsection (m)(1), by inserting after ''1,600 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title'';

(5) in subsection (o)(1), by inserting after ''500 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''; and

(6) in subsection (o)(2), by inserting after ''500 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 729. MINIMUM NUMBER OF LICENSED INDIVIDUALS.

Section 8301 of title 46, United States Code, is amended—

(1) in subsection (a)(2), by inserting after ''1,000 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title'';

(2) in subsection (a)(3), by inserting after ''at lease 200 gross tons but less than 1,000 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title'';

(3) in subsection (a)(4), by inserting after ''at least 100 gross tons but less than 200 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title'';

(4) in subsection (a)(5), by inserting after ''300 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''; and

(5) in subsection (b), by inserting after ''200 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 730. OFFICERS' COMPETENCY CERTIFICATES CONVENTION.

Section 8304(b)(4), of title 46, United States Code, is amended by inserting after ''200 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 731. MERCHANT MARINERS' DOCUMENTS REQUIRED.

Section 8701 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after ''100 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of the title''; and

(2) in subsection (a)(6), by inserting after ''1,600 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC 732. CERTAIN CREW REQUIREMENTS.

Section 8702 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after ''100 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''; and

(2) in subsection (a)(6), by inserting after ''1,600 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 733. FREIGHT VESSELS.

Section 8901 of title 46, United States Code, is amended by inserting after ''100 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 734. EXEMPTIONS.

Section 8905(b) of title 46, United States Code, is amended by inserting after ''200 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 735. UNITED STATES REGISTERED PILOT SERVICE.

Section 9303(a)(2) of title 46, United States Code, is amended by inserting after ''4,000 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 736. DEFINITIONS—MERCHANT SEAMEN PROTECTION.

Section 10101(4)(B) of title 46, United States Code, is amended by inserting after ''1,600 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 737. APPLICATION—FOREIGN AND INTERCOASTAL VOYAGES.

Section 10301(a)(2) of title 46, United States Code, is amended by inserting after ''75 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 738. APPLICATION—COASTWISE VOYAGES.

Section 10501(a) of title 46, United States Code, is amended by inserting after ''50 gross

tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 739. FISHING AGREEMENTS.

Section 10601(a)(1) of title 46, United States Code, is amended by inserting after ''20 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 740. ACCOMMODATIONS FOR SEAMEN.

Section 11101(a) of title 46, United States Code, is amended by inserting after ''100 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 741. MEDICINE CHESTS.

Section 11102(a) of title 46, United States Code, is amended by inserting after ''75 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 742. LOGBOOK AND ENTRY REQUIREMENTS.

Section 11301(a)(2) of title 46, United States Code, is amended by inserting after ''100 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 743. COASTWISE ENDORSEMENTS.

Section 12106(c)(1) of title 46, United States Code, is amended by striking ''two hundred gross tons'' and inserting ''200 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 744. FISHERY ENDORSEMENTS.

Section 12108(c)(1) of title 46, United States Code, is amended by striking ''two hundred gross tons'' and inserting ''200 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

SEC. 745. CONVENTION TONNAGE FOR LICENSES, CERTIFICATES, AND DOCUMENTS.

(a) AUTHORITY TO USE CONVENTION TONNAGE.—Chapter 75 of title 46, United States Code, is amended by adding at the end the following:

''§ 7506. Convention tonnage for licenses, certificates and documents

''Notwithstanding any provision of section 14302(c) or 14305 of this title, the Secretary may—

''(1) evaluate the service of an individual who is applying for a license, a certificate of registry, or a merchant mariner's document by using the tonnage as measured under chapter 143 of this title for the vessels on which that service was acquired, and

''(2) issue the license, certificate, or document based on that service.''.

(b) CLERICAL AMENDMENT.—The analysis to chapter 75 of title 46, United States Code, is amended by adding a new item as follows:

''7506. Convention tonnage for licenses, certificates and documents.''.●

Mr. PRESSLER. Mr. President, as chairman of the Senate Committee on Commerce, Science, and Transportation, I am pleased to cosponsor the Coast Guard authorization bill for the current and next fiscal years. The Coast Guard is one of our Nation's oldest agencies, tracing its roots to the year 1790, but it also is one of our most efficient. The Coast Guard has broad ranging responsibilities, from enforcing America's maritime laws to ensuring the safety of recreational boaters in places like the beautiful Lewis and Clark Lake in my home State of South Dakota.

I believe this bill makes a serious effort to improve the Coast Guard's efficiency while maintaining its effectiveness. It is clear the American taxpayers are demanding a smaller, more accountable Federal Government. At the same time, the demand for certain Government services, including those provided by the Coast Guard, continues to be great. I intend, by working with my colleagues on the Commerce Committee and along with other Senators who are interested in the Coast Guard, to meet this challenge.

Mr. President, the core provisions of this bill are consistent with the agenda of the new Congress. For example, the bill includes important provisions that enhance recreational boating safety for the Nation's 50 million boaters by providing vital funding to the States to continue essential boating safety programs while eliminating the need to fund the program through annual appropriations. It also provides a stable source of funding to improve the safety of highway bridges that cross navigable waters. It reduces unnecessary and costly regulations on industry, thereby improving the competitiveness of the U.S. maritime industry. It also addresses the operation of the Coast Guard auxiliary, a 36,000 volunteer organization, and it improves the management and efficiency of the service.

I am pleased to have the very capable Senator STEVENS of Alaska, chairman of our Oceans and Fisheries Subcommittee, spearheading this authorization process. I'm hopeful the Commerce Committee will be able to act on this bill in an expedited fashion. I ask my colleagues to work with me as we authorize the Coast Guard.

By Mr. BAUCUS:

S. 1005. A bill to amend the Public Buildings Act of 1959 to improve the process of constructing, altering, purchasing, and acquiring public buildings, and for other purposes; to the Committee on Environment and Public Works.

THE PUBLIC BUILDINGS REFORM ACT OF 1995

● Mr. BAUCUS. Mr. President, I introduce the Public Buildings Reform Act of 1995.

This law will change the way our Government puts up Federal buildings.

SPENDING ON COURTHOUSES

Montanans want Government to cut waste, and spending on Federal buildings is a place where you can find a lot of waste.

As chairman of the Environment and Public Works Committee last year, I investigated several large Federal courthouse construction projects. I found that there is little control over the design and costs of Federal courthouse projects.

Courthouses sound small, but they are big money. Last year, GSA requested over $420 million for courthouse projects.

And for this fiscal year, GSA is asking for a courthouse construction budget more than 50 percent higher. GSA wants more than $645 million for courthouses. About two out of every three tax dollars spent by GSA goes to build courthouses.

WASTE IN COURTHOUSES

Mr. President, these are huge numbers—a billion dollars in 2 years for Federal courthouse construction. And, to be charitable, this money is not always spent wisely.

Many courthouses are way too expensive. Quite a few have cost us over $200 million, and one has run up bills in excess of $500 million. And what is particularly galling, some of these courthouses are practically palaces.

You can find courthouses around the country with such extravagant furnishings as mahogany and rosewood interior panelling, brass doorknobs, private kitchens for judges, boat docks, and more. There is no reason for it. We would be better off not spending the money for these things at all.

There are even cases where the judges have set such high design standards for courthouses that they can only be satisfied by building a new courthouse, even though renovating the existing building may actually make more sense.

THE GENERAL SERVICES ADMINISTRATION

So why has this happened? To find out, we have to look at an obscure agency called the ''General Services Administration'' or GSA.

The GSA is the Federal Government's landlord. It leases and builds Federal office buildings, courthouses, border stations, and other Federal structures. And GSA has the responsibility to make sure the Government spends its money wisely for real estate transactions. But unfortunately, GSA does not have the legislative tools to make wise real estate decisions.

First of all, it does not set priorities. Each year, GSA submits a budget request to Congress that delineates the projects to be funded, there is no way for Congress to know which projects are the most important based on need.

And GSA is not solely to blame. It is often forced to adopt pet projects on behalf of individual Members of Congress, rather than basing its decisions on an overall vision of what construction is necessary. Each year, Congress approves projects, especially courthouse projects, that are not necessary and worthy but rather frilly and wasteful.

Second, responsibility for final designs is spread among different areas of Government, meaning that no one person is finally accountable for making

sensible fiscal decisions. I was stunned to find, for example, that the Administrative Office of the Courts set its own design guidelines for courthouses. This is one reason you suddenly find that a relatively responsible building has suddenly sprouted fountains and grown rosewood panels.

In effect, the courts themselves design their own courthouses just as a king can design his own palace. The temptations are obvious even in theory. And they are glaring when you go to visit some of the courthouses we investigated last year. To make matters worse, the design guidelines are constantly changing at the whim of the AOC. Virtually nobody knows what they are. And, according to the General Accounting Office, the AOC frequently inflates the projected number of judges to be housed in a particular courthouse.

TIME FOR REFORM

Mr. President, it is time for reform. A more rational, accountable process can cut waste, save money and make Government more responsive to taxpayers, that is what my bill would do: To improve oversight, it will require GSA each year to submit a biennial plan to Congress that prioritizes Federal building projects; to ensure accountability, it will rewrite the courthouse design guide and require GSA to establish a uniform, responsible set of design standards; To improve oversight, it will require GSA to submit more information to Congress on each project, such as a realistic projection of the number of judges to be housed by a new courthouse; To cut waste, it will require GSA to fully justify the need and cost of each project. This must include a benchmark cost, to let the public see whether a project is extremely expensive for that particular area of the country, and on top of that, it will impose a 9-month moratorium on the spending of money for any new construction projects so we can get these other reforms in place.

CONCLUSION

Mr. President, we all have to prioritize our own personal budgets and needs. GSA and the courts should do the same. This bill will help them do that. And I look forward to working with the chairman of the Environment and Public Works Committee and other Members to see it happen.

I ask unanimous consent that a copy of the bill and a section-by-section be printed in the RECORD.

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

S. 1005

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 ''Public Buildings Reform Act of 1995''.

SEC. 2. SITE SELECTION.

Section 5 of the Public Buildings Act of 1959 (40 U.S.C. 604) is amended by adding at the end the following:

''(d) CONSIDERATION OF COSTS.—In selecting a site for a project to construct, alter, purchase, or acquire (including lease) a public building, or to lease office or any other type of space, under this Act, the Administrator shall consider the impact of the selection of a particular site on the cost and space efficiency of the project.''.

SEC. 3. CONGRESSIONAL OVERSIGHT OF PUBLIC BUILDINGS PROJECTS.

(a) IN GENERAL.—Section 7 of the Public Buildings Act of 1959 (40 U.S.C. 606) is amended—

(1) in subsection (a)—

(A) by striking the last sentence;

(B) in the first sentence, by striking ''In order'' and inserting the following:

''(2) PREREQUISITES TO OBLIGATION OF FUNDS.—

''(B) APPROVAL REQUIREMENTS.—

''(i) CONSTRUCTION, ALTERATION, PURCHASE, AND ACQUISITION.—In order'';

(C) in the second sentence, by striking ''No'' and inserting the following:

''(ii) LEASE.—No'';

(D) in the third sentence, by striking ''No'' and inserting the following:

''(iii) ALTERATION.—No'';

(E) by striking ''SEC. 7. (a)'' and inserting the following:

''SEC. 7. SUBMISSION AND APPROVAL OF PROPOSED PROJECTS.

''(a) IN GENERAL.—

''(1) PUBLIC BUILDINGS PLAN.—

''(A) IN GENERAL.—Not later than 15 days after the President submits to Congress the budget of the United States Government under section 1105 of title 31, United States Code, the Administrator shall submit to Congress a public buildings plan (referred to in this subsection as the 'biennial plan') for the first 2 fiscal years that begin after the date of submission. The biennial plan shall specify such projects for which approval is required under paragraph (2)(B) relating to the construction, alteration, purchase, or acquisition (including lease) of public buildings, or the lease of office or any other type of space, as the Administrator determines are necessary to carry out the duties of the Administrator under this Act or any other provision of law.

''(B) CONTENTS.—The biennial plan shall include—

''(i) a 5-year strategic capital asset management plan for accommodating the public building needs of the Federal Government that reflects the office space and other public buildings needs of the Federal Government and that is based on procurement mechanisms that allow the Administrator to take advantage of fluctuations in market forces affecting building construction and availability;

''(ii) a list—

''(I) in order of priority, of each construction, alteration, purchase, or acquisition (including lease) project described in subparagraph (A) for which an authorization of appropriations is—

''(aa) requested for the first of the 2 fiscal years of the biennial plan referred to in subparagraph (A) (referred to in this paragraph as the 'first year'); or

''(bb) expected to be requested for the second of the 2 fiscal years of the biennial plan referred to in subparagraph (A) (referred to in this paragraph as the 'second year'); and

''(II) that includes a description of each such project and the number of square feet of space planned for each such project;

''(iii) a list, in order of priority, of each lease or lease renewal described in subparagraph (A) for which an authorization of appropriations is—

''(I) requested for the first year; or

''(II) expected to be requested for the second year;

''(iv) a list, in order of priority, of each planned repair or alteration project described in subparagraph (A) for which an authorization of appropriations is—

''(I) requested for the first year; or

''(II) expected to be requested for the second year;

''(v) an explanation of the basis for each order of priority specified under clauses (ii), (iii), and (iv);

''(vi) the estimated annual and total cost of each project requested in the biennial plan;

''(vii) a list of each public building planned to be vacated in whole or in part, to be exchanged for other property, or to be disposed of during the period covered by the biennial plan; and

''(viii) requests for authorizations of appropriations necessary to carry out projects listed in the biennial plan for the first year.

''(C) PRESENTATION OF INFORMATION IN PLAN.—

''(i) FIRST YEAR.—In the case of a project for which the Administrator has requested an authorization of appropriations for the first year, information required to be included in the biennial plan under subparagraph (B) shall be presented in the form of a prospectus that meets the requirements of paragraph (2)(C).

''(ii) SECOND YEAR.—

''(I) IN GENERAL.—In the case of a project for which the Administrator expects to request an authorization of appropriations for the second year, information required to be included in the biennial plan under subparagraph (B) shall be presented in the form of a project description.

''(II) GOOD FAITH ESTIMATES.—

''(aa) IN GENERAL.—Each reference to cost, price, or any other dollar amount contained in a project description referred to in subclause (I) shall be considered to be a good faith estimate by the Administrator.

''(bb) EFFECT.—A good faith estimate referred to in item (aa) shall not bind the Administrator with respect to a request for appropriation of funds for a fiscal year other than a fiscal year for which an authorization of appropriations for the project is requested in the biennial plan.

''(cc) EXPLANATION OF DEVIATION FROM ESTIMATE.—If the request for an authorization of appropriations contained in the prospectus for a project submitted under paragraph (2)(C) is different from a good faith estimate for the project referred to in item (aa), the prospectus shall include an explanation of the difference.

''(D) REINCLUSION OF PROJECTS IN PLANS.—If a project included in a biennial plan is not approved in accordance with this subsection, or if funds are not made available to carry out a project, the Administrator may include the project in a subsequent biennial plan submitted under this subsection.'';

(F) in paragraph (2) (as designated by subparagraph (B))—

(i) by inserting after ''(2) PREREQUISITES TO OBLIGATION OF FUNDS.—'' the following:

''(A) IN GENERAL.—Notwithstanding any other provision of law, the Administrator may not obligate funds that are made available for any project for which approval is required under subparagraph (B) unless—

''(i) the project was included in the biennial plan for the fiscal year; and

''(ii) a prospectus for the project was submitted to Congress and approved in accordance with this paragraph.''; and

(ii) by adding at the end the following:

''(C) PROSPECTUSES.—For the purpose of obtaining approval of a proposed project described in the biennial plan, the Administrator shall submit to Congress a prospectus for the project that includes—

''(i) a brief description of the public building to be constructed, altered, purchased, or acquired, or the space to be leased, under this Act;

''(ii) the location of the building or space to be leased and an estimate of the maximum cost, based on the predominant local office space measurement system (as determined by the Administrator), to the United States of the construction, alteration, purchase, or acquisition of the building, or lease of the space;

''(iii) in the case of a project for the construction of a courthouse or other public building consisting solely of general purpose office space, the cost benchmark for the project determined under subsection (d); and

''(iv) in the case of a project relating to a courthouse—

''(I) as of the date of submission of the prospectus, the number of—

''(aa) Federal judges for whom the project is to be carried out; and

''(bb) courtrooms available for the judges;

''(II) the projected number of Federal judges and courtrooms to be accommodated by the project at the end of the 10-year period beginning on the date; and

''(III) a justification for the projection under subclause (II) (including a specification of the number of authorized positions, and the number of judges in senior status, to be accommodated).''; and

(G) by adding at the end the following:

''(3) EMERGENCY AUTHORITY.—

''(A) OVERRIDING INTEREST.—If the Administrator, in consultation with the Commissioner of the Public Buildings Service, determines that an overriding interest requires emergency authority to construct, alter, purchase, or acquire a public building, or lease office or storage space, and that the authority cannot be obtained in a timely manner through the biennial planning process required under paragraph (1), the Administrator may submit a written request for the authority to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. The Administrator may carry out the project for which authority was requested under the preceding sentence if the project is approved in the manner described in paragraph (2)(B).

''(B) DECLARED EMERGENCIES.—

''(i) LEASE AUTHORITY.—Notwithstanding any other provision of this section, the Administrator may enter into an emergency lease during any period of emergency declared by the President pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) or any other law, or declared by any Federal agency pursuant to any applicable law, except that no such emergency lease shall be for a period of more than 5 years.

''(ii) REPORTING.—As part of each biennial plan, the Administrator shall describe any emergency lease entered into by the Administrator under clause (i) during the preceding fiscal year.'';

(2) in subsection (b)—

(A) by striking ''(b) The'' and inserting the following:

''(b) INCREASES IN COSTS OF PROJECTS.—

''(1) INCREASE OF 10 PERCENT OR LESS.—The''; and

(B) by adding at the end the following:

''(2) GREATER INCREASES.—If the Administrator increases the estimated maximum cost of a project in an amount greater than the increase authorized by paragraph (1), the Administrator shall, not later than 30 days after the date of the increase, notify the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the amount of, and reasons for, the increase.'';

(3) in subsection (c), by striking ''(c) In the case'' and inserting the following:

''(c) RESCISSION OF APPROVAL.—In the case''; and

(4) by striking subsection (d) and inserting the following:

''(d) DEVELOPMENT OF COST BENCHMARKS.—

''(1) IN GENERAL.—The Administrator shall develop standard cost benchmarks for projects for the construction of courthouses, and other public buildings consisting solely of general purpose office space, for which a prospectus is required under subsection (a)(2). The benchmarks shall consist of the appropriate cost per square foot for low-rise, mid-rise, and high-rise projects subject to the various factors determined under paragraph (2).

''(2) FACTORS.—In developing the benchmarks, the Administrator shall consider such factors as geographic location (including the necessary extent of seismic structural supports), the tenant agency, and necessary parking facilities.''.

(b) INCLUSION OF REQUESTED BUILDING PROJECTS IN BIENNIAL PLAN.—Section 11 of the Act (40 U.S.C. 610) is amended—

(1) by striking ''SEC. 11. (a) Upon'' and inserting the following:

''SEC. 11. REPORTS TO CONGRESS.

''(a) REPORTS ON UNCOMPLETED PROJECTS.—Upon''; and

(2) in subsection (b)—

(A) by striking ''(b) The Administrator'' and inserting the following:

''(b) BUILDING PROJECT SURVEYS AND REPORTS.—

''(1) IN GENERAL.—The Administrator'';

(B) in the second sentence of paragraph (1) (as so designated), by inserting before the period at the end the following: '', and shall specify whether the project is included in a 5-year strategic capital asset management plan required under section 7(a)(1)(B)(i) or a prioritized list required under section 7(a)(1)(B)''; and

(C) by adding at the end the following:

''(2) INCLUSION OF REQUESTED BUILDING PROJECTS IN BIENNIAL PLAN.—The Administrator may include a prospectus for the funding of a public building project for which a report is submitted under paragraph (1) in a biennial public buildings plan required under section 7(a)(1).''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 7 of the Act (40 U.S.C. 606) is amended by striking ''Committee on Public Works and Transportation'' each place it appears and inserting ''Committee on Transportation and Infrastructure''.

(2) Section 11(b)(1) of the Act (as amended by subsection (b)(2)) is further amended by striking ''Committee on Public Works and Transportation'' and inserting ''Committee on Transportation and Infrastructure''.

SEC. 4. FEDERAL GOVERNMENT ASSET MANAGEMENT.

Section 12 of the Public Buildings Act of 1959 (40 U.S.C. 611) is amended—

(1) by striking ''SEC. 12. (a) The Administrator'' and inserting the following:

''SEC. 12. FEDERAL GOVERNMENT ASSET MANAGEMENT.

''(a) DUTIES OF ADMINISTRATOR.—

''(1) IN GENERAL.—The Administrator'';

(2) in subsection (a), by adding at the end the following:

''(2) REPOSITORY FOR ASSET MANAGEMENT INFORMATION.—The Administrator shall use the results of the continuing investigation and survey required under paragraph (1) to establish a central repository for the asset management information of the Federal Government.'';

(3) in subsection (b)—

(A) by striking ''(b) In carrying'' and inserting the following:

''(b) COOPERATION AMONG FEDERAL AGENCIES.—

''(1) BY THE ADMINISTRATOR.—In carrying'';

(B) by striking ''Each Federal'' and inserting the following:

''(2) BY THE AGENCIES.—Each Federal''; and

(C) by adding at the end the following:

''(3) IDENTIFICATION AND DISPOSITION OF UNNEEDED BUILDINGS.—

''(A) IDENTIFICATION.—Each Federal agency shall—

''(i) identify public buildings that are or will become unneeded, obsolete, or underutilized during the 5-year period beginning on the date of the identification; and

''(ii) annually report the information on the buildings described in clause (i) to the Administrator.

''(B) DISPOSITION.—The Administrator shall find more cost-effective uses for, or sell, the public buildings identified under subparagraph (A).'';

(4) in subsection (c), by striking ''(c) Whenever'' and inserting the following:

''(c) IDENTIFICATION OF BUILDINGS OF HISTORIC, ARCHITECTURAL, AND CULTURAL SIGNIFICANCE.—Whenever''; and

(5) in subsection (d), by striking ''(d) The Administrator'' and inserting the following:

''(d) REGARD TO COMPARATIVE URGENCY OF NEED.—The Administrator''.

SEC. 5. ADDRESSING LONG-TERM GOVERNMENT HOUSING NEEDS.

(a) REPORT ON LONG-TERM HOUSING NEEDS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the head of each Federal agency (as defined in section 13(3) of the Public Buildings Act of 1959 (40 U.S.C. 612(3)) shall review and report to the Administrator on the long-term housing needs of the agency. The Administrator shall consolidate the agency reports and submit a consolidated report to Congress.

(2) ASSISTANCE FROM ACCOUNT MANAGERS.—The Administrator of General Services shall designate an account manager for each agency to assist—

(A) the agency in carrying out the review required under paragraph (1); and

(B) the Administrator in preparing uniform standards for housing needs for—

(i) executive agencies (as defined in section 13(4) of the Act (40 U.S.C. 612(4)); and

(ii) establishments in the judicial branch of the Federal Government.

(b) REDUCTION IN AGGREGATE OFFICE AND STORAGE SPACE.—By the end of the third fiscal year that begins after the date of enactment of this Act, the Federal agencies referred to in subsection (a)(1) shall, to the maximum extent practicable, collectively reduce by no less than 10 percent the aggregate office and storage space held by the agencies on the date of enactment of this Act.

SEC. 6. MORATORIUM ON CONSTRUCTION OF PUBLIC BUILDINGS.

(a) IN GENERAL.—Notwithstanding any other law, during the period beginning on the date of enactment of this Act and ending on the date that is 270 days after the date of enactment, the Administrator of General Services may not expend funds on any project relating to the construction, purchase, or acquisition of a public building with respect to which no funds (including no funds for site selection, design, or construction) have previously been expended.

(b) DEFINITIONS.—In this section, the terms ''construct'' and ''public building'' have the meanings provided in section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612).

SEC. 7. DESIGN GUIDES AND STANDARDS FOR COURT ACCOMMODATIONS.

(a) REPORT.—Not later than 60 days after the date of enactment of this Act, the Administrator of General Services, in consultation with the Director of the Administrative Office of the United States Courts, shall submit a report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that specifies the characteristics of court accommodations that are essential to the provision of due process of law and the safe, fair, and efficient administration of justice by the Federal court system.

(b) DESIGN GUIDES AND STANDARDS.—

(1) DEVELOPMENT.—Not later than 180 days after the date of enactment of this Act, the Administrator, in consultation with the Director of the Administrative Office of the United States Courts and after notice and opportunity for comment, shall develop design guides and standards for Federal court accommodations based on the report submitted under subsection (a). In developing the design guides and standards, the Administrator shall consider space efficiency and the appropriate standards for furnishings.

(2) USE.—Notwithstanding section 462 of title 28, United States Code, the design guides and standards developed under paragraph (1) shall be used in the design of court accommodations.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title.

Provides that the Act may be cited as the ''Public Buildings Reform Act of 1995''.

Section 2. Site Selection.

This section provides that in selecting a site for a federal buildings project undertaken by the General Services Administration (GSA), the impact of the site selection on the cost and efficiency of the project shall be considered.

Section 3. Congressional Oversight of Public Buildings Projects.

The purpose of this section is to require a prioritization of GSA projects requiring Congressional approval and to provide Congress with additional information on each GSA project.

The section:

Requires GSA to submit to Congress, as part of an ongoing two year planning cycle, its authorization and appropriations requests, in order of priority, of constructing, altering, purchasing, acquiring or leasing government office space.

Prohibits the Administration from obligating funds for any prospectus-level project unless the project is part of the biennial plan for the fiscal year and unless a prospectus for it is also submitted to and authorized by the appropriate Congressional committees, as required under current law.

Requires the GSA to include additional information in each project prospectus submitted to the Senate Environment and Public Works Committee and the House Transportation and Infrastructure Committee for approval. Each prospectus shall include:

(a) a brief description of the project, including scope and tenant agency;

(b) the location of the project and the estimated maximum cost;

(c) the cost benchmark for the project;

(d) the current number of Federal judges and courtrooms as of the date of submission of the prospectus; and

(e) the projected number of Federal judges and courtrooms expected to be accommodated by the proposed project;

(1) the projected figures must be justified by including information on the authorized judicial positions and Federal judges expected to be in senior status.

Gives GSA the emergency authority to submit a prospectus for a project not contained in the biennial plan if there is an overriding interest. Should such a prospectus be submitted under this emergency authority, the prospectus must still be approved by the appropriate committees.

Allows the Administrator to enter into an emergency lease, of no more than 5 years, if there is a Presidentially declared disaster issued pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Provides that should GSA seek a reprogramming request from the Congressional Appropriations Committees for a project, GSA must notify the appropriate committees of the reasons for the request and the reprogramming amount.

Ensures that an 11(b) project request made by Congressional committees are considered as part of the overall biennial planning process and not authorized separately. Included in the 11(b) report will be a priority ranking of the project.

Section 4. Federal Government Asset Management.

This section establishes a central repository at GSA to house the asset management information of the Federal Government. Each agency will identify—through a long-term plan—unneeded, obsolete and underutilized public buildings and annually report the information to GSA. The GSA, in turn, will find cost-effective uses for the public buildings, including asset sales.

Section 5. Addressing Long-Term Government Housing Needs.

This section provides that within one year, each agency shall report to Congress on the long-term housing needs of the agency in an attempt to reduce the Federal space needs. GSA will designate managers to each agency to assist in this review. By the end of the third year, each Federal agency shall, to the maximum extent practicable, reduce by no less than 10 percent its aggregate office or storage space.

Section 6. Moratorium on the Construction of Public Buildings.

This section provides for a nine month moratorium on new construction, purchase or acquisition projects. The moratorium applies only to those projects in which no funds have previously been expended on any phase of the project.

Section 7. Design Guides and Standards for Court Accommodations.

This section provides that no later than 60 days after enactment, GSA, in consultation with the Administrative Office of the Courts, shall submit a report to the appropriate committees on the basic characteristics of court accommodations. GSA shall use the results of this report to develop, in consultation with the Administrative Office of the Courts, design guides and standards for Federal court accommodations. These design guides and standards shall then be used in the construction of Federal courthouses.●

ADDITIONAL COSPONSORS

S. 50

At the request of Mr. LOTT, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 50, a bill to repeal the increase in tax on Social Security benefits.

S. 67

At the request of Mr. INOUYE, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 67, a bill to amend title 10, United States Code, to authorize former members of the Armed Forces who are totally disabled as the result of a service-connected disability to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft.

S. 254

At the request of Mr. LOTT, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 254, a bill to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the U.S. merchant marine during World War II.

S. 304

At the request of Mr. MACK, his name was added as a cosponsor of S. 304, a bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation.

At the request of Mr. SANTORUM, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 304, supra.

S. 327

At the request of Mr. MACK, his name was added as a cosponsor of S. 327, a bill to amend the Internal Revenue Code of 1986 to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home.

S. 369

At the request of Mr. HEFLIN, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 369, a bill to designate the Federal Courthouse in Decatur, AL, as the ''Seybourn H. Lynne Federal Courthouse,'' and for other purposes.

S. 594

At the request of Mrs. BOXER, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 594, a bill to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer.

S. 650

At the request of Mr. SHELBY, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 650, a bill to increase the amount of credit available to fuel local, regional, and national economic growth by reducing the regulatory burden imposed upon financial institutions, and for other purposes.

S. 684

At the request of Mr. HATFIELD, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 684, a bill to amend the Public Health Service Act to provide for programs of research regarding Parkinson's disease, and for other purposes.

S. 692

At the request of Mr. GREGG, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 692, a bill to amend the Internal Revenue Code of 1986 to preserve family-held forest lands, and for other purposes.