

EXECUTIVE AND OTHER
COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1600. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation for the Federal Crop Insurance title of the 1995 Farm Bill; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1601. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, a statement regarding transactions involving exports to Trinidad and Tobago; to the Committee on Banking, Housing, and Urban Affairs.

EC-1602. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC-1603. A communication from the Secretary of Energy, transmitting, pursuant to law, two technical and policy analyses regarding replace fuels and alternative fuels vehicles; to the Committee on Energy and Natural Resources.

EC-1604. A communication from the Secretary of Energy, transmitting, pursuant to law, the report entitled, "Energy Policy Act Transportation Study: Interim Report on Natural Gas Flows and Rates"; to the Committee on Energy and Natural Resources.

EC-1605. A communication from the Secretary of Energy, transmitting, pursuant to law, the report entitled, "Energy Policy Act Transportation Rate Study: Interim Report on Coal Transportation"; to the Committee on Energy and Natural Resources.

EC-1606. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, the biennial report regarding implementation of section 1135 of the Water Resources Development Act of 1986; to Committee on the Environment and Public Works.

EC-1607. A communication from the Secretary of Labor, transmitting, pursuant to law, the quarterly report on the expenditure and need for worker adjustment assistance training funds; to the Committee on Finance.

EC-1608. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on data necessary to review and revise the Medicare Geographic Practice Cost Index (GPCI); to the Committee on Finance.

EC-1609. A communication from the Director of the United States Information Agency, transmitting, pursuant to law, the report on the establishment and operation of Radio Free Asia; to the Committee on Foreign Relations.

EC-1610. A communication from the Lieutenant General of the Defense Security Assistance Agency, transmitting, pursuant to law, a notice concerning delivery of defense articles to Jamaica relative to Presidential Determination 94-41; to the Committee on Foreign Relations.

EC-1611. A communication from the Vice Chairman of the Federal Election Commission, transmitting, pursuant to law, proposed regulations governing Public Financing of Presidential Primary and General Election Candidates; to the Committee on Rules and Administration.

EC-1612. A communication from the Executive Director of the Neighborhood Reinvestment Corporation, transmitting, pursuant to

law, the annual report on audit and investigative activities; to the Committee on Governmental Affairs.

EC-1613. A communication from the Director of Human Resources, the Western Farm Credit Bank, transmitting, pursuant to law, the annual report on audited financial statements; to the Committee on Governmental Affairs.

EC-1614. A communication from the Chief Financial Officer of the Export-Import Bank, transmitting, pursuant to law, the annual management report for 1995; to the Committee on Governmental Affairs.

EC-1615. A communication from the President of the United States Institute of Peace, transmitting, pursuant to law, the report on financial statements and additional information; to the Committee on Governmental Affairs.

EC-1616. A communication from the Chairman of the Postal Rate Commission, transmitting, pursuant to law, the report on internal controls and financial systems in effect during fiscal year 1995; to the Committee on Governmental Affairs.

EC-1617. A communication from the Chairman of the United States Merit Systems Protection Board, transmitting, pursuant to law, the report entitled, "Sexual Harassment in the Federal Workplace: Trends, Progress, and Continuing Challenges"; to the Committee on Governmental Affairs.

EC-1618. A communication from the National Commander of the American Ex-Prisoners of War, transmitting, pursuant to law, the 1995 audit report as of August 31, 1995; to the Committee on the Judiciary.

EC-1619. A communication from the Chairman of the Administrative Conference of the United States, transmitting, pursuant to law, the annual report of the Conference under the Equal Access to Justice Act; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 755. A bill to amend the Atomic Energy Act of 1954 to provide for the privatization of the United States Enrichment Corporation (Rept. No. 104-173).

By Mr. MCCAIN, from the Committee on Indian Affairs, with amendments:

S. 1341. A bill to provide for the transfer of certain lands to the Salt River Pima-Maricopa Indian Community and the city of Scottsdale, Arizona, and for other purposes (Rept. No. 104-174).

INTRODUCTION OF BILLS AND
JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PRESSLER:

S. 1418. A bill to provide for the more effective implementation of the prohibition against the payment to prisoners of supplemental security income benefits under title XVI of the Social Security Act or monthly benefits under title II of such Act, and to deny such supplemental security income benefits for 10 years to a person found to have fraudulently obtained such benefits while in prison; to the Committee on Finance.

By Mrs. KASSEBAUM (for herself, Mr. LEAHY, Mr. FEINGOLD, Mr. JEFFORDS,

Mr. SIMON, Mr. WELLSTONE, Mr. PELL, Mr. MCCAIN, and Mr. GREGG):

S. 1419. A bill to impose sanctions against Nigeria; to the Committee on Foreign Relations.

By Mr. STEVENS (for himself, Mr. BREAUX, Mr. CHAFEE, Mr. JOHNSTON, and Mr. MURKOWSKI):

S. 1420. A bill to amend the Marine Mammal Protection Act of 1972 to support International Dolphin Conservation Program in the eastern tropical Pacific Ocean, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SIMON:

S. 1421. A bill to amend the Internal Revenue Code of 1986 to treat as a zone business an otherwise qualified business dissected by a census tract boundary line of a designated empowerment zone or enterprise community; to the Committee on Finance.

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

S. 1422. A bill to authorize the Secretary of the Interior to acquire property in the town of East Hampton, Suffolk County, New York, for inclusion in the Amagansett National Wildlife Refuge, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GREGG (for himself, Mrs. KASSEBAUM, Mr. NUNN, Mr. JEFFORDS, and Mr. GORTON):

S. 1423. A bill to amend the Occupational Safety and Health Act of 1970 to make modifications to certain provisions, and for other purposes; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED
BILLS AND JOINT RESOLUTIONS

By Mr. PRESSLER:

S. 1418. A bill to provide for the more effective implementation of the prohibition against the payment to prisoners of supplemental security income benefits under title XVI of the Social Security Act or monthly benefits under title II of such Act, and to deny such supplemental security income benefits for 10 years to a person found to have fraudulently obtained such benefits while in prison; to the Committee on Finance.

THE PRISONER FRAUD PREVENTION ACT

Mr. PRESSLER. Mr. President, today I am introducing the Prisoner Fraud Prevention Act. This legislation would crack down on prisoners who continue to commit crime from behind bars by cheating American taxpayers and our welfare system. Recently the Senate passed H.R. 4, comprehensive welfare reform legislation. This bill would go a long way toward reducing fraud and abuse in the Supplemental Security Income (SSI) program. The legislation I am introducing today would take our anti-fraud efforts one step further.

Under current law, it is illegal for prisoners to receive SSI payments while incarcerated. To carry out this mandate, the Social Security Administration enters into agreements with federal and state prisons to collect the names of inmates. However, these agreements do not completely prevent inmates from fraudulently receiving benefits, because about one-third of prisoners in the U.S. are held in county

jails. Unbeknownst to the Social Security Administration, these local prisoners often continue to receive SSI payments.

The legislation I am introducing today would offer local sheriffs an incentive to work with the Social Security Administration to stop payment of these fraudulent benefits. The bill would reward sheriffs who voluntarily turn inmate lists over to the Social Security Administration by allowing them to keep one-half of the value of the first checks that are intercepted. This would speed up the process of removing prisoners from SSI rolls as well as catch those prisoners who slipped through the system. This is a money saver for American taxpayers. In fact, the Congressional Budget Office (CBO) estimated that this proposal would save \$127 million over five years.

Additionally, this legislation would bar anyone who received SSI fraudulently while in prison from receiving benefits for the next ten years.

By allowing sheriffs to collect a "bounty", we can do a number of positive things: we can provide some seed money for local law enforcement and help put an end to the abuse for which the SSI program unfortunately has become famous. This type of abuse is an insult both to hard-working taxpayers who struggle daily without government assistance as well as families on assistance who play by the rules. Congress must take a no-tolerance stance toward fraud and abuse of public assistance. This bill establishes the get-tough approach we need.

I am pleased that the National Sheriffs Association has endorsed this legislation. I hope my colleagues will join me in sponsoring it.

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. 1418

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

SECTION 1. SHORT TITLE.

This bill may be cited as the "Prisoner Fraud Prevention Act".

SEC. 2. IMPLEMENTATION OF PROHIBITION AGAINST PAYMENT OF BENEFITS TO PRISONERS.

(a) SSI BENEFITS.—Section 1611(e)(1) of the Social Security Act (42 U.S.C. 1382(e)(1)) is amended by adding at the end the following:

"(I) The Commissioner shall enter into a contract with any interested State or local institution referred to in subparagraph (A), under which—

"(i) the institution shall provide to the Commissioner, on a monthly basis, the names of, and other identifying information about, the inmates of the institution; and

"(ii) the Commissioner shall pay to the institution, with respect to each inmate of the institution who, by reason of this paragraph, is ineligible for a benefit under this title, and who is found by the Commissioner to have been erroneously paid a benefit under this title while such an inmate, an amount equal to 50 percent of the monthly amount most recently erroneously so paid to the inmate."

(b) OASDI BENEFITS.—Section 202(x)(3) of such Act (42 U.S.C. 402(x)(3)) is amended—

(1) by inserting "(A)" after "(3)"; and

(2) by adding at the end the following:
 "(B) The Commissioner shall enter into a contract with any interested State or local institution described in clause (i) or (ii) of paragraph (1)(A) the primary purpose of which is to confine individuals as described in paragraph (1)(A), under which—

"(i) the institution shall provide to the Commissioner, on a monthly basis, the names of, and other identifying information about, the individuals so confined in the institution; and

"(ii) the Commissioner shall pay to any such institution, with respect to each individual found by the Commissioner to have been erroneously paid a benefit under this title while so confined in the institution, an amount equal to 50 percent of the monthly amount most recently erroneously so paid to the individual."

SEC. 3. DENIAL OF SSI BENEFITS FOR 10 YEARS TO A PERSON FOUND TO HAVE FRAUDULENTLY OBTAINED SSI BENEFITS WHILE IN PRISON.

Section 1611(e)(1) of the Social Security Act (42 U.S.C. 1382(e)(1)), as amended by section 1 of this Act, is amended by adding at the end the following:

"(J) A person shall not be an eligible individual or eligible spouse for purposes of this title if—

"(i) the Commissioner finds that the person has made a fraudulent statement or representation in order to obtain benefits under this title while serving a prison sentence; and

"(ii) the 10-year period that begins with the date the person has completed the sentence has not expired."

By Mrs. KASSEBAUM (for herself, Mr. LEAHY, Mr. FEINGOLD, Mr. JEFFORDS, Mr. SIMON, Mr. WELLSTONE, Mr. PELL, Mr. GREGG, and Mr. MCCAIN):

S. 1419. A bill to impose sanctions against Nigeria; to the Committee on Foreign Relations.

THE NIGERIA DEMOCRACY ACT

Mrs. KASSEBAUM. Mr. President, I rise today to introduce legislation on behalf of myself, Senators LEAHY, FEINGOLD, and others, imposing sanctions against the Government of Nigeria.

Before I explain a bit about this legislation, let me just say I very much appreciate being able to introduce it at this point, because I know we are anxious to begin the debate on the Balanced Budget Act of 1995, a very important piece of legislation, but there has been a tragic occurrence and an escalation of events in Nigeria which I think needs to be addressed.

Last week, the Nigerian military regime, led by General Sani Abacha, executed nine Nigerian political activists, including Ken Saro-Wiwa, following a seriously flawed judicial proceeding. This action, in the face of international pleas for clemency, is the latest in a series of very tragic, tragic, outrageous actions by the Nigerian military government.

Until this last atrocity, the international community had engaged in a policy of limited sanctions and diplomatic engagement. In Congress, we sent letters expressing our concern. We

engaged the Nigerian Ambassador. We held hearings. But the situation has reached the point where we simply must respond in a forceful and clear manner.

Nigeria is a country heading for collapse, Mr. President. Its economic system has deteriorated dramatically. Political repression continues to grow. Ethnic tensions have increased.

General Abacha and Nigerian military leadership must understand that their isolation will only increase unless they move toward respecting human rights and a civilian democratic government.

Nigeria is a country that has enormous potential, enormous resources to call upon, and it can only be a real tragedy for the African Continent and the rest of the world to see this collapse into such a very tragic situation.

The legislation that we are introducing today imposes a series of sanctions against the Nigerian Government. It codifies the number of sanctions already imposed by the administration, including a ban on foreign aid, military sales and export financing; a termination of air flights between Nigeria and the United States; an end to U.S. support for Nigeria at the World Bank, IMF and other international financial institutions; and a visa ban on any Nigerian who formulates, implements or benefits from policies which hinder Nigeria's transition to democracy.

The legislation also imposes several new tough sanctions. It bans all new United States investment in Nigeria, including in the energy sector. While some may argue that this step may hurt U.S. businesses, there can be no doubt that the Nigerian regime profits from American investment. Several large projects under consideration personally benefit the top Nigerian leadership.

It also freezes the personal assets of the top officials of the Nigerian regime. If these leaders pull the country into a downward spiral of repression and economic decline, there will be a personal cost to them.

It expresses a sense of Congress that the international community should consider suspending Nigeria from international sports competitions. South Africa recently expelled Nigeria from a soccer tournament. We should consider following their example in other fora.

In addition, recognizing the importance of multilateral action, the legislation urges the President to build international support for other actions, including a U.N. arms embargo, a multilateral oil embargo and a U.N. Human Rights Commission condemnation.

It is critical that the United States work closely with other members of the international community, particularly Great Britain and South Africa, in this effort to promote democratic change in Nigeria.

Finally, the legislation makes clear our intent to pursue even tougher sanctions if the Nigerian regime continues its brutal and lawless ways.

I am one who believes we must be very cautious in applying sanctions against foreign governments, but I believe the situation in Nigeria has reached the point where we must send an unambiguous and tough signal to General Abacha. We will not stand by idle as he drags his country into chaos. If General Abacha would move toward respecting human rights and instituting a new civilian regime, the sanctions would be lifted and we would welcome Nigeria back as a partner and friend in the international community. If he continues to move in the wrong direction, the isolation will grow and the economic price will be high.

Mr. President, I know that Senator LEAHY has long been interested and concerned about this situation, as has Senator FEINGOLD. I welcome the opportunity to have them speak to this issue as well. I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the Senator from Kansas. I note that this is introduced on behalf of her, myself and cosponsored by the Senator from Wisconsin, Mr. FEINGOLD. I ask unanimous consent that when it is introduced, also added after us as a cosponsor be the Senator from Minnesota, Mr. WELLSTONE.

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

Mr. LEAHY. Mr. President, I am proud to join with Senator KASSEBAUM on this. I am sad that it is necessary that we do this. Last week, people around the world were horrified to learn that Ken Saro-Wiwa, who was a respected Nigerian writer, a human rights activist, known not only throughout Nigeria but around the world, was executed, along with others, after a flagrantly unfair trial by a military court.

The legislation we introduce today is a tribute to Mr. Saro-Wiwa and to other Nigerians who have given their lives—and there are others—or languish in prison because of the pursuit of democracy and a better life for the Nigerian people.

On November 10, Mr. Saro-Wiwa, who was a member of the Ogoni Tribe who live in poverty in the rich, oil-producing delta region of southern Nigeria, was hanged with eight of his colleagues. They had been accused of inciting the murder of four other Ogoni leaders.

Ken Saro-Wiwa and his colleagues were the latest casualties of one of the most brutal military regimes in the world. Gen. Sani Abacha, who seized power in a 1993 coup, has mimicked the tyrannical rule of his African neighbor, President Mobutu of Zaire, who plundered his country and killed or imprisoned anyone who dared to oppose him.

President Mobutu will go down as one of the great tyrants of this century, one of the greatest robbers of this century, and General Abacha seems to be trying to catch up.

Like Mobutu, General Abacha has become a multimillionaire, while Nigeria, a country with enormous human and economic potential, the most populous country in sub-Saharan Africa, has been brutalized and impoverished. Saro-Wiwa's execution is part of a countrywide repression of utter brutality, marked by arbitrary arrests, detention without trial, kangaroo courts when trials do take place, and prisons so appalling that death might be preferable.

Despite claims that he is leading Nigeria to democracy and civilian government, there is absolutely no reason to believe that General Abacha will ever willingly give up power. His hands are too bloody to risk the restoration of the rule of law in Nigeria.

Today in Ogoniland, armed troops encircle the cemetery where Saro-Wiwa is buried to prevent access by the public, and anyone caught with a photograph of him is arrested. The Washington Post reports today that there may be even more executions in the coming days.

Mr. President, along with others, I sought clemency for Ken Saro-Wiwa for more than 1 year. I wrote to the Nigerian Foreign Minister, the Nigerian Ambassador, the Secretary of State, and have even appealed to other African leaders on his behalf. All to no avail. While I was not privy to the evidence against Mr. Saro-Wiwa, I believed strongly, like so many others, that the Nigerian Government should have either released him or tried him in a civil court in accordance with due process.

There is no doubt that General Abacha wanted to silence Ken Saro-Wiwa. He had led a popular campaign against the oil companies that have ravaged and poisoned the land of his people. Oil accounts for 90 percent of Nigeria's export earnings, and whoever controls it controls the country's wealth, and controls the Nigerian Army. General Abacha apparently decided that he was better off with Saro-Wiwa dead, rather than as a continuing champion of Ogoni resistance. He probably figured that the rest of the world would forget him.

The world will not soon forget Ken Saro-Wiwa. He was a champion of the rights of his people, and a world leader in the struggle to protect the environment. While our efforts to save his life ultimately failed, his memory inspires us to support the cause for which he and others gave their lives.

This bill aims to support and strengthen the measures already taken by the administration, both before and since Mr. Saro-Wiwa's execution. In addition, it prohibits new United States investment in Nigeria, including investment in a liquefied natural gas project that the International Finance Corporation has refused to finance, and which General Abacha reportedly has a personal interest in.

It also freezes the assets of Nigerians who are responsible for or benefit from

policies which hinder Nigeria's transition to democracy. The Nigerian Government should think long and hard before it retaliates against American assets in Nigeria, because there is far more that we can do.

Of particular importance, the legislation calls on the President to actively seek multilateral support for these sanctions in the United Nations. We are already hearing of similar steps by the European community, but frankly the response of the international community has been shamefully timid. The United States has even run into resistance at the United Nations to a resolution condemning Nigeria for executing Saro-Wiwa. And Shell Oil, which derives a seventh of its global production of oil from Nigeria, seems to care about nothing but its own profits.

These and other sanctions are modeled on the sanctions we imposed against South Africa in the 1980's. They may be waived by the President if the Nigerian Government releases political prisoners, and demonstrates a commitment to human rights and an unequivocal commitment to democratic government.

We also provide a waiver if the President determines it is important to the national interest. This was included, in part, to encourage the Nigerian Government to increase its cooperation in counternarcotics. Nigeria is a center of drug trafficking and money laundering, and the United States has a strong interest in obtaining the Nigerian Government's cooperation to curtail it.

But the real trigger in this legislation is General Abacha himself. If he continues to imprison and murder his political opponents, the sanctions will get even stronger. We will consider everything including an oil embargo. Nigeria will become even further isolated, and General Abacha will eventually go the way of other African tyrants—forced from power and either shot or imprisoned, or sent into exile overturned in a coup. If, on the other hand, he decides to respect the rights of his people, the sanctions will end.

I am not so naive to believe that General Abacha will comply with the conditions in this legislation. His decision to execute Ken Saro-Wiwa was a sign that he would rather be branded an international pariah, than save his country from ruin. But the choice is his.

Mr. President, I also want to mention the oil companies who were the focus of Ken Saro-Wiwa's campaign. Had it not been for the environmental damage they have caused in Ogoniland, I suspect Ken Saro-Wiwa would be alive today.

We have not included sanctions against the oil companies in this legislation, but we expressly reserve the right to do so if the situation does not improve in Nigeria. Only 10 percent of our oil comes from Nigeria, but that 10 percent comprises 40 percent of Nigeria's total oil exports.

I strongly urge those companies, whether they are American companies

or foreign companies, to reconsider their activities in Nigeria. They are responsible for propping up an extraordinarily brutal and corrupt regime, and for destroying the livelihoods of many of the poorest people in Nigeria, the people who Ken Saro-Wiwa gave his life for. Private business has a responsibility to the betterment of society, not only to accruing profits. If there ever were a place to apply that principle it is in Nigeria today.

Mr. President, we cannot bring Ken Saro-Wiwa back to life, but as he said before he was executed, his words will live on. This legislation aims to carry on the campaign he gave his life for.

Mr. President, I ask unanimous consent that an article in today's New York Times on the recent arrest of nine Nigerian human rights activists, be printed in the RECORD.

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

[From the New York Times, Nov. 17, 1995]

RIGHTS GROUP SAYS NIGERIA SEIZED 9 TO THWART PROTEST OF HANGINGS

LAGOS, NIGERIA, November 16.—A Nigerian human rights organization said today that nine of its members had been arrested because the military Government feared they were about to protest publicly against the execution of nine Government critics last week.

Jiti Ogunye, secretary general of the Committee for the Defense of Human Rights, said two student union leaders in the university in Benin were arrested on Wednesday and the other members of the group were arrested here last week. "All of them are detained in the Lagos police headquarters but we have been denied access to them," he said.

There was no official confirmation of the arrests.

Nigeria's military rulers provoked international outrage on Friday after the hanging of Ken Saro-Wiwa, a prominent Nigerian author, and eight other campaigners for minority rights. They were sentenced by a tribunal for the murder of four pro-Government chiefs in the oil-rich Ogoniland region. They had been campaigning for compensation for the Ogoni tribe in the southeast for oil produced there for decades by multinational corporations, principally the Anglo-Dutch oil giant Shell.

Gen. Sani Abacha, Nigeria's ruler, in his first reaction to the international furor over the hanging of the rights activists, accused foreign powers of interference, local newspapers reported.

Several nations have recalled their ambassadors to protest the executions, Nigeria has recalled its own envoys in retaliation.

The United States and Britain—Nigeria's former colonial ruler—imposed an arms embargo on Lagos and the European Union froze development aid.

In Strasbourg today, the European Parliament urged the European Union to impose an oil embargo on Nigeria, but a European Union diplomat in Brussels said an effective embargo could only be carried out through the United Nations Security Council, "and I don't think the votes are there."

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I am proud to join with my colleagues in introducing the Nigeria Democracy Act. I appreciate the statements of the Sen-

ator from Kansas and the Senator from Vermont. This tough sanctions measure comes on the heels of the chilling execution of 9 human rights activists, including renowned playwright Mr. Ken Saro Wiwa, in Nigeria on Friday, and at a time when the regime of General Sani Abacha has intensified its crackdown against its own people.

The bill we are introducing today is intended to ratchet up the pressure on this brutal military regime, and improve the protection of basic human rights in Nigeria and indeed the whole region. Let this measure be a warning that if the human rights situation deteriorates—that is, if any more political prisoners are executed, or more decrees violating basic human rights are enacted—the United States will respond with yet harsher measures, and will actively seek multilateral support from our friends and allies. The reported arrest of 9 more human rights activists peacefully protesting last week's executions is not a good sign.

Mr. President, Nigeria has the potential to become a major world trading partner, and an influential member of the international community. Yet General Abacha is squandering his country with rampant corruption; brutal policies of repression and execution; and severe economic mismanagement.

Some observers will say that General Abacha is simply trying to maintain the integrity of Nigeria while the country adjusts to a drastic political change. I am wholly unconvinced, however, that the murder, assault, and suppression that Abacha has engaged in will hold the country together; in fact, I believe that as a consequence of the repression, Nigeria is more likely to break out in civil war.

Mr. President, I applaud the steps the administration has taken thus far on Nigeria. But I think we should take an even tougher stand with General Abacha at this point. Engagement has not worked, as witnessed in last Friday's executions. International pleas to commute the death sentences and to re-try the defendants were ignored. Faxes and phone calls from several of us introducing this bill today to Nigerian officials were never returned. I am not persuaded that engagement and dialog with Abacha has been terribly effective.

The Nigeria Democracy Act will codify the sanctions already ordered by the President, and would impose further sanctions on Nigeria as well. Many of the measures suggested in this bill come from the Comprehensive Anti-Apartheid Act, which was quite successful in helping to secure democratic transition in South Africa. In fact, it was Nigeria, ironically, that led the world in sanctioning South Africa for its human rights abuses under apartheid.

As the Chair has indicated, one of the toughest measures in this bill is a prohibition on new investment in Nigeria, including banning United States firms from investing in Shell Oil's ill-timed,

\$3.8 billion project in Bonny, Nigeria, which was reported yesterday.

While I believe there are moral and strategic benefits in the United States acting unilaterally, of course, it would be better and I would prefer to see these sanctions to be applied multilaterally. Thus, our bill also directs the President to urge actively other countries to join our sanctions effort in order to promote human rights and democracy in Nigeria.

Mr. President, as the Senator from Vermont suggests, perhaps we should also take a look at an oil embargo, either unilateral or multilateral, at this time.

Since over 90 percent of Nigeria's foreign exchange income comes from its oil industry—and since Abacha personally benefits from most of these sales through corruption—it makes sense that an oil embargo would hit the regime hard. I am also deeply disappointed in how Shell Oil has conducted itself in the midst of this turmoil. However, there are other considerations to look at seriously as well, and over the next few weeks I will be carefully considering the intricacies and complexities of such an oil embargo proposal.

For the moment, though, let me conclude by saying I believe the bill we are introducing takes a responsible approach in urging the President to build support for a multilateral oil embargo. Grassroots support for such an initiative seems to be growing. South African President Nelson Mandela, who before the executions was advocating diplomatic engagement with the Nigerians, came out yesterday in support of an oil embargo against the Abacha regime. If the situation deteriorates, we must prepare for such an action.

Let me congratulate the Chair of the subcommittee, Senator KASSEBAUM, on her initiative. I look forward to working with my colleagues on this bill in the coming months.

Our bill will not bring back Ken Saro-Wiwa and the other executed activists. But perhaps it will help create an environment in which oppression and brutality like that already exhibited will no longer be tolerated.

Mr. FEINGOLD. I ask unanimous consent that Senator McCAIN and Senator PELL be added as cosponsors.

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

By Mr. STEVENS (for himself, Mr. BREAUX, Mr. CHAFEE, Mr. JOHNSTON, and Mr. MURKOWSKI):

S. 1420. A bill to amend the Marine Mammal Protection Act of 1972 to support International Dolphin Conservation Program in the eastern tropical Pacific Ocean, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM ACT

Mr. STEVENS. Mr. President, today I am introducing legislation to allow for the domestic implementation of an international agreement relating to

the protection of dolphins and harvest of tuna in the eastern tropical Pacific Ocean (ETP).

Senators BREAUX, CHAFEE, JOHNSTON, and MURKOWSKI join me as original co-sponsors of this legislation.

On October 4, 1995, twelve nations agreed in the "Declaration of Panama" in Panama City, Panama, to seek to create a legally binding instrument to reduce dolphin mortality in the ETP.

The instrument is to be based on the La Jolla Agreement, a multilateral nonbinding agreement adopted in 1992, which included annual and per-vessel limits on dolphin mortality and observer coverage standards for tuna vessels. It will be called the "International Dolphin Conservation Program" (IDCP).

In addition to strengthening the La Jolla provisions and continuing the La Jolla goal of reducing and eventually eliminating dolphin mortality in the ETP, this new binding agreement will: first, improve conservation and management measures for tuna stocks and other living marine resources in the ETP; second, reduce the bycatch of juvenile yellowfin tuna and nontarget species; and third, establish a system of incentives to vessel captains to continue to reduce dolphin mortality.

Under existing U.S. law (16 U.S.C. 307(a)), tuna that is caught using a purse seine net intentionally deployed on or to encircle dolphin cannot be labeled as "dolphin safe" and is prohibited (since June 1, 1994) from being sold in the United States.

The successful adoption of the binding agreement envisioned in the Declaration of Panama is contingent upon a change in U.S. law to allow "dolphin safe" to mean tuna that is caught by a vessel in a set in which no dolphin mortality occurred. This would mean that tuna caught in a purse seine net intentionally deployed to encircle dolphins could be labeled as "dolphin safe" and imported into the United States, as long as no dolphin mortality occurred during the set.

The legislation we are introducing today would make this change to the Marine Mammal Protection Act (MMPA). Since the passage of the MMPA in 1972, dolphin mortality in the ETP has been reduced from over 400,000 per year, to below 5,000 in 1994.

The countries that have continued to fish for tuna by encircling dolphins have shown that it can be done without killing dolphins.

We've learned from our own fishermen that alternative methods, such as setting on logs, can result in substantial bycatch of nontarget species and juvenile tuna.

The IDCP would make binding an ETP mortality limit of 5,000 dolphins and allow encirclement to continue, but would maintain the goal of eliminating dolphin mortality altogether in the ETP. The IDCP would, for the first time, provide international species-specific mortality limits that will help guarantee the recovery of individual

dolphin species. The IDCP and legislation we are proposing today will give U.S. consumers a guarantee that no dolphin mortality occurred when the tuna they bought was caught.

It will allow U.S. fishermen to encircle dolphins in the course of tuna fishing, but require them to comply with the dolphin mortality caps and provisions of the IDCP to reduce mortality, and will prohibit them from selling tuna in the United States if dolphin were killed when the tuna was caught.

Specifically, the bill we are proposing would implement the IDCP through changes to the MMPA that would: prohibit the importation of yellowfin tuna caught with purse seine nets in the ETP unless the tuna was caught by the vessel of a nation participating in, and in compliance with, the IDCP; prohibit tuna caught in the ETP from being labeled as "dolphin safe" unless both the captain of the vessel and an observer approved under the IDCP have certified that no dolphins were killed during the set in which the tuna was caught; direct the Secretary of Commerce to implement regulations for U.S. tuna vessels fishing in the ETP under the IDCP, including regulations to require observers on each vessel; give the Secretary of Commerce emergency regulatory authority to reduce mortality and injury of dolphins; require research on (among other things) the effect of the encirclement on dolphins by purse seine nets; implement a new permitting system, which includes permit sanctions, to allow U.S. vessels to fish for tuna in the ETP; make it unlawful to sell or ship tuna in the United States unless it is dolphin safe or has been harvested in compliance with the IDCP; and create a general advisory committee and scientific advisory committee to assist the U.S. section to the IDCP.

These changes to the MMPA would take effect once the Secretary of State has certified that the legally binding instrument establishing the IDCP has been adopted.

This legislation supports the goals of La Jolla Agreement and the Declaration of Panama, and will set a strong example for other nations to follow in joining and implementing the IDCP.

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. 1419

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

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "International Dolphin Conservation Program Act".

(b) REFERENCES TO MARINE MAMMAL PROTECTION ACT.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other pro-

vision of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

SEC. 2. PURPOSE AND FINDINGS.

(a) PURPOSE.—The purpose of this Act is to give effect to the Declaration of Panama, signed October 4, 1995, by the Governments of Belize, Colombia, Costa Rica, Ecuador, France, Honduras, Mexico, Panama, Spain, the United States of America, Vanuatu and Venezuela, including the establishment of the International Dolphin Conservation Program, relating to the protection of dolphins and other species, and the conservation and management of tuna in the eastern tropical Pacific Ocean.

(b) FINDINGS.—The Congress finds that twelve nations, including the United States, agreed in the Declaration of Panama to, among other things—

(1) require that the total annual dolphin mortality in the purse seine fishery for yellowfin tuna in the eastern tropical Pacific Ocean not exceed 5,000, with the commitment and objective to progressively reduce dolphin mortality to levels approaching zero through the setting of annual limits;

(2) establish a per-stock per-year mortality limit up to the year 2001 of between 0.2 percent and 0.1 percent of the minimum population estimate;

(3) starting with the year 2001, require that the per-stock per-year mortality of dolphin not exceed 0.1 percent of the minimum population estimate;

(4) require that in the event that the mortality limits in paragraphs (1), (2), or (3) are exceeded, all sets on dolphins in the case of paragraph (1), or sets on such stock and any mixed schools containing members of such stock in the case of paragraph (2) or (3), shall cease for that fishing year; in the case of paragraph (2), to conduct a scientific review and assessment in 1998 of progress toward the year 2000 objective and consider recommendations as appropriate; and, in the case of paragraph (3), to conduct a scientific review and assessment regarding that stock or those stocks and consider further recommendations;

(5) establish a per-vessel maximum annual dolphin mortality limit consistent with the established per-year mortality caps; and

(6) provide a system of incentives to vessel captains to continue to reduce dolphin mortality, with the goal of eliminating dolphin mortality.

SEC. 3. DEFINITIONS.

Section 3 (16 U.S.C. 1362) is amended by adding at the end the following new paragraphs:

"(28) The term 'International Dolphin Conservation Program' means the international program established by the agreement signed in La Jolla, California, in June 1992, as formalized, modified, and enhanced in accordance with the Declaration of Panama.

"(29) The term 'Declaration of Panama' means the declaration signed in Panama City, Republic of Panama, on October 4, 1995."

SEC. 4. AMENDMENT TO TITLE I.

(a) Section 101(a)(2) (16 U.S.C. 1371(a)(2)) is amended—

(1) by inserting in the first sentence ", and authorizations may be granted under Title III with respect to the yellowfin tuna fishery of the eastern tropical Pacific Ocean, subject to regulations prescribed under that title by the Secretary without regard to section 103" before the period; and

(2) by striking the semicolon in the second sentence and all that follows through "practicable".

(b) Section 101(a)(2)(B) (16 U.S.C. 1371(a)(2)(B)) is amended to read as follows:

"(B) in the case of yellowfin tuna harvested with purse seine nets in the eastern

tropical Pacific Ocean, and products therefrom, to be exported to the United States, shall require that the government of the exporting nation provide documentary evidence that—

“(i) the tuna or products therefrom were not banned from importation under section 101(a)(2) before the effective date of this section; or

“(ii) the tuna or products therefrom were harvested after the effective date of this section by vessels of a nation which participates in the International Dolphin Conservation Program, and such harvesting nation is either a member of the Inter-American Tropical Tuna Commission or has initiated steps, in accordance with Article V, paragraph 3 of the Convention establishing the Inter-American Tropical Tuna Commission, to become a member of that organization,

except that the Secretary shall not accept such documentary evidence as satisfactory proof for purposes of this paragraph if—

“(I) the government of the harvesting nation does not authorize the Inter-American Tropical Tuna Commission to release sufficient information to the Secretary to allow a determination of compliance with the International Dolphin Conservation Program; or

“(II) after taking into consideration this information, findings of the Inter-American Tropical Tuna Commission, and any other relevant information, including but not limited to information that a nation is consistently failing to take enforcement actions on violations which diminish the effectiveness of the International Dolphin Conservation Program, the Secretary, in consultation with the Secretary of State, finds that the harvesting nation is not in compliance with the International Dolphin Conservation Program.”

(c) Section 101 (16 U.S.C. 1371) is amended by adding at the end the following new subsection:

“(d) The provisions of this Act shall not apply to a citizen of the United States when such citizen incidentally takes any marine mammal during fishing operations outside the U.S. exclusive economic zone when employed on a foreign fishing vessel of a harvesting nation which is in compliance with the International Dolphin Conservation Program.”

(d) Section 104(h) is amended to read as follows:

“(h)(1) Consistent with the regulations prescribed pursuant to section 103 of this title and to the requirements of section 101 of this title, the Secretary may issue an annual permit to a U.S. vessel for the taking of such marine mammals, together with regulations to cover the use of any such annual permits.

“(2) Such annual permits for the incidental taking of marine mammals in the course of commercial purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean shall be governed by section 304, subject to the regulations issued pursuant to section 302.”

(e) Section 110 (16 U.S.C. 1380) is amended—

(1) by redesignating subsection (a)(1) as subsection (a); and

(2) by striking subsection (a)(2).

(f) Subsection (d)(1) of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385(d)(1)) is amended to read as follows:

“(1) It is a violation of section 5 of the Federal Trade Commission Act for any producer, importer, exporter, distributor, or seller of any tuna product that is exported from or offered for sale in the United States to include on the label of that product the term “Dolphin Safe” or any other term or symbol that falsely claims or suggests that the tuna contained in the product was harvested using a

method of fishing that is not harmful to dolphins if the product contains—

“(A) tuna harvested on the high seas by a vessel engaged in driftnet fishing;

“(B) tuna harvested in the eastern tropical Pacific Ocean by a vessel using purse seine nets which do not meet the requirements of being considered dolphin safe under paragraph (2); or

“(C) tuna harvested outside the eastern tropical Pacific Ocean by a vessel using purse seine nets which do not meet the requirements for being considered dolphin safe under paragraph (3).”

(g) Subsection (d)(2) of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385(d)(2)) is amended to read as follows:

“(2) For purposes of paragraph (1)(B), a tuna product that contains tuna harvested in the eastern tropical Pacific Ocean by a fishing vessel using purse seine nets is dolphin safe if—

“(A) the vessel is of a type and size that the Secretary has determined, consistent with the International Dolphin Conservation Program, is not capable of deploying its purse seine nets on or to encircle dolphins; or

“(B)(i) the product is accompanied by a written statement executed by the captain of the vessel which harvested the tuna certifying that no dolphins were killed during the sets in which the tuna were caught; and

“(ii) the product is accompanied by a written statement executed by—

“(I) the Secretary or the Secretary’s designee;

“(II) a representative of the Inter-American Tropical Tuna Commission; or

“(III) an authorized representative of a participating nation whose national program meets the requirements of the International Dolphin Conservation Program,

which states that there was an observer approved by the International Dolphin Conservation Program on board the vessel during the entire trip and documents that no dolphins were killed during the sets in which the tuna in the tuna product were caught; and

“(iii) the statements referred to in clauses (i) and (ii) are endorsed in writing by each exporter, importer, and processor of the product; and

“(C) the written statements and endorsements referred to in subparagraph (B) comply with regulations promulgated by the Secretary which would provide for the verification of tuna products as dolphin safe.”

(h) Subsection (d) of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385(d)) is amended further by adding the following new paragraphs:

“(3) For purposes of paragraph (1)(C), tuna or a tuna product that contains tuna harvested outside the eastern tropical Pacific Ocean by a fishing vessel using purse seine nets is dolphin safe if—

“(A) it is accompanied by a written statement executed by the captain of the vessel certifying that no purse seine net was intentionally deployed on or to encircle dolphins during the particular voyage on which the tuna was harvested; or

“(B) in any fishery in which the Secretary has determined that a regular and significant association occurs between marine mammals and tuna, it is accompanied by a written statement executed by the captain of the vessel and an observer, certifying that no purse seine net was intentionally deployed on or to encircle marine mammals during the particular voyage on which the tuna was harvested.

“(4) No tuna product may be labeled with any reference to dolphins, porpoises, or marine mammals, except as dolphin safe in accordance with this subsection.”

(i) Subsection (f) of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385(f)) is amended to read as follows:

“(f) The Secretary, in consultation with the Secretary of the Treasury, shall issue regulations to implement this section not later than three months after the effective date of this section, including, but not limited to, regulations addressing the use of weight calculation and well location, and which require that tuna products are labeled in accordance with subsection (d).”

SEC. 5. AMENDMENTS TO TITLE III.

(a) The heading of Title III is amended to read as follows:

“TITLE III—INTERNATIONAL DOLPHIN CONSERVATION PROGRAM”.

(b) Section 301 (16 U.S.C. 1411) is amended—

(1) in subsection (a), by striking paragraph (4) and inserting in lieu thereof:

“(4) Nations harvesting yellowfin tuna in the eastern tropical Pacific Ocean have demonstrated their willingness to participate in appropriate multilateral agreements to reduce, with the goal of eliminating, dolphin mortality in that fishery. Recognition of the International Dolphin Conservation Program will assure that the existing trend of reduced dolphin mortality continues; that individual stocks of dolphins are adequately protected; and that the goal of eliminating all dolphin mortality continues to be a priority.”; and

(2) in subsection (b), by striking paragraphs (2) and (3) and inserting in lieu thereof:

“(2) support the International Dolphin Conservation Program and efforts within the Program to reduce, with the goal of eliminating, the mortality referred to in paragraph (1);

“(3) ensure that the market of the United States does not act as an incentive to the harvest of tuna caught with driftnets or caught by purse seine vessels in the eastern tropical Pacific Ocean not operating in compliance with the International Dolphin Conservation Program.”

(c) Section 302 (16 U.S.C. 1412) is amended to read as follows:

“SEC. 302. AUTHORITY OF THE SECRETARY.

“(a) REGULATIONS.—The Secretary shall issue regulations to implement the International Dolphin Conservation Program.

“(2)(A) Not later than three months after the effective date of this section, the Secretary shall issue regulations to authorize and govern the incidental taking of marine mammals in the eastern tropical Pacific Ocean, including any species of marine mammal designated as depleted under this Act but not listed as endangered or threatened under the Endangered Species Act (16 U.S.C. 1531 et seq.), by vessels of the United States participating in the International Dolphin Conservation Program.

(B) Regulations issued under this section shall include provisions—

(i) requiring observers on each vessel;

(ii) requiring use of the backdown procedure or other procedures equally or more effective in avoiding mortality of marine mammals in fishing operations;

(iii) prohibiting international sets on stocks and schools in accordance with the International Dolphin Conservation Program;

(iv) requiring the use of special equipment, including, but not limited to, dolphin safety panels in nets, operable rafts, speedboats with towing bridles, floodlight in operable condition, and diving masks and snorkels;

(v) ensuring that the backdown procedure during sets of purse seine net on marine mammals is completed and rolling of the net to sack up has begun no later than thirty (30) minutes after sundown;

(vi) banning the use of explosive devices in all purse seine operations;

(vii) establishing per vessel maximum annual dolphin mortality limits, total dolphin mortality limits and per-stock per-year mortality limits in accordance with the International Dolphin Conservation Program;

(viii) preventing the making of international sets on dolphins after reaching either the vessel maximum annual dolphin mortality limits, total dolphin mortality limits or per-stock per-year mortality limits;

(ix) preventing the fishing on dolphins by a vessel without an assigned vessel dolphin mortality limit;

(x) allowing for the authorization and conduct of experimental fishing operations, under such terms and conditions as the Secretary may prescribe, for the purpose of testing proposed improvements in fishing techniques and equipment that may reduce or eliminate dolphin mortality or do not require the encirclement of dolphins in the course of commercial yellowfin tuna fishing; and

(xi) containing such other restrictions and requirements as the Secretary determines are necessary to implement the International Dolphin Conservation Program with respect to vessels of the United States; except that the Secretary may make such adjustments as may be appropriate to provisions that pertain to fishing gear and fishing practice requirements in order to carry out the International Dolphin Conservation Program.

“(b) CONSULTATION.—In developing any regulation under this section, the Secretary shall consult with the Secretary of State, the Marine Mammal Commission and the United States Commissioners to the Inter-American Tropical Tuna Commission appointed under section 3 of the Tuna Conventions Act of 1950 (16 U.S.C. 952).

“(c) EMERGENCY REGULATIONS.—(1) If the Secretary determines, on the basis of the best scientific information available (including that obtained under the International Dolphin Conservation Program) that the incidental mortality and serious injury of marine mammals authorized under this title is having, or is likely to have, a significant adverse effect on a marine mammal stock or species, the Secretary shall take actions as follows—

“(A) notify the Inter-American Tropical Tuna Commission of his or her findings, along with recommendations to the Commission as to actions necessary to reduce incidental mortality and serious injury and mitigate such adverse impact; and

“(B) prescribe emergency regulations to reduce incidental mortality and serious injury and mitigate such adverse impact.

“(2) Prior to taking action under paragraph (1) (A) or (B), the Secretary shall consult with the Secretary of State, the Marine Mammal Commission, and the United States Commissioners to the Inter-American Tropical Tuna Commission.

“(3) Emergency regulations prescribed under this subsection—

“(A) shall be published in the Federal Register, together with an explanation thereof;

“(B) shall remain in effect for the duration of the applicable fishing year; and

“(C) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination, if the Secretary determines that the reasons for the emergency action no longer exist.

“(4) If the Secretary finds that the incidental mortality and serious injury of marine mammals in the yellowfin tuna fishery in the eastern tropical Pacific Ocean is continuing to have a significant adverse impact on a stock or species, the Secretary may extend the emergency regulations for such additional periods as may be necessary.”

“(d) RESEARCH.—The Secretary shall, in cooperation with the nations participating in the International Dolphin Conservation Program and with the Inter-American Tropical Tuna Commission, undertake or support appropriate scientific research to further the goals of the International Dolphin Conservation Program, including, but not limited to—

(1) devising cost-effective fishing methods and gear so as to reduce, with the goal of eliminating, the incidental mortality and serious injury of marine mammals in connection with commercial purse seine fishing in the eastern tropical Pacific Ocean;

(2) developing cost-effective methods of fishing for mature yellowfin tuna without setting nets on dolphins or other marine mammals;

(3) carrying out a scientific research program as described in section 117 for those marine mammal species and stocks taken in the purse seine fishery for yellowfin tuna in the eastern tropical Pacific Ocean, including species or stocks not within waters under the jurisdiction of the United States; and

(4) studying the effect of chase and encirclement on the health and biology of dolphin and dolphin populations incidentally taken in the course of purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean.

The Secretary shall include a description of the annual results of research carried out under this subsection in the report required under section 303.”

(d) Section 303 (16 U.S.C. 1413) is hereby repealed.

(3) Section 304 (16 U.S.C. 1414) is hereby redesignated as section 303, and amended to read as follows:

“SEC. 303. REPORTS BY THE SECRETARY.—Notwithstanding section 103(f), the Secretary shall submit annual reports to the Congress which include—

“(1) results of research conducted pursuant to section 302;

“(2) a description of the status and trends of stocks of tuna;

“(3) a description of the efforts to assess, avoid, reduce, and minimize the bycatch of juvenile yellowfin tuna and bycatch of non-target species;

“(4) a description of the activities of the International Dolphin Conservation Program and of the efforts of the United States in support of the Program's goals and objectives, including the protection of dolphin populations in the eastern tropical Pacific Ocean, and an assessment of the effectiveness of the Program;

“(5) actions taken by the Secretary under section 101(a)(2)(B)(iii)(I) and (II);

“(6) copies of any relevant resolutions and decisions of the Inter-American Tropical Tuna Commission, and any regulations promulgated by the Secretary under this title; and

“(7) any other information deemed relevant by the Secretary.”

(f) Section 305 (16 U.S.C. 1415) is hereby repealed.

(g) Section 306 (16 U.S.C. 1416) is hereby redesignated as section 304, and amended to read as follows:

“SEC. 304. PERMITS.

“(a) IN GENERAL.—(1) Consistent with the regulations issued pursuant to section 302, the Secretary shall issue a permit to a vessel of the United States authorizing participation in the International Dolphin Conservation Program and may require a permit for the person actually in charge of and controlling the fishing operation of the vessel. The Secretary shall prescribe such procedures as are necessary to carry out this subsection, including, but not limited to, requiring the submission of—

“(A) the name and official number or other identification of each fishing vessel for which a permit is sought, together with the name and address of the owner thereof; and

“(B) the tonnage, hold capacity, speed, processing equipment, and type and quantity of gear, including an inventory of special equipment required under section 302, with respect to each vessel.

“(2) The Secretary is authorized to charge a fee for granting an authorization and issuing a permit under this section. The level of fees charged under this paragraph may not exceed the administrative cost incurred in granting an authorization and issuing a permit. Fees collected under this paragraph shall be available to the Under Secretary of Commerce for Oceans and Atmosphere for expenses incurred in granting authorizations and issuing permits under this section.

“(3) After the effective date of this section, no vessel of the United States shall operate in the yellowfin tuna fishery in the eastern tropical Pacific Ocean without a valid permit issued under this section.

“(b) PERMIT SANCTIONS.—(1) In any case in which

“(A) a vessel for which a permit has been issued under this section has been used in the commission of an act prohibited under section 305;

“(B) the owner or operator of any such vessel or any other person who has applied for or been issued a permit under this section has acted in violation of section 305; or

“(C) any civil penalty or criminal fine imposed on a vessel, owner or operator of a vessel, or other person who has applied for or been issued a permit under this section has not been paid or is overdue, the Secretary may—

“(i) revoke any permit with respect to such vessel, with or without prejudice to the issuance of subsequent permits;

“(ii) suspend such permit for a period of time considered by the Secretary to be appropriate;

“(iii) deny such permit; or

“(iv) impose additional conditions or restrictions on any permit issued to, or applied for by, any such vessel or person under this section.

“(2) In imposing a sanction under this subsection, the Secretary shall take into account—

“(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanction is imposed; and

“(B) with respect to the violator, the degree of culpability, any history of prior offenses, and other such matters as justice requires.

“(3) Transfer of ownership of a vessel, by sale or otherwise, shall not extinguish any permit sanction that is in effect or is pending at the time of transfer of ownership. Before executing the transfer of ownership of a vessel, by sale or otherwise, the owner shall disclose in writing to the prospective transferee the existence of any permit sanction that will be in effect or pending with respect to the vessel at the time of transfer.

“(4) In the case of any permit that is suspended for the failure to pay a civil penalty or criminal fine, the Secretary shall reinstate the permit upon payment of the penalty or fine and interest thereon at the prevailing rate.

“(5) No sanctions shall be imposed under this section unless there has been a prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed, either in conjunction with a civil penalty proceeding under this title or otherwise.”

(h) Section 307 (16 U.S.C. 1417) is hereby redesignated as section 305, and amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) for any person to sell, purchase, offer for sale, transport, or ship, in the United States, any tuna or tuna product unless the tuna or tuna product is either dolphin safe or has been harvested in compliance with the International Dolphin Conservation Program by a country that is a member of the Inter-American Tropical Tuna Commission or has initiated steps, in accordance with Article V, paragraph 3 of the Convention establishing the Inter-American Tropical Tuna Commission, to become a member of that organization;"

(B) by striking paragraphs (2) and inserting in lieu thereof the following:

"(2) except as provided for in subsection 101(d), for any person or vessel subject to the jurisdiction of the United States intentionally to set a purse seine net on or to encircle any marine mammal in the course of tuna fishing operations in the eastern tropical Pacific Ocean except in accordance with this title and regulations issued under pursuant to this title;" and

(C) by amending paragraph (3) to read as follows:

"(3) for any person to import any yellowfin tuna or yellowfin tuna product or any other fish or fish product in violation of a ban on importation imposed under section 101(a)(2);" and

(2) in subsection (b)(2), by inserting "(a)(5) and" before "(a)(6)"; and

(3) by deleting subsection (d).

(i) Section 308 (17 U.S.C. 1418) is redesignated as section 306, and amended by striking "303" and inserting in lieu thereof "302(d)".

(j) CLERICAL AMENDMENTS.—The table of contents in the first section of the Marine Mammal Protection Act of 1972 is amended by striking the items relating to title III and inserting in lieu thereof the following:

"TITLE III—INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

Sec. 301. Findings and policy.

Sec. 302. Authority of the Secretary.

Sec. 303. Reports by the Secretary.

Sec. 304. Permits.

Sec. 305. Prohibitions.

Sec. 306. Authorization of appropriations."

SEC. 6. AMENDMENTS TO THE TUNA CONVENTIONS ACT.

(a) Section 3(c) of the Tuna Conventions Act (16 U.S.C. 952 (c)) is amended to read as follows:

"(c) at least one shall be either the Director, or an appropriate regional director, of the National Marine Fisheries Service; and"

(b) Section 4 of the Tuna Conventions Act (16 U.S.C. 953) is amended to read as follows:

"SEC. 4. GENERAL ADVISORY COMMITTEE AND SCIENTIFIC ADVISORY SUBCOMMITTEE.

The Secretary, in consultation with the United States Commissioners, shall—

(1) appoint a General Advisory Committee which shall be composed of not less than five nor more than fifteen persons with balanced representation from the various groups participating in the fisheries included under the conventions, and from nongovernmental conservation organizations. The General Advisory Committee shall be invited to have representatives attend all nonexecutive meetings of the United States sections and shall be given full opportunity to examine and to be heard on all proposed programs of investigations, reports, recommendations, and regulations of the commission. The General Advisory Committee may attend all meetings of the international commissions to which they are invited by such commissions; and

(2) appoint a Scientific Advisory Subcommittee which shall be composed of not

less than five nor more than fifteen qualified scientists with balanced representation from the public and private sectors, including nongovernmental conservation organizations. The Scientific Advisory Subcommittee shall advise the General Advisory Committee and the Commissioners on matters including the conservation of ecosystems; the sustainable uses of living marine resources related to the tuna fishery in the eastern Pacific Ocean; and the long-term conservation and management of stocks of living marine resources in the eastern tropical Pacific Ocean. In addition, the Scientific Advisory Subcommittee shall, as requested by the General Advisory Committee, the U.S. Commissioners or the Secretary, perform functions and provide assistance required by formal agreements entered into by the United States for this fishery, including the International Dolphin Conservation Program. These functions may include: (1) the review of data from the Program, including data received from the Inter-American Tropical Tuna Commission; (2) recommendations on research needs, including ecosystems, fishing practices, and gear technology research, including the development and use of selective, environmentally safe and cost-effective fishing gear, and on the coordination and facilitation of such research; (3) recommendations concerning scientific reviews and assessments required under the Program and engaging, as appropriate, in such reviews and assessments; (4) consulting with other experts as needed; and (5) recommending measures to assure the regular and timely full exchange of data among the parties to the Program and each nation's National Scientific Advisory Committee (or equivalent); and

(3) establish procedures to provide for appropriate public participation and public meetings and to provide for the confidentiality of confidential business data. The Scientific Advisory Subcommittee shall be invited to have representatives attend all nonexecutive meetings of the United States sections and the General Advisory Subcommittee and shall be given full opportunity to examine and to be heard on all proposed programs of scientific investigation, scientific reports, and scientific recommendations of the commission. Representatives of the Scientific Advisory Subcommittee may attend meetings of the Inter-American Tropical Tuna Commission in accordance with the rules of such Commission; and

(4) fix the terms of office of the members of the General Advisory Committee and Scientific Advisory Subcommittee, who shall receive no compensation for their services as such members."

SEC. 7. EFFECTIVE DATE.

Sections 3 through 6 of this Act shall become effective upon certification by the Secretary of State to Congress that a binding resolution of the Inter-American Tropical Tuna Commission or other legally binding instrument establishing the International Dolphin Conservation Program has been adopted and is in effect.

● Mr. BREAUX. Mr. President, today, along with Senator STEVENS and others, I am introducing legislation that will implement the Panama Declaration on the protection of dolphins in the tuna fishery of the eastern tropical Pacific Ocean. The United States signed the Panama Declaration on October 4, 1995, along with the Governments of Belize, Colombia, Costa Rica, Ecuador, France, Honduras, Mexico, Panama, Spain, Vanuatu, and Venezuela. By agreeing to the Panama Declaration, these countries have dem-

onstrated their commitment to the conservation of ecosystems and the sustainable use of living resources related to the tuna fishery in the eastern tropical Pacific.

By implementing the Panama Declaration, we will strengthen the Inter-American Tropical Tuna Commission [IATTC] which has proven to be an extremely effective international resource management organization. In conjunction with strengthening the IATTC, we will ensure the reduction of dolphin mortalities associated with tuna fishing in the eastern tropical Pacific Ocean. In addition, we will enable American tuna fishermen to re-enter that tuna fishery on the same footing as foreign fishermen.

Since 1949, the IATTC has served as the regional fishery management organization for the tuna fishery of the eastern tropical Pacific Ocean, managing that fishery in an exemplary manner. One of the fishery issues addressed under IATTC auspices is that of dolphin mortality associated with the yellowfin tuna fishery of the eastern tropical Pacific Ocean. In that fishery, tuna fishermen use dolphins to locate schools of mature yellowfin tuna which, for unknown reasons, associate with schools of dolphin. Once the tuna have been located, the fishermen use purse seine nets to encircle schools of dolphin with the objective of catching the tuna swimming below the dolphins and then safely releasing the encircled dolphins.

In recent years, there has been some concern about these fishing practices which, in the past, have resulted in excessive incidental mortality to dolphins. In 1992, in an effort to address this problem, 10 nations with tuna vessels operating in the eastern tropical Pacific signed an agreement known as the La Jolla Agreement. The La Jolla Agreement established the International Dolphin Conservation Program, or IDCP, which is administered by the IATTC.

The regional objective of the IDCP is to reduce dolphin mortalities to insignificant levels approaching zero, with a goal of eliminating them entirely. Pursuant to that program, the number of dolphins killed accidentally in the tuna fishery has been reduced to less than 4,000 annually from a previous average of over 300,000 killed annually. The current dolphin mortality represents approximately four one-hundredths of one percent of the 9.5 million dolphins of the eastern tropical Pacific. Thus, the IDCP has been remarkably successful in achieving its goal of reducing unintended dolphin mortalities to biologically insignificant levels approaching zero.

This legislation will implement the Panama Declaration, formalizing the 1992 La Jolla Agreement and making it a legal agreement binding on the member countries of the IATTC as soon as it is formally adopted. The Panama Declaration strengthens the IDCP and

further its goals by placing a cap of 5,000 per year on dolphin mortalities.

Although U.S. fishermen developed the techniques now used in capturing tuna and safely releasing dolphins, they effectively have been foreclosed from fishing in the eastern tropical Pacific since the 1992 amendments to the Marine Mammal Protection Act, which prohibit the encirclement of dolphins. The legislation to implement the Panama Declaration will eliminate the inequitable treatment of United States tuna fishermen and enable them to re-enter this important fishery on an equal footing with foreign fishermen.

The 1992 ban on encirclement of dolphins has required fishermen to turn to alternative fishing practices, the use of which causes excessive bycatch of endangered sea turtles, sharks, billfish, and great numbers of immature tuna and other fish species. This legislation will result in a reduction of this bycatch problem, as well, as it will permit fishermen to encircle dolphins as long as they comply with the stringent regulations imposed by the IATTC.

The purpose of this bill is to improve and solidify efforts to protect dolphins in the eastern tropical Pacific Ocean, as well as to eliminate the bycatch problems caused by alternative fishing methods. The Panama Declaration establishes a common environmental standard for all countries fishing in the region. By formalizing the La Jolla Agreement, U.S. and foreign fishermen in the eastern tropical Pacific will be subject to the most stringent fishery regulations in the world. The Panama Declaration represents a tremendous environmental achievement, and it enjoys support from such diverse interests as environmental groups, the U.S. tuna fishing fleet, the Clinton administration, and other countries whose fishermen operate in the eastern tropical Pacific. I encourage my colleagues to join me in supporting this legislation in order that we may implement this important international agreement.●

● Mr. CHAFEE. Mr. President, I am pleased to join as an original cosponsor of legislation introduced by Senators STEVENS and BREAUX to implement the Panama Declaration. A dozen countries, several major environmental organizations, the administration, and Senators on both sides of the aisle have come together in support of this effort.

If we are going to sustain our renewable resources, and particularly our marine resources, we need to take a comprehensive ecosystem approach toward resource use. After all, management of a single species does not always produce benefits for the entire ecosystem. It is important that we seek to reduce bycatch of other marine species, such as sharks, sea turtles, and billfish, while we minimize our impact on dolphins. That is why this bill is about more than just tuna and dolphins. This bill includes changes in current law that will have a positive

impact on numerous species in the marine environment.

The Declaration that this bill would implement will commit the United States and a number of cosignatory nations to conserving the valuable marine life in the eastern Pacific. Moreover, by doing so on a multilateral basis, many of the ongoing international disputes over tuna may effectively be resolved. Such strong and sound international efforts are therefore welcome.

This legislation represents an important opportunity for all parties interested in marine resources to work together toward our common goal: effective conservation of dolphin and other marine species in the eastern Pacific ecosystem. I urge my colleagues to take the time to examine this legislation, and offer comments and suggestions. We have the chance to fashion a long-term solution to the question of marine mammal conservation, and it is my hope that this bill will serve as the vehicle toward that end.●

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

S. 1422. A bill to authorize the Secretary of the Interior to acquire property in the town of East Hampton, Suffolk County, NY, for inclusion in the Amagansett National Wildlife Refuge, and for other purposes; to the Committee on Environment and Public Works.

SHADMOOR ACQUISITION LEGISLATION

● Mr. MOYNIHAN. Mr. President, I offer legislation with my esteemed colleague Senator D'AMATO that would allow the Secretary of the Interior to acquire a parcel of land on Long Island known as Shadmoor. The land would be added to the Amagansett National Wildlife Refuge. Shadmoor supports one of the largest populations of New York State's most endangered plant, the sandplain gerardia. The gerardia lives in only 12 places in the world, 6 of which are on Long Island.

The privately owned land was targeted by the Fish and Wildlife Service for acquisition in 1991, but no money has been available. Meanwhile, the possibility of development on the parcel has increased dramatically. New York has received little of the already scarce Federal money for the acquisition of land to protect endangered plants. This is clearly an opportunity to begin to rectify that.

Shadmoor has other significance. It contains six other rare plants. It has bunkers built during World War II. The dramatic coastline has 70-foot cliffs eroded by wind and surf. In all, it would be a tremendous addition to the Amagansett Refuge.

Mr. President, the sandplain gerardia is a part of our natural heritage that could easily disappear forever. This is our chance to preserve one of its last strongholds. I ask my colleagues to support this authorization.

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. 1422

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

SECTION 1. AUTHORITY TO ACQUIRE PROPERTY FOR INCLUSION IN THE AMAGANSETT NATIONAL WILDLIFE REFUGE.

(a) AUTHORITY TO ACQUIRE PROPERTY.—The Secretary of the Interior may acquire, for inclusion in the Amagansett National Wildlife Refuge, the area known as the "Shadmoor Parcel", consisting of approximately 98 acres (as determined by the Secretary) located along the Atlantic Ocean adjacent to municipal park land in the town of East Hampton, Suffolk County, New York.

(b) MANAGEMENT OF ACQUIRED INTERESTS.—Land and interests in land acquired by the United States under this section shall be managed by the Secretary of the Interior as part of the Amagansett National Wildlife Refuge.●

By Mr. GREGG (for himself, Mrs. KASSEBAUM, Mr. NUNN, Mr. JEFFORDS, and Mr. GORTON):

S. 1423. A bill to amend the Occupational Safety and Health Act of 1970 to make modifications to certain provisions, and for other purposes; to the Committee on Labor and Human Resources.

THE OCCUPATIONAL SAFETY AND HEALTH REFORM AND REINVENTION ACT

● Mr. GREGG. Mr. President, I am pleased to be joined by Senators KASSEBAUM, NUNN, GORTON, and JEFFORDS in introducing the Occupational Safety and Health Reform and Reinvention Act. Let me say at the outset that in proposing and considering OSHA reform, worker safety was our first concern. I am firmly committed to ensuring a safe and healthy workplace and will not support legislation which puts that in jeopardy. I believe in this bill that we have accomplished true OSHA reform without compromising the safety of our workers in any way.

Throughout my career in public office, I have worked to make Government more efficient and more user and consumer friendly. Federal Government agencies have grown so large and become so bureaucratic that they are often not providing the kinds of services and proper oversight that was originally intended when they were created. Too often Government carries a heavy stick, but no carrot, when it interacts with individual citizens and businesses throughout our country.

I believe that it is high time we take a close look at how we can improve the way Government works and, at the same time, provide incentives for the private sector to act more responsibly. Americans will be better served in a climate where people in Government, and in business, can work together to solve problems in a spirit of cooperation, rather than in an atmosphere strictly of threats, intimidation, and punitive measures.

When OSHA was enacted, its intended purpose was to make the workplace free from "recognized hazards that are causing, or likely to cause death or serious physical harm to . . . employees." As is the case with many programs established by Congress over the years, OSHA has developed a well-earned reputation for over-regulation. OSHA has moved from its original purpose of protecting workers to hindering businesses with excessive mandates.

While I feel that much of the problem within OSHA is of a cultural nature, the bill we are introducing today will concentrate on relieving OSHA's oppressive and burdensome regulations, thereby removing a feeling among American employers and employees that OSHA is the "bad cop." Our legislation puts in place partnerships for assuring safety and health in the workplace.

This balanced approach will include a consultation program, voluntary compliance and third-party certification, employee involvement, warnings in lieu of citations for nonserious violations, and reduced penalties for nonserious violations. This legislation will use incentives, rather than penalties to enhance workplace safety. It will allow companies with "clean" safety records to implement their own health and safety programs.

In closing, I would like to thank Senator KASSEBAUM on her leadership as chairman of the Labor and Human Resources Committee. Without her dedication and hard work this legislation would not be possible. I would also like to thank Senator NUNN, Senator JEFFORDS, and Senator GORTON. They both have been instrumental in the drafting of this important legislation. I look forward to working with them and the members of the Labor Committee on continuing to bring this legislation to fruition.

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

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

S. 1423

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

SECTION 1. SHORT TITLE; REFERENCE.

(a) **SHORT TITLE.**—This Act may be cited as the "Occupational Safety and Health Reform and Reinvention Act".

(b) **REFERENCE.**—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

SEC. 2. EMPLOYEE PARTICIPATION.

Section 4 (29 U.S.C. 653) is amended by adding at the end the following new subsection:

(c) In order to carry out the purpose of this Act to encourage employers and employees in their efforts to reduce the number of occupational safety and health hazards, an employee participation program—

"(1) in which employees participate;

"(2) which exists for the purpose, in whole or in part, of dealing with employees con-

cerning safe and healthful working conditions; and

"(3) which does not have, claim, or seek authority to negotiate or enter into collective bargaining agreements with the employer or to amend existing collective bargaining agreements between the employer and any labor organization,

shall not constitute a 'labor organization' for purposes of section 8(a)(2) of the National Labor Relations Act (29 U.S.C. 158(a)(2)) or a representative for purposes of sections 1 and 2 of the Railway Labor Act (45 U.S.C. 151 and 151a). Nothing in this section shall be construed to affect employer obligations under section 8(a)(5) of the National Labor Relations Act (29 U.S.C. 158(a)(5)) to deal with a certified or recognized employee representative with respect to health and safety matters to the extent otherwise required by law."

SEC. 3. INSPECTIONS.

(a) **TRAINING AND AUTHORITY OF SECRETARY.**—Section 8 (29 U.S.C. 657) is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by adding after subsection (f) the following new subsection:

"(g)(1) Except as provided in paragraph (2), the Secretary shall not conduct routine inspections of, or enforce any standard, rule, regulation, or order under this Act with respect to—

"(A) any person who is engaged in a farming operation that does not maintain a temporary labor camp and that employs 10 or fewer employees; or

"(B) any employer of not more than 10 employees if such employer is included within a category of employers having an occupational injury or a lost workday case rate (determined under the Standard Industrial Classification Code for which such data are published) that is less than the national average rate as most recently published by the Secretary acting through the Bureau of Labor Statistics under section 24.

"(2) In the case of persons who are not engaged in farming operations, paragraph (1) shall not be construed to prevent the Secretary from—

"(A) providing consultations, technical assistance, and educational and training services and conducting surveys and studies under this Act;

"(B) conducting inspections or investigations in response to complaints of employees, issuing citations for violations of this Act found during such inspections, and assessing a penalty for violations that are not corrected within a reasonable abatement period;

"(C) taking any action authorized by this Act with respect to imminent dangers;

"(D) taking any action authorized by this Act with respect to a report of an employment accident that is fatal to at least one employee or that results in the hospitalization of at least three employees, and taking any action pursuant to an investigation conducted with respect to such report; and

"(E) taking any action authorized by this Act with respect to complaints of discrimination against employees for exercising their rights under this Act."

(b) **INSPECTIONS BASED ON EMPLOYEE COMPLAINTS.**—Section 8(f) (29 U.S.C. 657(f)) is amended to read as follows:

"(f)(1)(A) An employee or representative of an employee who believes that a violation of a safety or health standard exists that threatens physical harm, or that an imminent danger exists, may request an inspection by providing notice of the violation or danger to the Secretary or an authorized representative of the Secretary.

"(B) Notice under subparagraph (A) shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall state whether the alleged violation or danger has been brought to the attention of the employer and if so, whether the employer has refused to take any action to correct the alleged violation or danger.

"(C)(i) The notice under subparagraph (A) shall be signed by the employees or representative of employees and a copy shall be provided to the employer or the agent of the employer not later than the time of arrival of an occupational safety and health agency inspector to conduct the inspection.

"(ii) Upon the request of the person providing the notice under subparagraph (A), the name of the person and the names of individual employees referred to in the notice shall not appear in the copy of the notice or on any record published, released, or made available pursuant to subsection (i), except that the Secretary may disclose this information during prehearing discovery in a contested case.

"(D) The Secretary may only make an inspection under this section if such an inspection is requested by an employee or a representative of employees.

"(E)(i) If, upon receipt of the notice under subparagraph (A), the Secretary determines that there are reasonable grounds to believe the violation or danger exists, the Secretary may conduct a special inspection in accordance with this section as soon as practicable. Except as provided in clause (ii), the special inspection shall be conducted for the limited purpose of determining whether the violation or danger exists.

"(ii) During a special inspection described in clause (i), the Secretary may take appropriate actions with respect to health and safety violations that are not within the scope of the inspection and that are observed by the Secretary or an authorized representative of the Secretary during the inspection.

"(2) If the Secretary determines either before, or as a result of, an inspection that there are not reasonable grounds to believe a violation or danger exists, the Secretary shall notify the complaining employee or employee representative of the determination and, upon request by the employee or employee representative, shall provide a written statement of the reasons for the Secretary's final disposition of the case.

"(3) The Secretary or an authorized representative of the Secretary may, as a method of investigating an alleged violation or danger under this section, attempt, if feasible, to contact an employer by telephone, facsimile, or other appropriate methods to determine whether—

"(A) the employer has taken corrective actions with respect to the alleged violation or danger; or

"(B) there are reasonable grounds to believe that a hazard exists.

"(4) The Secretary is not required to conduct a special inspection under this subsection if the Secretary determines that a request for a special inspection was made for reasons other than the safety and health of the employees of an employer or that the employees of an employer are not at risk."

SEC. 4. WORKSITE-BASED INITIATIVES.

(a) **PROGRAM.**—The Act (29 U.S.C. 651 et seq.) is amended by inserting after section 8 the following new section:

"SEC. 8A. HEALTH AND SAFETY REINVENTION INITIATIVES.

"(a) **IN GENERAL.**—The Secretary shall establish a program to encourage voluntary employer and employee efforts to provide safe and healthful working conditions.

"(b) **EXEMPTION.**—In establishing a program under subsection (a), the Secretary

shall, in accordance with subsection (c), provide an exemption from all safety and health inspections and investigations for a place of employment maintained by an employer participating in such program, except that this subsection shall not apply to inspections and investigations conducted for the purpose of—

“(1) determining the cause of a workplace accident that resulted in the death of one or more employees or the hospitalization of three or more employees; or

“(2) responding to a request for an inspection pursuant to section 8(f)(1).

“(c) EXEMPTION REQUIREMENTS.—To qualify for an exemption under subsection (b), an employer shall provide to the Secretary evidence that, with respect to the employer—

“(1) during the preceding year, the place of employment or conditions of employment have been reviewed or inspected under—

“(A) a consultation program provided by recipients of grants under section 7(c)(1) or 23(g);

“(B) a certification or consultation program provided by an insurance carrier or other private business entity pursuant to a State program, law, or regulation if the person conducting the review or inspection meets standards established by, and is certified by, the Secretary; or

“(C) a workplace consultation program provided by a qualified person certified by the Secretary for purposes of providing such consultations,

that includes a means of ensuring that serious hazards identified in the consultation are corrected within an appropriate time and that, where applicable, permits an employee (of the employer) who is a representative of a health and safety employee participation program to accompany a consultant during a workplace inspection; or

“(2) the place of employment has an exemplary safety and health record and the employer maintains a safety and health program for the workplace that includes—

“(A) procedures for assessing hazards to the employer's employees that are inherent to the employer's operations or business;

“(B) procedures for correcting or controlling such hazards in a timely manner based upon the severity of the hazard; and

“(C) an employee participation program that, at a minimum—

“(i) includes regular consultation between the employer and nonsupervisory employees regarding safety and health issues;

“(ii) includes the opportunity for nonsupervisory employees to make recommendations regarding hazards in the workplace and to receive responses or to implement improvements in response to such recommendations; and

“(iii) ensures that participating nonsupervisory employees have training or expertise on safety and health issues consistent with the responsibilities of such employees.

“(d) MODEL PROGRAM.—The Secretary shall publish and make available to employers a model safety and health program that if completed by the employer shall be considered to meet the requirements for an exemption under this section.

“(e) CERTIFICATION.—The Secretary may require that, to claim the exemption under subsection (b), an employer provide certification to the Secretary and notice to the employer's employees of such eligibility. The Secretary may conduct random audits of the records of employers to ensure against falsification of the records by the employers.

“(f) RECORDS.—Records of a safety and health inspection, audit, or review that is conducted by an employer and that is not conducted under a program described in subsection (a) shall not be required to be disclosed to the Secretary unless—

“(1) the Secretary is conducting an investigation involving a fatality or a serious injury of an employee of such employer; or

“(2) such employer has not taken measures to address serious hazards in the workplace of the employer identified during such inspection, audit, or review.”

(b) DEFINITION.—Section 3 (29 U.S.C. 652) is amended by adding at the end the following new paragraph:

“(15) The term ‘exemplary safety and health record’ means such record as the Secretary shall annually determine for each industry. Such record shall include employers that have had, in the most recent reporting period, no employee death caused by occupational injury and fewer lost workdays due to occupational injury and illness than the average for the industry of which the employer is a part.”

SEC. 5. EMPLOYER DEFENSES.

Section 9 (29 U.S.C. 658) is amended by adding at the end the following new subsections:

“(d) No citation may be issued under subsection (a) to an employer unless the employer knew, or with the exercise of reasonable diligence would have known, of the presence of the alleged violation. No citation shall be issued under subsection (a) to an employer for an alleged violation of section 5, any standard, rule, or order promulgated pursuant to section 6, any other regulation promulgated under this Act, or any other occupational safety and health standard, if such employer demonstrates that—

“(1) employees of such employer have been provided with the proper training and equipment to prevent such a violation;

“(2) work rules designed to prevent such a violation have been established and adequately communicated to employees by such employer and the employer has taken reasonable measures to discipline employees when violations of such work rules have been discovered;

“(3) the failure of employees to observe work rules led to the violation; and

“(4) reasonable steps have been taken by such employer to discover any such violation.

“(e) A citation issued under subsection (a) to an employer who violates the requirements of section 5, of any standard, rule, or order promulgated pursuant to section 6, or any other regulation promulgated under this Act shall be vacated if such employer demonstrates that employees of such employer were protected by alternative methods equally or more protective of the employee's safety and health than those required by such standard, rule, order, or regulation in the factual circumstances underlying the citation.

“(f) Subsections (d) and (e) shall not be construed to eliminate or modify other defenses that may exist to any citation.”

SEC. 6. INSPECTION QUOTAS.

Section 9 (29 U.S.C. 658), as amended by section 5, is further amended by adding at the end thereof the following new subsection:

“(g) The Secretary shall not establish any quota for any subordinate within the Occupational Safety and Health Administration (including any regional director, area director, supervisor, or inspector) with respect to the number of inspections conducted, citations issued, or penalties collected.”

SEC. 7. WARNINGS IN LIEU OF CITATIONS.

Subsection (a) of section 9 (29 U.S.C. 658(a)) is amended to read as follows:

“(a)(1) Except as provided in paragraph (2), if, upon inspection or investigation, the Secretary or an authorized representative of the Secretary believes that an employer has violated a requirement of section 5, of any regulation, rule, or order promulgated pursuant to section 6, or of any regulations prescribed

pursuant to this Act, the Secretary may with reasonable promptness issue a citation to the employer. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the Act, regulation, rule, or order alleged to have been violated. The citation shall fix a reasonable time for the abatement of the violation.

“(2) The Secretary or the authorized representative of the Secretary—

“(A) may issue a warning in lieu of a citation with respect to a violation that has no significant relationship to employee safety or health; and

“(B) may issue a warning in lieu of a citation in cases in which an employer in good faith acts promptly to abate a violation if the violation is not a willful or repeat violation.

“(3) Nothing in this Act shall be construed as prohibiting the Secretary or the authorized representative of the Secretary from providing technical or compliance assistance to an employer in correcting a violation discovered during an inspection or investigation under this Act without issuing a citation.”

SEC. 8. REDUCED PENALTIES FOR NONSERIOUS VIOLATIONS AND MITIGATING CIRCUMSTANCES.

Section 17 (29 U.S.C. 666) is amended—

(1) in subsection (c), by striking “up to \$7,000” and inserting “not more than \$100”;

(2) in subsection (i), to read as follows:

“(i) Any employer who violates any of the posting or paperwork requirements other than serious or fraudulent reporting requirement deficiencies, prescribed under this Act shall not be assessed a civil penalty for such violation unless it is determined that the employer has violated subsection (a) or (d) with respect to such posting or paperwork requirements.”; and

(3) in subsection (j), to read as follows:

“(j)(1) The Commission shall have authority to assess all civil penalties under this section. In assessing a penalty under this section, the Commission shall give due consideration to the appropriateness of the penalty with respect to—

“(A) the size of the employer;

“(B) the number of employees exposed to the violation;

“(C) the likely severity of any injuries directly resulting from such violation;

“(D) the probability that the violation could result in injury or illness;

“(E) the employer's good faith in correcting the violation after the violation has been identified;

“(F) the extent to which employee misconduct was responsible for the violation;

“(G) the effect of the penalty on the employer's ability to stay in business;

“(H) the history of previous violations; and

“(I) whether the violation is the sole result of the failure to meet a requirement, under this Act or prescribed by regulation, with respect to the posting of notices, the preparation or maintenance of occupational safety and health records, or the preparation, maintenance, or submission of any written information.

“(2)(A) A penalty assessed under this section shall be reduced by at least 25 percent in any case in which the employer—

“(i) maintains a safety and health program described in section 8A(a) for the worksite at which the violation (for which the penalty was assessed) took place; or

“(ii) demonstrates that the worksite at which the violation (for which the penalty was assessed) took place has an exemplary safety record.

If the employer maintains a program described in clause (i) and has the record described in clause (ii), the penalty shall be reduced by at least 50 percent.

"(B) A penalty assessed against an employer for a violation other than a violation that—

"(i) has been previously cited by the Secretary;

"(ii) creates an imminent danger;

"(iii) has caused death; or

"(iv) has caused a serious incident,

shall be reduced by at least 75 percent if the worksite at which such violation occurred has been reviewed or inspected under a program described in section 8A(c)(1) during the 1-year period before the date of the citation for such violation, and such employer has complied with recommendations to bring such employer into compliance within a reasonable period of time."

SEC. 9. CONSULTATION SERVICES.

Section 21(c) (29 U.S.C. 671(c)) is amended—

(1) by striking "(c) The" and inserting "(c)(1) The"; and

(2) by adding at the end the following new paragraph:

"(2)(A) The Secretary shall, through the authority granted under section 7(c) and paragraph (1), enter into cooperative agreements with States for the provision of consultation services by such States to employers concerning the provision of safe and healthful working conditions. A State that has a plan approved under section 18 shall be eligible to enter into a cooperative agreement under this paragraph only if such plan does not include provisions for federally funded consultation to employers.

"(B)(i) Except as provided in clause (ii), the Secretary shall reimburse a State that enters into a cooperative agreement under subparagraph (A) in an amount that equals 90 percent of the costs incurred by the State under such agreement.

"(ii) A State shall be fully reimbursed by the Secretary for—

"(I) training approved by the Secretary for State staff operating under a cooperative agreement; and

"(II) specified out-of-State travel expenses incurred by such staff.

"(iii) A reimbursement paid to a State under this subparagraph shall be limited to costs incurred by such State for the provision of consultation services under this paragraph and the costs described in clause (ii).

"(C) Notwithstanding any other provision of law, at least 15 percent of the total amount of funds appropriated for the Occupational Safety and Health Administration for a fiscal year shall be used for education, consultation, and outreach efforts."

SEC. 10. VOLUNTARY PROTECTION PROGRAMS.

(a) COOPERATIVE AGREEMENTS.—The Secretary of Labor shall establish cooperative agreements to encourage the establishment of comprehensive safety and health management systems that include—

(1) requirements for systematic assessment of hazards;

(2) comprehensive hazard prevention, mitigation, and control programs;

(3) active and meaningful management and employee participation in the voluntary program described in subsection (b); and

(4) employee safety and health training.

(b) VOLUNTARY PROTECTION PROGRAM.—The Secretary of Labor shall establish a voluntary protection program to encourage the achievement of excellence in both the technical and managerial protection of employees from occupational hazards as follows:

(1) APPLICATION.—Volunteers for the program shall be required to submit an application to the Secretary of Labor demonstrating that the worksite with respect to which

the application is made meets such qualifications as the Secretary of Labor may prescribe for participation in the program.

(2) ONSITE EVALUATIONS.—There shall be onsite evaluations by representatives of the Secretary of Labor to ensure a high level of protection of employees. The onsite visits shall not result in enforcement citations under the Occupational Safety and Health Act of 1970, as amended, unless representatives of the Secretary of Labor observe hazards for which no agreement can be made to abate the hazards in a reasonable amount of time.

(3) INFORMATION.—Volunteers who are approved for participation by the Secretary of Labor shall assure the Secretary of Labor that information about their safety and health program shall be made readily available to the Secretary of Labor to share with employers.

(4) REEVALUATIONS.—Continued participation in the program shall require periodic reevaluations by the Secretary of Labor.

(5) EXEMPTIONS.—A site with respect to which a program has been approved shall during participation in the program be exempt from inspections and certain paperwork requirements to be determined by the Secretary of Labor, except inspections or investigations arising from employee complaints, fatalities, catastrophes, or significant toxic releases.

(c) ANNUAL FEE.—The Secretary of Labor may charge an annual fee to participants in a voluntary protection program described in subsection (b). The fee shall be in an amount determined by the Secretary of Labor, and amounts collected shall be deposited in the general treasury of the United States.

• Mrs. KASSEBAUM. Mr. President, I join my colleagues, Senators GREGG, NUNN, JEFFORDS, and GORTON, in introducing the Occupational Safety and Health Reform and Reinvention Act of 1995. Senator GREGG has been instrumental in crafting this legislation, which is an important step toward revitalizing a troubled agency.

As chairman of the Committee on Labor and Human Resources, I frequently hear that OSHA focuses too much on paperwork and is too quick to issue citations in spite of good faith compliance efforts. Despite these criticisms, I remain committed to a strong OSHA program and will not compromise workplace safety.

Mr. President, as committed as I am to this issue, we also must recognize that a great deal has changed since Congress first enacted the Occupational Safety and Health [OSH] Act in 1970. We have learned that although strong enforcement is important, we do not need a one-size-fits-all OSHA enforcement policy. Most employers agree that safety makes good business sense, so we should not treat all employers the same way. We also have watched the Labor Department become preoccupied with paperwork rather than real safety hazards, and that needs to be changed.

Mr. President, this OSHA reform bill will refocus OSHA on its primary mission, which is to improve the health and safety of American workers. It also requires OSHA to differentiate among employers based on their commitment to workplace safety.

The legislation we introduce today provides positive incentives for em-

ployers to comply with the law. As a result, OSHA's limited resources will focus on the most dangerous work sites. Rather than offering more mandates and punitive sanctions, this bill rewards employers that establish effective health and safety programs or that utilize certified, private sector safety and health professionals by exempting these employers from regular, programmed OSHA inspections.

In this way, OSHA may concentrate its efforts on the most dangerous workplaces. OSHA must use its resources efficiently.

In addition, the bill reduces penalties for paperwork and other nonserious violations. OSHA must concentrate on serious hazards and not on posting requirements and paperwork.

Mr. President, the administration has already endorsed many of the reforms in this proposal in their Reinventing Government report. I applaud those efforts and will assist the Labor Department as we move toward our common goal of improved safety.

Mr. President, this legislation is long overdue, and I urge my colleagues to support it.

• Mr. NUNN. Mr. President, I would like to join my colleagues Senators KASSEBAUM, GREGG, and GORTON in introducing legislation to reform the Occupational Safety and Health Administration [OSHA].

As my colleagues know, OSHA is one of the most frequently criticized agencies in the Federal Government. Recent polls show that OSHA ties with the Internal Revenue Service as the most dissatisfaction among Americans. While everyone agrees that Government has a responsibility to help ensure safe and healthy workplaces, OSHA's reputation in this area is one of inefficient methods of promoting workplace safety that often alienate businesses and workers alike.

I understand that some in Congress favor abolishing the agency entirely in order to remove the expensive and bureaucratic compliance burdens from business. Others favor maintaining the status quo or would have OSHA impose stiffer penalties and more specific requirements on businesses in order to coerce greater levels of workplace safety. I do not agree with any of these approaches. Instead, I am pleased to join my colleagues in crafting a common-sense approach which addresses past problems and keeps OSHA as a viable agency that is more responsive to the needs of business and more efficient in protecting workers.

The bill has two main thrusts. The first is to rebalance the focus of OSHA away from solely the "stick" method of ensuring compliance which consists of stiff fines and to-the-letter enforcement of rules. Instead, we attempt to codify and extend OSHA's ongoing efforts to shift toward the "carrot" method, which rewards companies making successful, good-faith efforts at maintaining and improving safety in

the workplace. The enforcement authority available to OSHA would still remain, however OSHA would be able to utilize other tools to improve workplace safety.

The second thrust of the bill is to make OSHA's operations more efficient. Studies have shown that many sites of serious workplace accidents have not been inspected by federal OSHA inspectors for several years prior to the accident. The studies showed that this problem is due in part to a shortage of inspectors and a mandate that OSHA follow up all complaints, no matter how minor. This proposed legislation would allow OSHA greater flexibility in allocating its resources so it can give the most serious workplace problems its highest priority.

Mr. President, this bill, like all other legislative proposals, needs careful examination and can be approved. I am confident, however, that this proposal represents a good start to addressing the problems that affect this agency. I look forward to working with my colleague from Kansas, Senator KASSEBAUM, my colleague from New Hampshire, Senator GREGG, and my colleague from Washington, Senator GORTON at perfecting the measure, and I encourage our other Senate Colleagues to join with us in this process.●

ADDITIONAL COSPONSORS

S. 327

At the request of Mr. HATCH, the name of the Senator from North Carolina [Mr. FAIRCLOTH] 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. 704

At the request of Mr. SIMON, the names of the Senator from Indiana [Mr. COATS] and the Senator from California [Mrs. FEINSTEIN] were added as cosponsors of S. 704, a bill to establish the Gambling Impact Study Commission.

S. 949

At the request of Mr. GRAHAM, the names of the Senator from Michigan [Mr. ABRAHAM], the Senator from Mississippi [Mr. COCHRAN], the Senator from Washington [Mr. GORTON], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 949, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the death of George Washington.

S. 978

At the request of Mrs. HUTCHISON, the names of the Senator from Kentucky [Mr. MCCONNELL], the Senator from Pennsylvania [Mr. SANTORUM], the Senator from Virginia [Mr. WARNER], and the Senator from Ohio [Mr. DEWINE] were added as cosponsors of S. 978, a bill to facilitate contributions to charitable organizations by codifying cer-

tain exemptions from the Federal securities laws, to clarify the inapplicability of antitrust laws to charitable gift annuities, and for other purposes.

S. 1043

At the request of Mr. PRESSLER, his name was added as a cosponsor of S. 1043, a bill to amend the Earthquake Hazards Reduction Act of 1977 to provide for an expanded Federal program of hazard mitigation, relief, and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, and for other purposes.

S. 1353

At the request of Mr. DORGAN, the names of the Senator from Rhode Island [Mr. CHAFEE] and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of S. 1353, a bill to amend title 23, United States Code, to require the transfer of certain Federal highway funds to a State highway safety program if a State fails to prohibit open containers of alcoholic beverages and consumption of alcoholic beverages in the passenger area of motor vehicles, and for other purposes.

S. 1401

At the request of Mr. BENNETT, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 1401, a bill to amend the Surface Mining Control and Reclamation Act of 1977 to minimize duplication in regulatory programs and to give States exclusive responsibility under approved States program for permitting and enforcement of the provisions of that Act with respect to surface coal mining and reclamation operations, and for other purposes.

AMENDMENTS SUBMITTED

THE COAST GUARD AUTHORIZATION ACT OF 1995

STEVENS AMENDMENT NO. 3058

Mr. LOTT (for Mr. STEVENS, for himself, Mr. PRESSLER, Mr. HOLLINGS, Mr. KERRY, Ms. SNOWE, Mrs. HUTCHISON, and Mr. BREAUX) proposed an amendment to bill (S. 1004) to authorize appropriations for the U.S. Coast Guard, and for other purposes; as follows:

On page 77, beginning with line 3, strike through line 16 on page 79.

On page 79, line 17, strike "(b)" and insert "(a)".

On page 81, strike lines 3 through 6 and insert the following:

ation Program—
(A) \$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; and

(B) for fiscal year 1995, \$12,880,000, which may be made available under that section.

On page 81, line 12, strike "(c)" and insert "(b)".

On page 82, beginning with line 3, strike through line 5 on page 83 and insert the following:

(a) AUTHORIZED MILITARY STRENGTH LEVEL.—The Coast Guard is authorized an

end-of-year strength for active duty personnel of 38,400 as of September 30, 1996. The authorized strength does not include members of the Ready Reserve called to active duty for special 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 study loads for fiscal year 1996 as follows:

(1) For recruit and special training, 1,604 student years.

(2) For flight training, 85 student years.

(3) For professional training in military and civilian institutions, 330 student years.

(4) For officer acquisition, 874 student years.

On page 91, between lines 13 and 14, insert the following:

SEC. 208. ACCESS TO NATIONAL DRIVER REGISTER INFORMATION ON CERTAIN COAST GUARD PERSONNEL.

(a) AMENDMENT TO TITLE 14.—Section 93 of title 14, United States Code, as amended by section 203, is further amended—

(1) by striking "and" after the semicolon at the end of paragraph (u);

(2) by striking the period at the end of paragraph (v) and inserting "; and"; and

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

"(w) require that any officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment to any of the foregoing and any member of a uniformed service who is assigned to the Coast Guard) request that all information contained in the National Driver Register pertaining to the individual, as described in section 30304(a) of title 49, be made available to the Commandant under section 30305(a) of title 49, may receive that information, and upon receipt, shall make the information available to the individual."

(b) AMENDMENT TO TITLE 49.—Section 30305(b) of title 49, United States Code, is amended by redesignating paragraph (7) as paragraph (8) and inserting after paragraph (6) the following new paragraph:

"(7) an individual who is an officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment of any of the foregoing and any member of a uniformed service who is assigned to the Coast Guard) may request the chief driver licensing official of a State to provide information about the individual under subsection (a) of this section to the Commandant of the Coast Guard. The Commandant may receive the information and shall make the information available to the individual. Information may not be obtained from the Register under this paragraph if the information was entered in the Register more than 3 years before the request, unless the information is about a revocation or suspension still in effect on the date of the request."

SEC. 209. COAST GUARD HOUSING AUTHORITIES.

(a) IN GENERAL.—Part I of title 14, United States Code, is amended by inserting after chapter 17 the following new chapter:

"CHAPTER 18—COAST GUARD HOUSING AUTHORITIES

"SUBCHAPTER A

"Section

"671. Definitions.

"672. General Authority.

"673. Direct loans and loan guarantees.

"674. Leasing of housing to be constructed.

"675. Investments in nongovernmental entities.

"676. Rental guarantees.